

REGULATING SPEECH IN CYBERSPACE

Private companies exert considerable control over the flow of information on the internet. Whether users are finding information with a search engine, communicating on a social networking site, or accessing the internet through an ISP, access to participation can be blocked, channelled, edited or personalised. Such gatekeepers are powerful forces in facilitating or hindering freedom of expression online. This is problematic for a human rights system that has historically treated human rights as a government responsibility, and this is compounded by the largely light-touch regulatory approach to the internet in the West. *Regulating Speech in Cyberspace* explores how these gatekeepers operate at the intersection of three fields of study: regulation (more broadly, law), corporate social responsibility and human rights. It proposes an alternative corporate governance model for speech regulation, one that acts as a template for the increasingly common use of non-state-based models of governance for human rights.

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REGULATING SPEECH IN CYBERSPACE

Gatekeepers, Human Rights and Corporate
Responsibility

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One of the greatest ironies of this period in history is that, just as technology remakes our world, the need to maintain the human dimension of our work, and a company's sense of its social responsibility, is growing at an equally rapid pace. Harmonising economic growth with the protection of human rights is one of the greatest challenges we face today.

Mary Robinson, former United Nations High
Commissioner for Human Rights¹

The problem of maintaining a system of freedom of expression in a society is one of the most complex any society has to face. Self-restraint, self-discipline, and maturity are required. The theory is essentially a highly sophisticated one. The members of the society must be willing to sacrifice individual and short-term advantage for social and long-range goals.

Thomas Emerson²

¹ Office of the United Nations Commissioner for Human Rights, *Business and Human Rights: A Progress Report* (2000), Preface.

² T. I. Emerson, *The System of Freedom of Expression* (New York: Random House, 1970), p. 10.

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PREFACE

New technologies have changed the way we communicate, challenging traditional structures of speech regulation. In the internet context, the transnational, instantaneous nature of communications makes it difficult for governments to directly control the information that enters and leaves a country. At the same time, the power of companies that control this information flow increases because the communication technologies that enable or disable participation in discourse online are privately owned. To find information, we use search engines. To share information, we use communication platforms such as Twitter. To access the internet, we need to use internet service providers (ISPs). Thus, we inevitably rely on these companies to exercise the right to freedom of expression online, and they thereby become gatekeepers to our online experience. This is problematic for a human rights system that has treated human rights as a government responsibility and has effectively privatised human rights in the digital environment.

Our reliance on these gatekeepers to exercise the right to free speech has had two effects. First, such gatekeepers have increasingly been the target of legal measures designed to capitalise on their capacity to regulate third-party conduct. This ranges from orders for ISPs to block access to copyright-infringing websites and other unlawful content, as seen in United Kingdom cases involving Pirate Bay and Newzbin2, to orders by the Egyptian government during the Arab Spring in 2011 for Vodafone to switch off mobile networks. These orders put pressure on companies, both domestically and internationally, to be advocates for users' free speech rights and to have in place governance codes that guide their conduct in this respect.

Second, in the Western world, speech regulation in cyberspace has largely been left to self-regulation, in much the same way that regulation of the internet in general has been light-touch. When Facebook decides to delete a group it deems offensive, Twitter suspends a user's account for the content of his or her tweets or Amazon decides to no longer host a site

such as Wikileaks, the determination tends to be made outside the legal system of human rights. The result is a system of private governance running alongside the law, without any of the human rights safeguards one normally expects of state-run systems, such as principles of accountability, predictability, accessibility, transparency and proportionality.

When companies have chosen to address their human rights impact, the models of regulation that have resulted range from internal codes of conduct often set down through terms of service to more formalised industry self-regulatory frameworks such as the Internet Watch Foundation (IWF) to address child sexual abuse images and the Global Network Initiative to address free speech and privacy. Informal corporate social responsibility (CSR) codes and self-regulatory frameworks therefore emerge as powerful forces in shaping the right to freedom of expression online.

This book challenges the traditional conception of human rights as a relationship between citizens and state, arguing that, in the Digital Age, the experience of human rights in general, and free speech in particular, often occurs with and through private parties. This calls for a new system of human rights governance that takes account of private power yet is sensitive to the models of regulation that have emerged in the communications technology sector. This book seeks to extend the internet regulatory debate to take account of CSR, which, up until now, has either been unaccounted for in the regulatory discussion or folded too simply within the notion of self-regulation. Through a series of case studies, literature review and analysis, this book examines the sufficiency of CSR frameworks to protect and respect freedom of expression on the internet. This examination connects three fields of study: CSR, regulation (more broadly, law) and human rights. All three ask questions about where the law ends and social responsibility begins, and it is the link between these fields that grounds this book's proposal for a new governance model. This has wider relevance to the debates concerning human rights and business, regulatory theory and internet governance.

