

Thinking about Internet Regulation



Sunil Abraham
Centre for Internet and Society

Who can you regulate?

- You cannot regulate the Internet
- The following actors can regulate and be regulated.
 - Government - Law
 - Private Sector - Market
 - Technical Community - Architecture & standards
 - Citizens [and Civil Society] - Public pressure

Models of regulation

- Classic regulation
- Self-regulation
- Co-regulation
- International regulation
 - Multilateral: Hard law ex. WIPO
 - Multistakeholder: Soft law ex. ICANN

Key Principles

- Harmonization of substantive law
 - For ex. EU data protection directive
- Harmonization of procedural law
 - For ex. handling of cyber evidence
- Equivalence: what is illegal offline is also illegal online
- Enforceability
 - MLAT
 - LR
- Proportionality: calculation of harm | relief and punishment similar to offline offenses.

Regulatory domains

- Speech regulation – defamation, hate speech, obscenity, public order, national security etc.
- Privacy, data protection, interception and surveillance
- Crime – spam, phishing, identity fraud, authorized access, voyeurism, child pornography
- Digital signatures and certificates
- IPR and A2K – trademark, copyright, patent, FOSS, OS, OC, OA and OER
- Names and numbers
- Security
- Competition
- Taxation
- Banking and finance
- Accessibility

Unintended Consequences

- Adoption of anonymizers and VPNs by Americans.
- Adoption of whatsapp by Indians.
- Streisand effect
- Overblocking by ISPs
- Risk averse behaviour by intermediaries.

Case Study: Cyber Cafe Regulation

- ID card
 - Increase in identity fraud
- Photograph
- Surveillance Camera
- Log retention for 1 year
 - Increase in cyber crime
 - No impact on fight against terror
- Partition height

Thanks for your patience!

sunil@cis-india.org +91 9611100817 @sunil_abraham