Chapter 8

WE live in an “information society,” where power and wealth increasingly depend on information and knowledge as central assists. Controversies over information are often disagreements over power, wealth, influence and other things thought to be valuable. Like other technologies, such as steam, electricity, telephones and television, The Internet and e-commerce can be used to achieve social progress, and for the most part, this has occurred. However, the same technologies can be used to commit crime, despoil the environment, and threaten cherished social values. Before automobiles, there was very little interstate crime and very little federal jurisdiction over crime. Likewise, with the Internet: before the internet, there was little “cybercrime”.

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

* The major ethical, social and political issues that have developed around e-commerce can be categorized into four major dimensions:

1. Information Rights
   * + What rights to their own personal information do individuals have in a public market place?
     + Slide 3 for Picture
2. Property rights
   * + How can tradition intellectual property rights be enforced in the Internet?
3. Governance
   * + Should the internet and e-commerce be subject to public laws?
4. Public safety and welfare
   * + What efforts should be undertaken to ensure equitable access to the Internet and e-commerce channels?

* Basic ethical concepts:
  + **Ethics** is the study of principles that individuals and organizations can use to determine right and wrong courses of actions. If you understand some basic ethical principles, your ability to reason about larger social and political debates will be improved.
  + **There are four basic principles that all ethical schools of thought share:**
    - **Responsibility**
      * Responsibility means that as free moral agents, individuals, organizations, and societies are responsible for the actions they take.
    - **Accountability**
      * Accountability means that individuals, originations and societies should be held accountable to others for the consequences of their actions.
    - **Liability** 
      * Liability is a feature of political systems in which a body is in place that permits individuals to recover the damages done to them by other actions, systems or organizations.
    - **Due process**
      * Due process refers to a process in which laws are known and understood and there is an ability to appeal to higher authorities to ensure that the laws have been correctly applied.
* Ethical, social, and political controversies usually present themselves as dilemmas.
  + **Dilemma** is a situation in which there are at least two diametrically opposed actions, each of which supports a desirable outcome.
* There are five-step process that can help with ethical dilemmas:

1. Identify and clearly describe the facts
2. Define the conflict or dilemma and identify the higher-order values involved
3. Identify the stakeholders
4. Identify the options that you can reasonably take
5. Identify the potential consequences of your options

* Ethical principles:
  + The Golden Rules
    - Putting yourself into the place of others and thinking of yourself as the object of the decision can help you think about fairness in decision making.
  + Universalism
    - If an action is not right for all situations, then it is not right for any specific situation
  + Slippery slope
    - If an action cannot be taken repeatedly, then it is not right to take at all.
  + Collective Utilitarian Principle
    - Take the action that achieves the greater value for all of society
  + Risk Aversion
    - Take the action that produces the least harm, or the least potential cost
  + No free lunch
    - Assume that virtually all tangible and intangible objects are owned by someone else unless there is a specific declaration otherwise
  + The new Your Times Test (Perfect Information Rule)
    - Assume that the results of your decision on a matter will be the subject of the lead article in the New York Times the next day. Will the reaction of readers be positive or negative?
  + The social contract rule
    - Would you like to live in a society where the principle you are supporting would become an organizing principle of the entire society?

***Privacy and Information Rights***

* **Privacy** is the moral right of individuals to be left alone, free from surveillance or interference from other individuals or organizations, including the state
* **Information privacy** is a subject of privacy
  + The right to information privacy includes
    - The claim that certain information should not be collected at all by governments or business firms
    - The claim of individuals to control the use of whatever information is collected about them
* Individual control over personal information is at the core of the privacy concept
* There are two kinds of threats to individual privacy posed by the Internet:

1. Threat originates in the private sector and concerns how much personal information is collected by commercial web sites an how it will be used.
2. Threat originates in the public sector and concerns how much personal information federal, state, and local government authorities collect, and how they use it.