This book argues that CSR lacks the standards and compliance mechanisms needed to be a credible and sustainable framework for speech regulation in the communications technology sector. Equally, top-down legal controls are too blunt a tool for this arena. What is needed is a framework that embraces the legal dimension of human rights and its accountability mechanisms and the nonlegal moral commitment to human rights that CSR more effectively facilitates. In the internet environment, I suggest that this involves building complementarity between

the various systems of regulation. Drawing on regulatory and human rights traditions, a new governance model for speech regulation is proposed, one that acts as a template for the increasingly common use of non-state-based models of governance for human rights.

The book is organised as follows. Chapter 1, ‘The internet as a democratising force’, examines the internet’s potential to be both a tool of democracy and a tool of control, setting up for the reader the critical role played by private gatekeepers in making discourse online possible and the need for human rights-compliant governance structures to facilitate this democratic potential. In Chapter 2, ‘A framework for identifying internet information gatekeepers’, the gatekeepers (IIGs) studied in this book will be identified and rooted in their impact on human rights.

In Chapter 3, ‘Corporate social responsibility in cyberspace’, CSR theory will be examined, tracing its history and establishing its relationship with the law and human rights and how it is being used in practice. It will show that the promise of CSR in the digital environment is in deploying human rights principles to nonpublic bodies that operate largely outside the remit of traditional human rights law. Ultimately, however, the largely voluntary nature of CSR instruments makes it a problematic candidate as a governance tool for IIGs and freedom of speech.

Chapters 4 and 5 comprise case studies of the public-facing governance frameworks of two macro-gatekeepers to determine their compliance with the principles underlying Article 10 of the European Convention on Human Rights and the United Nations Guiding Principles. In Chapter 4, ‘Mechanisms of information control: ISPs’, I examine the role of ISPs in filtering content, in particular the role of the industry regulatory IWF. In Chapter 5, ‘Mechanisms of information control: search engines’, the case study examines the role of search engines in controlling information flows through search indexing and rankings.

Chapter 6, ‘A corporate governance model for the Digital Age’, draws together the findings of the case studies and examines their significance to the question of what role CSR has played in governing the free speech impact of internet gatekeepers, and, in this role, asking if CSR adds value to the goal of facilitating and protecting free speech online. In this chapter, an alternative governance model will be proposed to address the deficiencies identified in the book and through the case studies.

This book focuses narrowly on freedom of expression, but it is intended to have wider significance. Many issues of free speech are

accompanied by concerns of, among others, privacy, the right to education and/or freedom of association. Indeed, privacy is an important enabler of the exercise of free speech. This book does not examine privacy as freedom, but it is written deeply conscious of it. Thus, when appropriate, the book speaks of human rights generally, and its proposals in Chapter 6 are geared to have this wider effect. The book is further narrowed by its focus on the Western world, in particular the United Kingdom. However, there is an inevitable outward focus as a result of the transnational nature of internet communications. The governance model proposed in Chapter 6 is offered as a template to be used to address other human rights engaged by the activities of the gatekeepers that are the focus of this book and to be used (modified as necessitated by domestic laws and culture) in other countries in the Western world.

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ABBREVIATIONS

ASA	Advertising Standards Authority
AUP	Acceptable Use Policy
BBFC	British Board of Film Classification
BIS	Department of Business, Innovation and Skills
CCI	Commonwealth Cybercrime Initiative
CJEU	European Court of Justice
CSR	Corporate Social Responsibility
DMCA	Digital Millennium Copyright Act 1998
DTI	Department of Trade and Industry
EFF	Electronic Frontier Foundation
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EHRC	Equality and Human Rights Commission
EICC	Electronic Industry Code of Conduct
FSC	Forest Stewardship Council
FTC	Federal Trade Commission
GeSI	Global e-Sustainability Initiative
GNI	Global Network Initiative
HRA	Human Rights Act
ICCPR	International Covenant on Civil and Political Rights
ICO	Information Commissioner's Office
ICT	Information and Communication Technologies
IIG	Internet Information Gatekeeper
ISP	Internet Service Provider
ISPA	Internet Service Providers Association
ITU	International Telecommunication Union
IWF	Internet Watch Foundation
NCP	National Contact Point
NGO	Nongovernmental Organisation
NGT	Network Gatekeeper Theory
NHRI	National Human Rights Institution
NSA	National Security Agency
OCSARP	Online Child Sexual Abuse Reporting Portal

LIST OF ABBREVIATIONS

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OECD	Organisation for Economic Co-operation and Development
OfCom	Office of Communications
PCC	Press Complaints Commission
TNC	Transnational Corporation
ToS	Terms of Service
TRIPs	Trade-Related Aspects of Intellectual Property Rights
UDHR	Universal Declaration of Human Rights
VGT	Virtual Global Taskforce
WTO	World Trade Organization

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- The Consumer Protection from Unfair Trading Regulations 2008 No. 1277, p. 139
- Council of Europe, 'Declaration on freedom of communication on the Internet' (28 May 2003), p. 21
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- Directive 2011/83/EU of 25 October 2011 of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and

