

Extraterritorial Enforcement of National Laws in Connection with Online Commercial Activity

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Internet Law Works-in-Progress
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- ◉ National laws on the internet

- ◉ Transnational forces forming national laws
- ◉ Enforcement not limited to state enforcement power
- ◉ Alternative enforcement in the shadow of state enforcement

- ◉ Extraterritorial enforcement
 - Remote and decentralized activity on the internet
- ◉ Impact of uncertain enforcement on substantive law debates

- ◉ Transnational commercial activity
 - All aspects of online commerce;
not limited to “commercial law” or EU E-Commerce Directive
 - No internet infrastructure governance issues
 - International, not inter-state commercial activity

- ◉ Limits on the ubiquitousness
 - Geoblocking
 - Other targeting
 - Other traditional market-partitioning tools

- ◉ Lack of uniformity
 - Tangible v. intangible goods

Prescriptive and Adjudicatory Perspectives

- ◉ Point-of-source v. point-of-consumption principle
- ◉ Point-of-source principle
 - EU E-Commerce Directive
- ◉ Point-of-consumption principle
 - U.K. Gambling (Licensing and Advertising) Act 2014
- ◉ Attractiveness of the point-of-source principle
 - Issues of proper localization
 - Enforcement issues
- ◉ Benefits of the point-of-consumption principle
- ◉ Substantive content as a problematic guideline to the selection of the principle

A Country's Enforcement Power

- ⦿ Jurisdiction and enforcement power over the defendant
 - Territorially-limited enforcement
- ⦿ Secondary liability and intermediaries
- ⦿ Border measures

Enforcement Assistance from Other Countries

- ⦿ Judgments by courts of general v. specific jurisdiction
- ⦿ Limitations on application of foreign law and enforcement of foreign judgments

Territorial Scope of Injunctions on the Internet

Supranational Limitations on Extraterritorial Enforcement

- ◉ Free movement of goods and services (EU, EEA)
- ◉ No barriers to trade (WTO)
- ◉ Exceptions

Possibilities for Improvement

- ◉ Rogue countries
- ◉ Alternative enforcement problems
 - Location of servers; intermediaries
- ◉ Enforcement of public law v. private law
- ◉ Industry actions

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