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AN APPROACH TO SELF- AND CO-REGULATION OF ELECTRONIC COMMERCE IN BUILDING TRUST OVER THE INTERNET

The goal of this paper is to highlight some thoughts about regulation and self-regulation for e-commerce, to present cases and the importance of co- and self-regulation in e-commerce. There are a couple of questions that rise in this area and we will try to answer with this paper: What are the benefits and disadvantages of self- and co-regulation, how can online industry be a cause and effect for self and co-regulation, should our web portal and search engines be a subject to any kind of regulation, what is the impact of the Internet and self and co-regulation on the e-commerce.

Key words: self-regulation, co-regulation, electronic-commerce, Internet.

Introduction.

There are a lot of rules and directives on some legal aspects of e-commerce that are changing in such a dynamic environment so all this needs a system of co- and self-regulation, that are more effective than direct regulation from government, so we highlight the importance of co- and self-regulation in order to achieve a sustainable controlled environment in which e-commerce can prosper in the Single Market.

Self-regulation is a continuous theme of discussion in the world, especially when it comes to the regulation of the e-commerce or the digital economy. "Trust is essential for the development of electronic business between parties that have never dealt with each other before. Self-regulation has been recognized by Governments, international organizations, international electronic business platforms, national organizations and consumer organizations such as the Organization for Economic Cooperation and Development (OECD), the European Union, Trust UK and the Global Business Dialogue on Electronic Business, as a powerful instrument to create trust in electronic business." [1].

The fundamental discussions go to the difference between states and economies of the world. For example U.S. and European conceptions for self-regulation are different and they start from the role of government.

In the U.S., we can find more often the concept of the liberal "laissez-faire" so the private sector is endorsed to self-regulate and then only when private sector is unsuccessful, the government tries to equilibrate the situation.

In Europe the system was developed a little more on the medieval society system, so the companies are waiting for a government entrustment, and the government is appropriate to be an active participant.

Experimental, Results and Discussion

For the determination of the ideas that have conduct to this paper, self-regulation was not rigorously demarcated. There have been a lot of papers that bring to attention that the applicability of self-regulation did not respect in totally the Inter Institutional Agreement on Better Law-making of self- or co-regulation.

Thus ideas presented in this paper are founded on a common acceptance that the models can be convenient and operative, but it would not intend to be a 'one-size fits all' model, because there are diverse systems in the world and any nation have progressed differently, each with its specific laws and specific social development.

Co-regulation is a different tool and it is effective when self-regulation is not working, when it reaches a dead end, sometimes because the same organism that is a player is also a judging party.

On December 31, 2003, the European Parliament, Council and the Commission outline the first definition

settled on self-regulation and co-regulation in the Inter-institutional Agreement on better law-making: "Self-regulation is defined as the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectorial agreements). As a general rule, this type of voluntary initiative does not imply that the Institutions have adopted any particular stance, in particular where such initiatives are undertaken in areas which are not covered by the Treaties or in which the Union has not hitherto legislated. As one of its responsibilities, the Commission will scrutinise self-regulation practices in order to verify that they comply with the provisions of the EC Treaty [6].

Also in this act of Inter-institutional agreement on better law-making it is mentioned that the Commission will notify the European Parliament and the Council of the self-regulation practices which it regards, on the one hand, as contributing to the attainment of the EC Treaty objectives and as being compatible with its provisions and, on the other, as being satisfactory in terms of the representativeness of the parties concerned, sectorial and geographical cover and the added value of the commitments given. It will, nonetheless, consider the possibility of putting forward a proposal for a legislative act, in particular at the request of the competent legislative authority or in the event of a failure to observe the above practices." [6].

Those definitions permit some interpretation of self-regulation that is not quite as purely autonomous as this wording implies and has no features required yet for an arrangement to qualify as co-regulation.

Co-regulation involves a degree of responsibility from all the stockholders and this is a good thing in a way because it gives responsibility to all the party involved, but other times this can slow the process because of some of the parties.

In this case the government has the power to push industry, to regulate without self or co regulation without being a stakeholder or negotiated with them. But nowadays this act became less and less experienced as the industry becomes more and more public orientated. In other words, technological change is probably a necessary, albeit insufficient, condition for achieving sustainability. Institutional changes, including changes in routines, social norms, formal regulations, etc., are needed not only to induce the required technological changes, but also to encourage behavioral changes at all levels of society in more sustainable directions [8].

We have to see also that co-regulation and self-regulation will spread on the globe as the companies grow and the Internet will have more and more power, more and more users.

We will present now an examples that fit well this case, the implementation of Digital Millennium Copyright Act (DMCA) by Google.