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- Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (E-Commerce Directive), p. 39, 42, 45, 89, 125–129, 153, 191–194, 244
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- Principles Relating to the Status of National Institutions (The Paris Principles), p. 275
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- Royal Charter on Self-Regulation of the Press 2013, p. 139, 271
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- Treaty of Lisbon amending the Treaty establishing the European Community 2007/C 306/01, p. 155
- TRIPS (Trade-Related Aspects of Intellectual Property Rights), p. 60
- The Unfair Terms in Consumer Contracts Regulations 1999 No. 2083, p. 213
- United Nations Commission for International Trade Law, Online Dispute Resolution for Cross-border Electronic Transactions (Working Group), p. 266
- United Nations Human Rights Council A/HRC/20/L.13, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (29 June 2012), p. 21, 282
- United Nations Sub-Commission on the Promotion and Protection of Human Rights, 'Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' (2003), E/CN.4/Sub.2/2003/12, p. 90, 98
- United Nations General Assembly, National institutions for the promotion and protection of human rights, GA Res. 48/134 of 20 December 1993, p. 275
- Universal Declaration of Human Rights 1948, p. 20, 69, 73, 80, 83, 87, 112, 165–166, 196, 257, 267, 275
- US Constitution, p. 63, 121–122, 179–180, 185, 188, 198, 204, 206, 208–211, 233, 240–241
- Video Recording Act 1984 c. 39, p. 139

Cases

- A&M Records, Inc. v. Napster, Inc.* 239 F 3d 1004 (9th Cir. 2001), p. 38–39
- Ahmet Yildirim v. Turkey*, Application No. 3111/10 (18 December 2012), p. 21–22, 120, 123, 144–146, 164, 197, 199, 201, 283
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- Author of a Blog v. Times Newspapers Limited* [2009] EWHC 1358 (QB), p. 194
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- Belgische Vereniging van Auteurs, Componisten en Uitgevers CVBA (SABAM) v. Netlog NV* (2012), Case C-360/10, p. 121, 283
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- Cour de cassation, Civ 1ère, 19 juin 2013, Google Inc. c/ Société Lyonnaise de garantie*, p. 184
- Decision no. 2009–580 of 10 June 2009 (France Constitutional Council), re Act furthering the diffusion and protection of creation on the Internet, at www.conseil-constitutionnel.fr/conseil-constitutionnel/root/bank_mm/anglais/2009_580dc.pdf, p. 20
- Delfi AS v. Estonia* (2013) (Application No. 64569/09), p. 121, 123
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- Fair Housing Council of San Fernando Valley v. Roommates.com* (2008) 521 F.3d 1157 (9th Circ. USCA), p. 185
- Fuentes Bobo v. Spain* (2001) EHRR 50, p. 156
- Frezzoz v. France* (2001) 31 EHRR 2, p. 202
- Gaskin v. United Kingdom* (1987) 12 EHRR 36, p. 200
- Google Spain SL, Google Inc. v. Agencia Espanola de Proteccion de Datos, Marios Costeja Gonzalez* Case 12 (2014) C-131/12, p. 186–188, 204, 218
- Google France, Google Inc. v. Louis Vuitton Malletier* (2010) C-236/08 (three conjoined cases C-236/08, C-237/08, and C-238/08), p. 192–194
- Haider v. Austria* (1995) 85 DR 66, p. 207
- Halford v. United Kingdom* (1997) 24 EHRR 523, p. 144, 146
- Jameel (Yousef) v. Dow Jones* [2005] EWCA Civ 75, p. 262
- Jian Zhang v. Baidu.com Inc.* (2014) 11 Civ. 3388 (DC SDNY), p. 188, 209–211, 227, 269
- Kasky v. Nike* (2002) 45 P. 3d 243 (Cal), p. 79
- Kiobel v. Royal Dutch Petroleum Co* (2013) 133 S. Ct. 1659, p. 88
- Kinderstart.com LLC et al v. Google Inc.* (2007) Case 5:06-cv-02057-JF (DC NCAL), p. 209, 212
- Landgericht (Berlin) (Google) (15 O 402/12) Unreported November 19, 2013 (Germany), p. 225

- Langdon v. Google* (2007) Civ. Act. No. 06–319-JJF (D. Del. February 20, 2007), p. 206–207, 222
- Lander v. Sweden* (1987) 9 EHRR 433, p. 143, 200
- LICRA et UEJF v. Yahoo! Inc.*, Ordonnance Refere, TGI Paris, 20 November 2000, p. 204, 240
- Lingens v. Austria* (1986) 8 EHRR 407, p. 19, 50
- Malone v. United Kingdom* (8691/79) (1985) 7 EHRR 14, p. 143
- Melnychuk v. Ukraine* (28743/03), Decision of 5 July 2005, p. 205
- Metropolitan International Schools v. Designtecnica Corporation and Others*, [2009] EWHC 1765 (QB), p. 184, 192, 193
- MGM Studios v. Grokster* 545 US 913, p. 38–39
- Müller v. Switzerland* (1991) 13 EHRR 212, p. 143
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- Observer and Guardian v. UK*, No. 13585/88 (1991) 14 EHRR 153, p. 197
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- Poplar Housing and Regeneration Community Association Ltd. v. Donoghue* [2002] QB 48 (CA), p. 137, 138
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