

Regulate the Internet!

Contributed by Sam Vaknin
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With the advent of Web 2.0 and UGC (User-generated Content), the Internet has completed its transformation into an anarchic and lawless ochlocracy (mob-rule). The Internet is a mass medium and like all media it must be regulated. The laws that apply offline must and, in due time, as legislators are exposed to the less savory aspects of the Web, will apply online.

Inevitably, the legal situation varies across countries and continents. Internet penetration has reached different levels at different times in different places. Thus, the following observations and recommendations are not universally valid or applicable. In some locales, various aspects of cyberspace have been tackled by governments and legislatures, albeit rarely fully and satisfactorily. In others, the field is wide open and the Internet resembles the Wild West at its worst moments.

Laws and regulations passed and intermittently enforced against cybercrime attempt to prevent and constrain only a few obviously illegal acts. Spammers, spyware purveyors, child pornographers, and terrorists are the blatant tip of a much subtler iceberg of malicious and pernicious misconduct.

These are the minimal, initial steps that have to be taken in order to forestall a meltdown of this indispensable utility, the Internet:

1. Slander, Libel, and Defamation vs. Free Speech

The legal status of owners, editors, administrators, Webmasters and moderators of Websites, bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, online news sources, search engines and portals, and blogging communities should be equated to that of publishers and journalists in the print and electronic media. Consequently, they should be held liable to civil damages and to criminal charges arising from actionable libel and defamation posted on their properties if they don't act promptly to comprehensively remedy said libel and defamation.

Internet Service Providers (ISPs) and hosting services should be obligated to disclose to law enforcement agencies and/or to plaintiffs the full personal data of anyone who break the law by publishing or sending libelous, slanderous, defamatory, harassing, or threatening content on or via the Internet.

2. Privacy

The right to privacy of computer users should be embedded in consumer protection laws, allowing for criminal penalties to be imposed on the perpetrators of privacy breaches and for civil damages to the victims.

Individuals and firms who accumulate personal data of suppliers, employees, customers and users or who gain access to them in the normal course of business should be obliged to protect and safeguard such information and to promptly notify those potentially affected of any incident involving the compromise of their personal data. Failure to act reasonably diligently to prevent identity theft should become a criminal offense.

Exceptions should be made only for law enforcement needs and even then only pursuant to warrants issued by especially-designated courts (the equivalent of FISA-mandated courts in the USA).

3. Copyright and Intellectual Property

Intellectual property laws should be considerably relaxed and fair use provisions considerably expanded to accommodate and reflect the nature, possibilities, and constraints of digital renditions of information.

Owners, editors, administrators, Webmasters and moderators of Websites, bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, online news sources, search engines and portals, and blogging communities should be held liable to civil damages and to criminal charges arising from infringements of copyrights and other intellectual property rights posted on or via their properties if they don't act promptly to comprehensively remedy said infringements.

Internet Service Providers (ISPs) and hosting services should be obligated to disclose to law enforcement agencies and/or to plaintiffs the full personal data of anyone who break the law by violating copyrights and other intellectual property rights on or via the Internet.

4. Anonymity

Anonymous or pseudonymous publishing of libelous, slanderous, defamatory, harassing, or threatening content on the Internet - including via e-mail, instant messaging, mashups, or wikis - should be explicitly and specifically made illegal.

Owners, editors, administrators, Webmasters, and moderators of Websites, bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, online news sources, search engines and portals, and blogging communities should be made responsible to obtain the full names and countries of domicile of registered users, posters, contributors, and participants. Upon the first request of an injured party or a law enforcement agency, they should be obligated to make these personal data public in conjunction with libelous, slanderous, defamatory, harassing, or threatening content published.

Providing false personal data to owners, editors, administrators, and moderators of bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, online news sources, and blogging communities should be made a criminal offense as well as give rise to civil damages.

Providing false personal data or remaining anonymous while sending or posting libelous, slanderous, defamatory, harassing, or threatening correspondence (for instance, via e-mail) should be made a criminal offense as well as give rise to civil damages.

Internet Service Providers (ISPs) and hosting services should be obligated to disclose to law enforcement agencies and/or to plaintiffs the full personal data of anyone who break the law by anonymously or pseudonymously publishing or sending libelous, slanderous, defamatory, harassing, or threatening content on or via the Internet.

5. Licensing and Anti-trust

All licensing requirements, content laws, and regulatory supervision that now apply to the print and electronic media should apply to Websites, bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, search engines and portals, online news sources, and blogging communities. The Internet should be subjected to supervision and regulation by the relevant governmental oversight agencies (e.g., in the USA: FCC, FTC, SEC, and others).

Competition (anti-trust) laws and regulations shall be extended to apply to the Internet or, where they are already applicable, shall be enforced to ensure search neutrality, equal access to information, equal access to computing platforms, and fair competition.

6. Truth in Advertising and Misrepresentations

The owners, editors, administrators, Webmasters, and moderators of Websites, bulletin boards, forums, boards, groups, lists, wikis, UGC Websites, online news sources, search engines and portals, and blogging communities should have to truthfully describe the nature of their Internet properties and all other pertinent information items that may be required by a reasonable user - including their ownership structure, privacy policies, sources of information, affiliations, potential and actual conflicts of interest, outstanding lawsuits, risks associated with making use of their Internet properties and other pertinent disclosures.

Misrepresentations should be explicitly and specifically outlawed and carry both criminal penalties and civil liabilities.

It is not too late to restore a semblance of lawfulness to the Internet. True, the Web has been hijacked by stalkers, criminals, big business, and scammers. Even honest users are clueless as to what is and is not allowed. As far as the overwhelming majority of surfers are concerned, voluntary codes of conduct and the much-vaunted Netiquette have utterly failed to render cyberspace safe or, indeed, serviceable. The invisible hand of the market is, indeed, nowhere to be seen.

It is time for legislators and regulators to step in. Even a moderate dose of legislation and the willingness not to succumb to either to mob or to business pressures will go a long way towards restoring the Internet to its original purpose: the civilized and lawful - not to mention pleasurable - exchange of information and opinion over computer networks. Also Read: Anarchy as an Organizing Principle Anarchism for a Post-modern Age The Six Sins of the Wikipedia Germany's Copyright Levy The Downloader's Profile The Incredible Web Thoughts on the Internet's Founding Myths The Idea of Reference The Future of the Book The Kidnapping of Content The Internet and the Library The Future of Online Reference Will Content Ever be Profitable? The Disintermediation of Content The Future of Electronic Publishing Free Online Scholarship - Interview with Peter Suber

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