

The Internet, Warts and All

The Internet, Warts and All asks questions. Why are government digital policies so often out of touch and counterproductive? Why is surveillance law problematic and ineffective – and often defeated in court? Do companies like Google and Facebook really care about freedom of speech? Why are neither laws nor technology companies able to get to grips with trolling? Is ‘fake news’ something that can be ‘dealt with’? Can these issues be addressed more effectively, intelligently and appropriately in the future? To answer these questions, *The Internet, Warts and All* busts a number of myths and illusions about the Internet – about the neutrality of algorithms, the permanence of information, the impact of surveillance, the nature of privacy and more. It shows how trolling and ‘fake news’ arise – and why current moves to deal with them are doomed to failure. It suggests a way forward – by embracing the unruly nature of the Internet.

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The Internet, Warts and All

Free Speech, Privacy and Truth

Paul Bernal

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Preface

This book asks questions. Why do government digital policies so often feel out of touch and even counterproductive? Why is surveillance law so often problematic and ineffective – and so often defeated in the courts? Do companies like Google and Facebook really care about freedom of speech? Why are neither laws nor technology companies able to get to grips with the troll problem? Is ‘fake news’ something that can be ‘dealt with’? Can these issues be addressed more effectively, intelligently and appropriately in the future?

Some of the case studies used to examine these questions are primarily legal, such as the ‘right to be forgotten’ and the Investigatory Powers Act 2016. Some are more practical, such as the farrago of the Samaritans Radar, the troll-storm that was Gamergate and the thorny issue of ‘fake news’. These examples can help expose the myths and illusions that surround the internet and the patterns that emerge when the different issues are considered together. They demonstrate the often unnoticed or underappreciated links between privacy and freedom of speech and the overriding issues of power, community and the public interest.

Our perceptions of the internet are confused and contradictory. We think everything on the net lasts forever yet we’re worried about everything being forgotten. We don’t trust anything we read on the internet yet we treat it as a perfect historical archive that should never be tampered with. We know that it is always changing but treat it as something that will be in its current form forever. We think that piracy is destroying the entertainment industry even as we spend more and more money every year on music and movies. We think that we are spied on at all times by perfectly effective security services and yet that those security services can’t catch a single terrorist. We think anonymity abounds but that the security services and Google know everything there is to know about us. The contradictions also apply to the law: at times we imagine the internet as a lawless place, where enforcement is impossible and criminals, terrorists and paedophiles roam free, and at other times

we think any interference by the law will bring the internet to its knees.

Our attitudes to Google and Facebook are full of paradoxes. Sometimes we see them as philanthropic indexers of the internet and champions of freedom of expression; at other times as evil mega-corporations driven only by profit or trying to control the world and indeed us. We expect them to provide imaginative, innovative and engaging products and services – and we expect them to do so for nothing and without invading our privacy or gathering our data. Google and Facebook have their own contradictions too: at times acting as ‘speakers’ claiming First Amendment protection, at other times as neutral indexers, their algorithms organic and generated by the internet and their users themselves, with little or no responsibility for what happens through their systems.

All these views, all these perspectives, have something behind them. None of them are ‘lies’ – but none represents the whole truth either. These contradictions and paradoxes are not just a result of misconceptions that can easily be resolved if only we can find the right approach, the right legal and technical tools, the right way to look at things. Rather, they are how things are: a dynamic but creative and contradictory mess. If we want to find better ways to regulate the internet and to run businesses, organise and socialise on the internet, the starting point has to be to understand and to accept the internet for the complex and unruly mess that it is: to paint the Internet warts and all.

This book is the result of a number of years of research, of blogging and of discussions and collaborations, and it draws heavily on the fine work of many scholars. Most of the subjects that are touched upon in *The Internet, Warts and All* have been researched and written about by excellent scholars. Their work is referred to throughout the text and in the bibliography, but some recent works stand out: boyd on young people and the internet, Harcourt on our ‘expository society’, Horten on lobbying, Pasquale on algorithms, Phillips on trolls and Tkacz on Wikipedia. The nature of the subject matter is such that many of the sources used in this book are neither books nor academic articles but news stories, blogs, even tweets. Events move so fast that the time taken for the usual academic work to be completed can sometimes mean that even by the time it is published it is already out of date. This book may suffer such a fate. It is inevitable that some of the details in some of the stories are already outdated as they are read – though one of the biggest stories, the emerging Facebook/Cambridge Analytica saga, in most ways strengthens and

supports the arguments made here rather than undermining them. Others may not – but this should neither detract nor distract from the main theme of the book but reinforce it. One of the key points made is that the internet is messy, unruly and unpredictable. We have to accept that if we are to make any progress.

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