The Role of Geoblocking in the Internet Legal Landscape

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Uses of Geoblocking and the Internet Legal Landscape

- The ubiquity of the internet vs. territoriality of national laws
- Users’ expectations of a territorially-unlimited internet
- The need for the territorial restraint of national jurisdiction vs. its extraterritorial reach

- Regulation and jurisdiction in the absence of geoblocking
- Adoption of geoblocking by the private sector
- The use of geoblocking for regulation and for the enforcement of laws
Opposition to geoblocking

- Objections to geoblocking *per se*:
  
  Geoblocking
  - is contrary to the original architecture of the internet
  - is imperfect, and spillover is more than negligible
  - has uncertain legality
  - is associated with not insignificant implementation costs
  - may have an impact on free speech

- Objections concerning the underlying reasons for geoblocking
The EU anti-geoblocking campaign

- Proposal for a Regulation on ensuring cross-border portability of online content services in the internal market

- The effects of the cross-border portability proposal
  - The Proposal legislates an acceptable level of cross-border spillover
  - The Proposal requires tracking and authentication (i.e. impact on privacy)

- Proposal for a Regulation on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence, or place of establishment within the internal market
Geoblocking serving positive ends

- Diversity of content on the internet
  - From a global perspective, the diversity of content accessible to users around the world will be enhanced by geoblocking
  - Geoblocking allows for content to be made available where it is legal
  - Geoblocking allows for territorially-limited (i.e. lower-priced) licensing

- Other reasons for geoblocking
  - A territorial partitioning of the internet is inevitable as long as countries have strong national public policies that shape at least some of their laws
  - Online gambling and other sensitive areas of regulation will provoke countries’ strong policy stances, for which geoblocking on the internet offers a workable *modus operandi*
http://scholars.law.unlv.edu/rscholars/12/

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