

# E-commerce 2013

business. technology. society.

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# Chapter 8

## Ethical, Social, and Political Issues in E-commerce



## *Class Discussion*

# Internet Free Speech: Who Decides?

- Is the Internet a form of “public speech”?
- How can the different national perspectives on free speech be managed in a global environment like the Internet?
- Given that the Internet is supported by governments and private companies, should these institutional and corporate needs supersede the free speech rights of individuals on the Internet?



# Understanding Ethical, Social, and Political Issues in E-commerce

- **Internet, like other technologies, can:**
  - ❖ Enable new crimes
  - ❖ Affect environment
  - ❖ Threaten social values
- **Costs and benefits must be carefully considered, especially when there are no clear-cut legal or cultural guidelines**



# A Model for Organizing the Issues

- Issues raised by Internet and e-commerce can be viewed at individual, social, and political levels
- Four major categories of issues:
  - ❖ Information rights
  - ❖ Property rights
  - ❖ Governance
  - ❖ Public safety and welfare





# The Moral Dimensions of an Internet Society

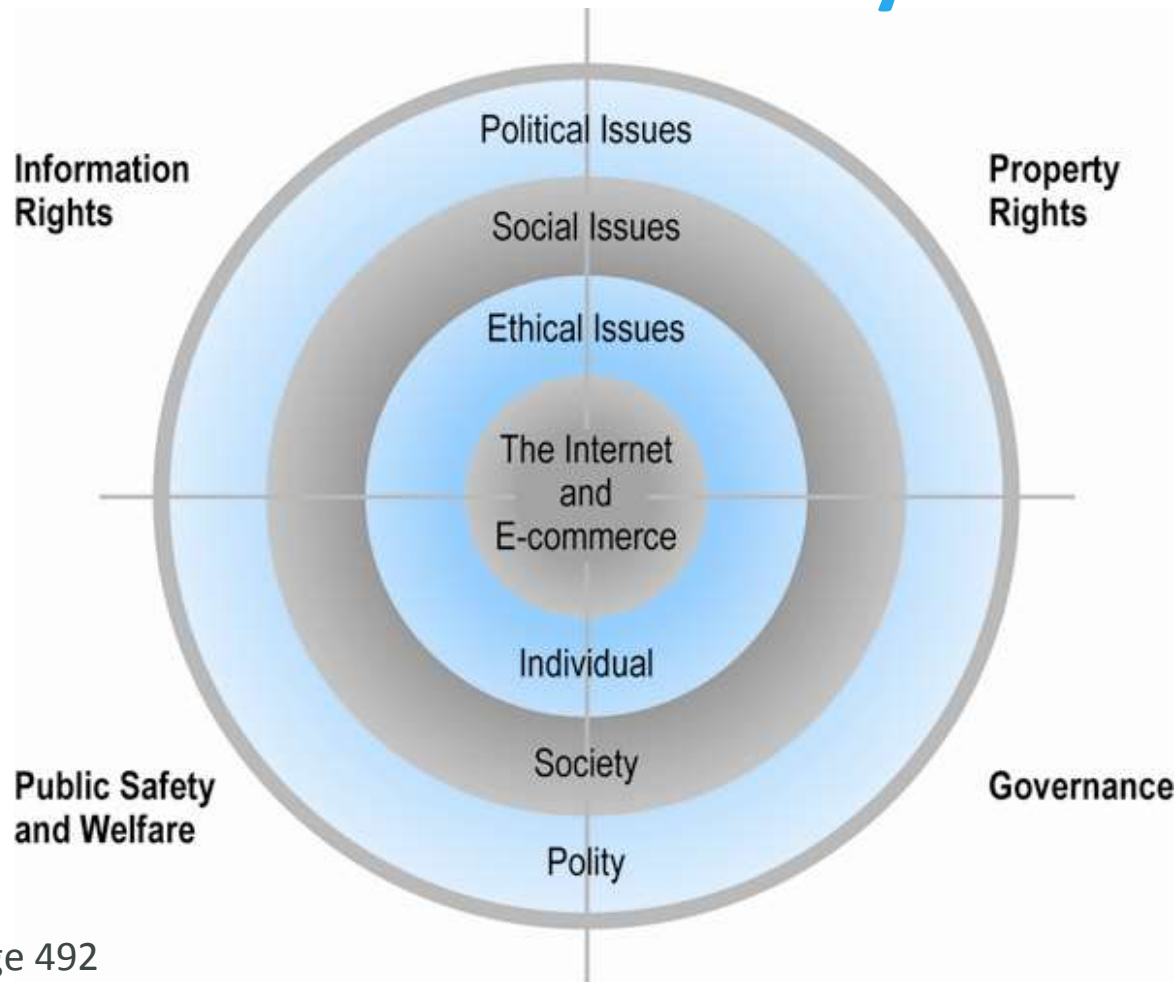


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# Basic Ethical Concepts

## ■ Ethics

- ❖ Study of principles used to determine right and wrong courses of action

## ■ Responsibility

## ■ Accountability

## ■ Liability

- ❖ Laws permitting individuals to recover damages

## ■ Due process

- ❖ Laws are known, understood
- ❖ Ability to appeal to higher authorities to ensure laws applied correctly







# Candidate Ethical Principles

- **Golden Rule**
- **Universalism**
- **Slippery Slope**
- **Collective Utilitarian Principle**
- **Risk Aversion**
- **No Free Lunch**
- **The *New York Times* Test**
- **The Social Contract Rule**



# Privacy and Information Rights

## ■ Privacy

- ❖ Moral right of individuals to be left alone, free from surveillance, or interference from other individuals or organizations

## ■ Information privacy

- ❖ Subset of privacy
- ❖ Claims:
  - Certain information should not be collected at all