***Information Collected at E-commerce Sites***

* Public discussion of privacy has two major concerns about tracking the behavior of individuals while they use the Internet:
  + Social Networks
  + Mobile devices that tracks the location of people.
* E-commerce sites routinely collect a variety of information from or about consumers:
  + **Personally identifiable information (PII)**
    - Any data that can be used to identify, locate, or contact an individual
  + **Anonymous information**
    - Demographic and behavioral information that does not include any personal identifiers.
* **Profiling** is the reaction of digital images that characterize online individual and group behavior
  + **Anonymous profiles** identify people as belonging to highly specific and targeted groups (For example, 20- to 30- year-old males)
  + **Personal Profiles** add a personal e-mail address, postal address and phone number to behavioral data
* Network advertising firms argue that web profiling benefits both consumers and businesses
  + Profiling permits targeting of ads, ensuring that consumers see advertisements mostly for products and services in which they are actually interested
  + Businesses benefit by not paying for wasted advertising sent to consumers who have no interest in their product or service.
* Critics argue that profiling underlines the expectation of anonymity and privacy that most people have when using the internet.
* Some major ways that online firms gather information about consumers:
  + Smartphones and apps
    - Used to track location and share photos, addresses, phone numbers, search, and other behavior to marketers
  + Advertising networks
    - Used to track individuals as they move among thousands of web sites.
  + Social networks
    - Used to gather information on user-provided content such as books, music, friends, and other interests, preferences, and lifestyles
  + Cookies and super cookies
    - Used to track individuals at a single site
  + Third-party cookies
    - Cookies placed by third-party advertising networks
  + Spyware
    - Can be used to record all the keyboard activity of a user, including web sites visited and security codes used
  + Search engine behavioral targeting
    - User prior search history, demographics, expressed interests, geographic, or other user-entered data to target advertising.
  + Deep packet inspection
    - User software installed at the ISP level to track all user clickstream behavior
  + Shopping carts
    - Can be used to collect detailed payment and purchase information
  + Forms
    - Online forms that users voluntarily fill out in return for a promised benefit or reward that are linked with clickstream or other behavioral data to create a personal profile.
  + Site Transaction logs
    - Can be used to collect and analyze detailed information on page content viewed by users.
  + Search engines
    - Can be used to race user statements and views on newsgroups, chat groups, and public forums on the web, and profile users’ social and political views.
* The online advertising networks have added several new dimensions to established offline marketing techniques

1. They have the ability to precisely track not just consumer purchases, but all browsing behavior on the Web at thousands of the most popular member sites.
2. They can dynamically adjust what the shopper sees on screen – including prices.
3. They can build and continually refresh high-resolution data images or behavioral profiles of consumers.
4. Some Advertising firms have created spyware software that, when placed on a consumers’ computer, can report back to the advertisers’ server on all consumer Internet use.

*The internet and Government Invasions of Privacy*

* Today, the online and mobile behaviors, profiles, and transactions of conquers are routinely available to a wide range of government agencies and law enforcement authorities, contributing to raising fear among online consumers, and in some cases, their withdrawal from the online market place.
* One conceptual basis of American privacy law is notification and consent
  + It is assumed that consumers can read terms of use notices concerning how a web site will use their personal information, and then make a rational choice to either **consent to the term of use, opt out of the data collection,** or **stop using the site.**
  + The concept of “informed consent” plays an important role in protecting privacy.
    - Informed consent is defined as consent given with knowledge of all material facts needed to make a rational decision.
  + There are traditionally two models for informed consent: **Opt-in** and **Opt-out**
    - **Opt-in** model requires an affirmative action by the consumer to allow collection and use of information
    - In the **opt-out** model, the default is to collect information unless the consumer takes an affirmative action to prevent the collection of data by checking a box or by filling out a form
* In the United States, business firms can gather transaction information generated in the marketplace and then use that information for other purposes, without obtaining the explicit affirmative informed consent of the individual.
* A business in Europe cannot use marketplace transaction information for a purposes other than supporting the current transaction, unless it obtains the individual’s consent in writing or by filling out an on-screen form.
* In the United States, the Federal Trade Commission (FTC) has taken the lead in conducting research on online privacy and recommending legislation to congress
  + IN 1988, the FTC issued its Fair Information Practice (FIP) principles, on which it has based its assessments and recommendations for online privacy. FIP Principles are still the primary basis for privacy legislation
  + Among the principles, two of the five are designed as basic, ”core” principle’s that must be present to protect privacy, whereas the other practices are less central.
  + The FTC’s FIP principles are guidelines, not laws

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| Federal Trade Commission’s Fair Information Practice Principles | |
| Notice/Awareness (Core principle) | Sites must disclose their information practices before collecting data. Includes identification of collector, uses of data other recipients of data, nature of collection (active/inactive), voluntary or required consequences of refusal, and steps take to protect confidentiality, integrity, and quality of the data. |
| Choice/Consent (core principle) | There must be a choice regime in place allowing consumers to choose how their information will be used for secondary purposes other than supporting the transaction, including internal use and transfer to third parties. Opt-in/opt-out must be available. |
| Access/Participation | Consumers should be able to review and contest the accuracy and completeness of data collected about them in a timely, inexpensive process. |
| Security | Data collectors must take reasonable steps to assure that consumer’s information is accurate and secure from unauthorized use. |
| Enforcement | There must be a mechanism to enforce FIP principles in place. This can involve self-regulation, legislation giving consumer legal remedies for violations, or federal statues and regulation. |

