

The Media and Liability for Content on the Internet

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Supporting Documents

In a paper for the Mapping Digital Media series, CDT's Cynthia Wong and Jim Dempsey explore in depth the issue of online liability, offering insight into government policies and suggesting legal reforms for promoting free expression. The paper is one of a series published by the Open Society Media Program, covering key policy questions affecting digital media globally.

Depending on the jurisdiction, speakers may face civil and even criminal liability for defamation, incitement to violence, obscenity or pornography, copyright infringement, criticism of government officials, blasphemy, privacy violations, or hate speech.

Moreover, many governments have enlisted, or are considering proposals that would enlist, Internet intermediaries – search engines, social networks, ISPs – in controlling expressive content. By holding intermediaries responsible for content that they did not create, governments seek to deputize these companies into monitoring their networks and censoring their users. Placing liability on intermediaries often stifles legitimate speech: Fearful of liability, intermediaries often over-react, blocking or taking down even lawful content. In addition, placing liability on intermediaries can discourage them from offering of innovative new services that would expand opportunities for economic activity and personal or community development.

Wong and Dempsey recommend three major reforms: protect intermediaries; follow the country-of-origin principle for jurisdiction; and do not extend broadcast regulation to the Internet. Their paper offers a good introduction to liability and free expression to any interested person in the US or worldwide.

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