  - Individuals should control the use of whatever information is collected about them



# Privacy and Information Rights (cont.)

## ■ Major ethical issue related to e-commerce and privacy:

- ❖ Under what conditions should we invade the privacy of others?

## ■ Major social issue:

- ❖ Development of “expectations of privacy” and privacy norms

## ■ Major political issue:

- ❖ Development of statutes that govern relations between recordkeepers and individuals



# Information Collected at E-commerce Sites

## ■ Data collected includes

- ❖ Personally identifiable information (PII)
- ❖ Anonymous information

## ■ Types of data collected

- ❖ Name, address, phone, e-mail, social security
- ❖ Bank and credit accounts, gender, age, occupation, education
- ❖ Preference data, transaction data, clickstream data, browser type



# Social Networks and Privacy

- **Social networks**
  - ❖ Encourage sharing personal details
  - ❖ Pose unique challenge to maintaining privacy
- **Facebook's facial recognition technology and tagging**
- **Personal control over personal information vs. organization's desire to monetize social network**



# Mobile and Location-based Privacy Issues

## ■ Smartphone apps

- ❖ Funnel personal information to mobile advertisers for targeting ads
- ❖ Track and store user locations

## ■ 42% of users say privacy a concern

## ■ Mobile Device Privacy Act

- ❖ Not yet passed
- ❖ Requires informing consumers about data collection





# Profiling and Behavioral Targeting

## ■ Profiling

- ❖ Creation of digital images that characterize online individual and group behavior
- ❖ Anonymous profiles
- ❖ Personal profiles

## ■ Advertising networks

- ❖ Track consumer and browsing behavior on Web
- ❖ Dynamically adjust what user sees on screen
- ❖ Build and refresh profiles of consumers

## ■ Google's AdWords program



# Profiling and Behavioral Targeting (cont.)

## ■ Deep packet inspection

## ■ Business perspective:

- ❖ Increases effectiveness of advertising, subsidizing free content
- ❖ Enables sensing of demand for new products and services

## ■ Critics' perspective:

- ❖ Undermines expectation of anonymity and privacy
- ❖ Consumers show significant opposition to unregulated collection of personal information