* The most important online privacy legislation to date that has been directly influenced by the FTC’s FIP principles in the Children’s Online Privacy Protection Act (COPPA)
  + COPPA requires web sites to obtain parental permission before collecting information on children under 13 years of age.
* In 2012, the FTC released a final report. The report describes industy best practices for protecting the privacy of Americans and focuses on five areas:

1. Do Not Track
2. Mobile Privacy
3. Data brokers
4. Large platform providers
5. Development of self-regulatory codes

* The question that may arise is that how we can measure privacy policies?
  + There are several criteria to use when examining privacy policies:
    - Can the privacy policy be easily found, reviewed, and understood by users?
    - Does the privacy policy fully disclose how personal information will and will not be used by the organization?
    - Is information about users ever shared or sold without users’ explicit permission?
    - Can users decide if they want to participate?
    - Can users decide and actively indicate that they agree to be profiled tracked, or targeted?
    - Can users decide how and if their sensitive information is shared?
    - Are users able to change any information that they input about themselves?
    - Can users decide who can access their information?
    - Are users notified promptly if their information is lost, stolen, or improperly accessed?
    - Can users easily report concerns and get answers?
    - Do users receive a copy of all disclosures of their information?
* A number of privacy-enhancing technologies have been developed for protecting user privacy during interactions with web sites such as spyware blockers, pop-up blockers, cookie managers, and secure e-mail.
  + However, the most powerful tools for protecting privacy need to be built into browsers.

*Intellectual Property Rights*

* Intellectual property encompasses all the tangible and intangible products of the human mind.
* As the general rule, in the United States, the creator of the intellectual property owns it. However, once intellectual works become digital, it becomes difficult to control access, use, distribution, and copying.
* There are three main types of intellectual property protection:

1. Copyright

* **Copyright law** protects original forms of expression such as writing, art, drawing photographs, music, motion pictures, performances, and computer programs from being copied by others for a minimum of 70 years.
* The drawback to copyright protection is that the underlying ideas behind a work are not protected, only the expression in the work.
  + A competitor can view the source code on your web site to see how various effects were created and then reused those techniques to create a different web site without infringing on your copyright.
  + The Federal Circuit Court of Appeals found that neither similar concept, function, general functional features, nor colors were protectable by copyright law.
* The **doctrine of fair use** permits teachers, writers and other to use copyrighted materials without permission under certain circumstances.

1. Patent

* A **patent** grants the owner a 20-year exclusive monopoly on the ideas behind an invention
* The congressional intent behind patent law was to ensure that inventors of new machines, devices, or industrial methods would receive the full financial and other reward of their labor and still make widespread use of the invention
* Obtaining a patent is much more difficult and time-consuming than obtaining copyright protection.
  + Patents must be formally applied for, and the granting of a patent is determined by Patent office examiners who follow a set of rigorous rules.
* Patents are very different from copyrights because patents protect the ideas themselves and not merely the expression of ideas.
* There are four different type of inventions for which patents granted under patent law:
  + Machines
  + Man-made products
  + Compositions of matter
  + Processing methods
* There are three things that cannot be patented:
  + Law of nature
  + Natural phenomena
  + Abstract ideas
* The danger of patent is that they stifle competition by raising barriers to eny into an industry
  + Patents force new entrants to pay licensing fees to incumbents, and thus slow down the development of technical applications of new ideas by creating lengthy licensing applications and delays.

1. Trademark Law

* **Trademark Law** is a form of intellectual property protection for trademarks.
  + **Trademark** is a mark used to identify and distinguish goods and indicate their source.
  + Trademark protections exits at both the federal and state levels in the United States.
* The purpose of the trademark law is twofold:
  + Trademark law protects the public in the marketplace by ensuring that it gets what it pay for and wants to receive
  + Trademark law protects the owner – who has spent time, money, and energy bringing the product to the market place – against piracy and misappropriation
* Dispute over federal trademarks involve establishing infringement. The test for infringement is twofold:
  + Market confusion
  + Bad faith
* Trademark abuse can take many forms on the web:
  + Cybersquatting
    - Involves the registration of an infringing domain name, or other Internet use of an existing trademark, for the purpose of extorting payments from the legitimate owners
  + Cyber piracy
    - Involves the same behavior as cybersquatting, but with the intent of diverting traffic from the legitimate site to an infringing site.
  + Metattaging
    - Using trademarked words in a site’s metatags
  + Key wording
    - Placing trademarked keywords on web pages, either visible or invisible
  + Linking
    - Linking to content pages on other sites, bypassing the home page
  + Framing
    - Displaying the content of another web site inside your own web site within a frame or window.