"The Digital Millennium Copyright Act (DMCA) is a United States copyright law that implements two 1996 treaties of the World Intellectual Property Organization (WIPO). It criminalizes production and dissemination of technology, devices, or services intended to circumvent measures (commonly known as digital rights management or DRM) that control access to copyrighted works. It also criminalizes the act of circumventing an access control, whether or not there is actual infringement of copyright itself. In addition, the Digital Millennium Copyright Act heightens the penalties for copyright infringement on the Internet" [9].

The Digital Millennium Copyright Act (DMCA) was signed into law by President Clinton on October 28, 1998.

The legislation implements two 1996 World Intellectual Property Organization (WIPO) treaties: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The Digital Millennium Copyright Act also addresses a number of other significant copyright-related issues, the Digital Millennium Copyright Act amended Title 17 of the United States Code to extend the reach of copyright, while limiting the liability of the providers of online services for copyright infringement by their users.

Digital Millennium Copyright Act Title II, the Online Copyright Infringement Liability Limitation Act ("OCILLA"), creates a safe harbor for online service providers (OSPs, including ISPs) against copyright infringement liability, provided they meet specific requirements [2].

When Google implement globally the Digital Millenium Copyright act, all the users of Google will be judge by Google after the U.S. law. If you are in United Arab Emirates, using services offered by Google, and somebody will make complain about your activity and content, you will be judge by Google after the U.S. law and the index can be block by them. This is just one of a case, but now all the company that have data on the servers in the United State have to apply U.S. law.

The Digital Millennium Copyright Act of 1998 (DMCA) was the foundation of an effort by Congress to implement United States treaty obligations and to move the nation's copyright law into the digital age. But as Congress recognized, the only thing that remains constant is change. The enactment of the DMCA was only the beginning of an ongoing evaluation by Congress on the relationship between technological change and U.S. copyright law. This Report of the Register of Copyrights was mandated in the DMCA to assist Congress in that continuing process [7].

During that time another disaster happened, the terrorist attacks of Sept. 11, 2001, that changed the all world, so did affect so much the regulation and co-, self-regulation. In a couple of days after the events, the U.S. government amplified surveillance to increase protection against other terrorist attacks. President George W. Bush introduced The Patriot ACT, an initiative which change the security rules at that time.

The initiative was called Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (U.S. PATRIOT Act). The Act intensifying the investigation of the government and that took in consideration even the online environment. That was a moment when regulation was much strongest than self-regulation. There are some moments when governments can influence links between economic productivity, privacy and security and this moment are not desired in a free market.

There are clear benefits to protecting privacy, but there are related costs as well. Privacy can impose economic and social costs; while privacy may protect some

individuals, it may result in costs by preventing others from making fully informed decisions [4].

The self and co-regulation has a great implication for e-commerce and its future on the Internet, representing an important goal for today internet users. This regulatory process have to go all the way from protecting the minors to consumer protection and protection of intellectual property and personal data.

If the consumer will feel safety then global industry will grow, so it is in its interest to pay attention and to self and co-regulate the e-commerce responsibly, making it the most suitable form of governance for e-commerce in nowadays. Using it responsibly it would build a strong global community.

There is a continuous attention from European Institutes for the aspects that can give rise to self-regulation so you can find a lots of forum open by European Commission. For examples you can find some great ideas on "potential areas for self-regulation and co-regulation initiatives in e-commerce and retail memo for the community of practice for better self- and co-regulation.

They notice that; The fairness including respect for time/attention and dynamic pricing: the deployment of ICT in all walks of life changes in a pervasive and radical way the producer/consumer relationship, to an extent where there is a need to update what "fair" means in consumer/producer relationship.

There are (at least) two trends worth considering: (i) time and attention that producers and consumers invest in their relationship. Time for the producer ends up in costs of the workforce managing the relationship, while time for the consumer ends up in satisfaction (if given proper attention) or deep frustration (otherwise); (ii) dynamic pricing: price determination or revenue management is more and more complex and encompasses many different elements (yield management, congestion, IP tracking). Price practices have a deep underlying societal component. It is both socially and legally codified. Reviewing the benchmark of fairness in price determination might be appropriate. It is a horizontal topic which may impact several policies, such as personal data protection, competition law, internal market rules, etc [3].

There is also the question "Who will self-regulate the self-regulation?", like the Latin "Quis custodiet ipsos custodes?". The organisations that adopt self-regulation should be transparent, so that an external watching may be done by authority.

It should be verify at any time how they use the procedures and standards, and if necessary how can they react and show a requirement from an external authorised institution. This transparency can also be used to notice if any self-regulation act can be used unfair against competitors from the market or against a potential competitors.

The public, or a large social group, are crucial components for implementing and creating the regulation. The public should be consulted and informed, and if it is implicated there will be reactions that will conduct to self or co-regulation. It is not easy to encourage people to stay informed and to express themselves, to fill complain if is the case.