# The Internet and Government Invasions of Privacy

- **Various laws strengthen ability of law enforcement agencies to monitor Internet users without knowledge and sometimes without judicial oversight**
  - ❖ CALEA, USA PATRIOT Act, Cyber Security Enhancement Act, Homeland Security Act
- **Government agencies are largest users of private sector commercial data brokers**
- **Retention by ISPs and search engines of user data**



# Legal Protections

## ■ In United States, privacy rights explicitly granted or derived from:

### ❖ Constitution

- First Amendment—freedom of speech and association
- Fourth Amendment—unreasonable search and seizure
- Fourteenth Amendment—due process

### ❖ Specific statutes and regulations (federal and state)

### ❖ Common law



# Informed Consent

- **U.S. firms can gather and redistribute transaction information without individual's informed consent**
  - ❖ Illegal in Europe
- **Informed consent:**
  - ❖ Opt-in
  - ❖ Opt-out
  - ❖ Many U.S. e-commerce firms merely publish information practices as part of privacy policy or use opt-in as default



# The FTC's Fair Information Practices

## ■ Guidelines (not laws)

- ❖ Used to base assessments and make recommendations
- ❖ Sometimes used as basis for law (COPPA)

## ■ Fair Information Practice principles

- ❖ Notice
- ❖ Choice
- ❖ Access
- ❖ Security
- ❖ Enforcement
- ❖ Restricted collection





# The FTC's Fair Information Practices

## ■ New privacy framework (2010)

- ❖ Scope
- ❖ Privacy by design
- ❖ Simplified choice
- ❖ Greater transparency

## ■ 2012 Report: Industry best practices

- ❖ Do not track
- ❖ Mobile privacy
- ❖ Data brokers
- ❖ Large platform providers
- ❖ Development of self-regulatory codes



# The European Data Protection Directive

- **Privacy protection much stronger in Europe than United States**
- **European approach:**
  - ❖ Comprehensive and regulatory in nature
- **European Commission's Directive on Data Protection (1998):**
  - ❖ Standardizes and broadens privacy protection in European Union countries
- **Department of Commerce safe harbor program:**
  - ❖ For U.S. firms that wish to comply with directive



# Private Industry Self-Regulation

## ■ Safe harbor programs:

- ❖ Private policy mechanism to meet objectives of government regulations without government involvement
- ❖ Privacy seal programs
- ❖ TRUSTe

## ■ Industry associations include:

- ❖ Online Privacy Alliance (OPA)
- ❖ Network Advertising Initiative (NAI)
  - CLEAR Ad Notice Technical Specifications

## ■ Privacy advocacy groups

## ■ Emerging privacy protection business



# Technological Solutions

- **Spyware blockers**
- **Pop-up blockers**
- **Secure e-mail**
- **Anonymous remailers, surfing**
- **Cookie managers**
- **Disk/file erasing programs**
- **Policy generators**
- **Privacy Policy Reader—P3P**
- **Public key encryption**



# Intellectual Property Rights

- **Intellectual property:**
  - ❖ All tangible and intangible products of human mind
- **Major ethical issue:**
  - ❖ How should we treat property that belongs to others?
- **Major social issue:**
  - ❖ Is there continued value in protecting intellectual property in the Internet age?
- **Major political issue:**
  - ❖ How can Internet and e-commerce be regulated or governed to protect intellectual property?



# Intellectual Property Protection

- **Three main types of protection:**
  - ❖ Copyright
  - ❖ Patent
  - ❖ Trademark law
- **Goal of intellectual property law:**
  - ❖ Balance two competing interests—public and private
- **Maintaining this balance of interests is always challenged by the invention of new technologies**





# Copyright

- **Protects original forms of expression (but not ideas) from being copied by others for a period of time**
- **“Look and feel” copyright infringement lawsuits**
- **Fair use doctrine**
- **Digital Millennium Copyright Act, 1998**
  - ❖ First major effort to adjust copyright laws to Internet age
  - ❖ Implements WIPO treaty that makes it illegal to make, distribute, or use devices that circumvent technology-based protections of copyrighted materials



