

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*

- ◉ Marketa Trimble, *The Future of Cybertravel: Legal Implications of the Evasion of Geolocation*, 22 Fordham Intell. Prop. Media & Ent. L.J. 567 (2012)
<http://scholars.law.unlv.edu/rscholars/12/>
- ◉ Marketa Trimble, *The Territoriality Referendum*, 6 WIPO J. 89 (2015)
<http://scholars.law.unlv.edu/facpub/905/>
- ◉ Marketa Trimble, *Geoblocking and Evasion of Geoblocking – Technical Standards and the Law*, in *GEOBLOCKING AND GLOBAL VIDEO CULTURE* (Ramon Lobato & James Meese eds., Institute of Network Cultures, Amsterdam, 2016)
<http://networkcultures.org/blog/publication/no-18-geoblocking-and-global-video-culture/>

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