

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

- Internet, like other technologies, can:
 - Enable new crimes
 - Affect environment
 - Threaten social values

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

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
- Major ethical issue related to e-commerce and privacy
 - Under what conditions should we invade the privacy of others?

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Ethical, Social, and Political Issues in E-commerce

- Major social issue
 - Development of “expectations of privacy” and privacy norms
- Major political issue
 - Development of statutes that govern relations between record keepers 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
 - Apple, Google, Facebook, Yahoo investigated

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
- 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

- Fair Information Practice principles
 - Notice
 - Choice
 - Access
 - Security
 - Enforcement
- 2010 Privacy Framework
 - 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

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Ethical, Social, and Political Issues in E-commerce

- 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

Technological Solutions

- Spyware blockers
- Pop-up blockers
- Secure e-mail
- Cookie managers
- Built-in browser features (Do Not Track)

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

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

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Ethical, Social, and Political Issues in E-commerce

- 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

E-commerce Patents

- 1998 *State Street Bank & Trust vs. Signature Financial Group* case
 - Business method patents
- Most European patent laws do not recognize business methods unless based on technology

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
 - States hope to collect taxes from Internet merchants

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