# Patents

- **Grant owner 20-year monopoly on ideas behind an invention**
  - ❖ Machines
  - ❖ Man-made products
  - ❖ Compositions of matter
  - ❖ Processing methods
- **Invention must be new, non-obvious, novel**
- **Encourages inventors**
- **Promotes dissemination of new techniques through licensing**
- **Stifles competition by raising barriers to entry**





# Theft and Innovation: The Patent Trial of the Century

- Do you agree with the jury finding that Samsung violated Apple's patents in the Samsung Galaxy design?
- Should "trade dress" patents cover basic shape elements, such as round-cornered squares used for icons?
- The Apple "look and feel" has inspired the "looks and feel" of many other Web sites and devices. How is this different from the Samsung case?



# Trademarks

- **Identify, distinguish goods, and indicate their source**
- **Purpose**
  - ❖ Ensure consumer gets what is paid for/expected to receive
  - ❖ Protect owner against piracy and misappropriation
- **Infringement**
  - ❖ Market confusion
  - ❖ Bad faith
- **Dilution**
  - ❖ Behavior that weakens connection between trademark and product



# Trademarks and the Internet

## ■ Cybersquatting

- ❖ Anticybersquatting Consumer Protection Act (ACPA)

## ■ Cyberpiracy

- ❖ Typosquatting

## ■ Metatagging

## ■ Keywording

## ■ Linking and deep linking

## ■ Framing





# Governance

## ■ Primary questions

- ❖ Who will control Internet and e-commerce?
- ❖ What elements will be controlled and how?

## ■ Stages of governance and e-commerce

- ❖ Government Control Period (1970–1994)
- ❖ Privatization (1995–1998)
- ❖ Self-Regulation (1995–present)
- ❖ Government Regulation (1998–present)



# Who Governs E-commerce and the Internet?

## ■ Mixed mode environment

- ❖ Self-regulation, through variety of Internet policy and technical bodies, co-exists with limited government regulation

## ■ ICANN : Domain Name System

## ■ Internet can be easily controlled, monitored, and regulated from a central location



# Taxation

- **Non-local nature of Internet commerce complicates governance and jurisdiction issues**
- **Sales taxes**
- **MOTO retailing tax subsidies**
- **Internet Tax Freedom Act**
- **Unlikely that comprehensive, integrated rational approach to taxation issue will be determined for some time to come**



*Insight on Business: Class Discussion*

## **Internet Sales Tax Battle**

- **Given the nature of the Internet, should sales tax be based on the location of the consumer rather than the seller?**
- **Why is there a struggle to define the nature of “small business”? How big do you think a “small business” is?**
- **Are bricks-and-clicks retailers disadvantaged by local sales tax laws?**



# Net Neutrality

- **Neutrality: All Internet activities charged the same rate, regardless of bandwidth used**
- **Differentiated pricing strategies**
  - Cap pricing (tiered plans)
    - Speed tiers
  - Usage metering
    - Congestion pricing
  - Highway (“toll”) pricing
- **Comcast slows users for certain traffic**
- **FCC’s 2010 “compromise” net neutrality rules**



# Public Safety and Welfare

- **Protection of children and strong sentiments against pornography**
  - ❖ Passing legislation that will survive court challenges has proved difficult
- **Efforts to control gambling and restrict sales of drugs and cigarettes**
  - ❖ Currently, mostly regulated by state law
  - ❖ Unlawful Internet Gambling Enforcement Act



*Insight on Society: Class Discussion*

# The Internet Drug Bazaar

- What's wrong with buying prescription drugs online, especially if the prices are lower?
- What are the risks and benefits of online pharmacies?
- Should online pharmacies require a physician's prescription?
- How do online pharmacies challenge the traditional business model of pharmacies and drug firms?
- What are the challenges in regulating online pharmacies?
- Who benefits and who loses from online pharmacies?





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