The public from some parts of the world is more educated in this direction but in some young democracy it is still necessary for the efforts to be done to educate this public. So this is what government and companies should focus on in nowadays, to encourage the public to be involved in this, and then it will be much easier for stakeholders to self- or co-regulation.

Conclusion

Why is privacy of concern to e-commerce? We believe this concern stems from a new technical environment for

consumers and businesses, the resulting data flow with substantial benefits to businesses and consumers, consumer concerns in this new environment, and regulatory attempts to govern this environment. It is important to understand each one of these, and to understand the trade-offs. Privacy as a business issue is extremely sensitive to changes in the surrounding context. Changes in people's expectations (such as when they become accustomed to data transfer in commercial settings) or in regulatory governance (such as new laws, governmental regulations, or even case law in the US) can dramatically alter business issues and possibilities [5].

We can conclude that self-regulation and co-regulation will be some important toll that will decide the future development speed for e-commerce and the Internet. The reaction of public, stakeholders, or government will decide that future, being very important for this matter.

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ПІДХІД ДО САМО- І СО-РЕГУЛЮВАННЯ ЕЛЕКТРОННОЇ ТОРГІВЛІ ПРИ ПОБУДОВІ ДОВІРИ ЧЕРЕЗ ІНТЕРНЕТ

Дана робота висуває на перший план деякі думки з приводу регулювання і саморегулювання електронної комерції, щоб представити випадки і важливість со- та саморегулювання в галузі електронної комерції. Є кілька питань, які піднімаються в цій області, і ми постараємося відповісти у цій статті: які переваги і недоліки само- і сорегулювання, як може он-лайн індустрія бути причиною і слідством для себе і сорегулювання, якщо самі веб-портал і пошукові системи будуть предметом будь-якого регулювання, який вплив Інтернету на само- і сорегулювання у електронній комерції.

Ключові слова: саморегулювання, спільне регулювання, електронна комерція, Інтернет.

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ПОДХОД К САМО- И СО-РЕГУЛИРОВАНИЮ ЭЛЕКТРОННОЙ ТОРГОВЛИ ПРИ ПОСТРОЕНИИ ДОВЕРИЯ ЧЕРЕЗ ИНТЕРНЕТ

Данная работа выдвигает на первый план некоторые мысли по поводу регулирования и саморегулирования электронной коммерции, представляет случаи и важность со- и само-регулирования в области электронной коммерции. Есть несколько вопросов, которые поднимаются в этой области, и мы постараемся ответить в этой статье: какие преимущества и недостатки само- и со-регулирования, как может он-лайн индустрия быть причиной и следствием для себя и со-регулирования, если сами веб-портал и поисковые системы будут предметом любого регулирования, какое влияние Интернета на само- и со-регулирования в электронной коммерции.

Ключевые слова: саморегулирование, совместное регулирование, электронная коммерция, Интернет.

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ВІДКРИТІСТЬ ТА ПРОЗОРИСТЬ ДЕРЖАВНОГО ТА МІСЦЕВИХ БЮДЖЕТІВ В УКРАЇНІ

В статті розглянуто методику розрахунку індексу відкритості бюджету, яку запроваджено міжнародною організацією "Міжнародне бюджетне партнерство". Висвітлено порядок оприлюднення бюджетних документів, що впливають на рейтинг країни за індексом бюджетної прозорості. Визначено напрямки покращення індексу прозорості публічних фінансів в Україні.

Ключові слова: публічні фінанси, державний бюджет, місцеві бюджети, індекс бюджетної прозорості, Prozorro & Є-data.

Вступ. Реформування сфери управління публічними фінансами в Україні та сфери взаємовідносин суб'єктів фінансової системи України на європейських засадах та принципах неможливе без реалізації процесу, спрямованого на відкритість та прозорість державних фінансів, і, в першу чергу, у бюджетній сфері. Важливим є вивчення міжнародного досвіду щодо оприлюднення та аналізу показників державних та місцевих бюджетів, які впливають на забезпечення прозорості та відкритості в системі фінансів державного сектору різних країн та з'ясування причин та наслідків низького рейтингу України за показником прозорості бюджетної інформації.

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Зарубіжний досвід свідчить, що серед різних механізмів забезпечення ефективності функціонування бюджетної системи найбільш вдалим є той, що базується на принципі прозорості.

Основними засадами цього механізму є встановлення функцій та обов'язків, що визначають структуру та функції органів державної та місцевої влади, а також взаємовідносини між рівнями бюджетної системи, органами державного управління та суб'єктами господарювання. Більш детально про розподіл функцій і повноважень між ланками бюджетної системи в процесі реалізації фіскальної децентралізації розкрито в статті [1].

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