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COIMBATORE-641 035, TAMIL NADU



DEPARTMENT OF ELECTRONICS & COMMUNICATION ENGINEERING

19ECE306- SMART IoT APPLICATIONS

III ECE / V SEMESTER

UNIT IV

IOT LEGAL PERSPECTIVES AND STANDARDIZATION

Self-Regulation, International Legal Framework

General Approaches for a Legal Framework

A. Introduction

Possible approaches for IOT regulations: no regulation, traditional government regulation, international agreements, and self-regulation are possible approaches.

No regulation cannot actually be considered a legal framework: the IoT will be too important not to be regulated; therefore, no regulation at all is not an option. IOT should be regulated.

State law, as a second method, is not appropriate for a global system such as the IoT due to its territorial limitations.

B. Self-Regulation

Self-regulation refers to rules considered by the “governed” people to be adequate guidelines.

Traditionally, self-regulation (self-government)¹²⁶ follows the principle of subsidiarity, government intervention only takes when the community is not able to find a solution. Else they follow certain standards defined within the community.

In principle, self-regulation is justified if it is more efficient than State law and if compliance with rules of the community is less likely than compliance with self regulation.

Self regulation rules are flexible and changes according to change in environment (like: market, competitors etc..)

2. Self-regulation as Soft Law

Sometimes, self-regulation is not fully set by the community. It might be using a framework built by the government and the companies with the general framework and define regulations.

This term is called co-regulation when companies use government frameworks

The government is involved in self-regulation not only in defining some basic pillars for regulation, but also in some monitoring activities.

Generally, it can only be said that soft law is a social notion close to law and that it usually covers certain forms of expected and acceptable codes of conduct.

Self-regulation as a Social Control Model

self-regulation enforces the rules with the help of reputational sanctions. Failure to compliance can lead to truthful negative gossip to excommunication from the community.

Negative gossip can lead to decrease in trade between companies.

“Social sanctions” also require effective communication channels so that perspective users are informed about the behavior of IoT participants

It is still a question if self-regulation is effective as some companies are less concerned about reputation among other companies and are only concerned about reputation among customers.

Strengths of Self-regulation

Self-regulation is often used by the participants of a specific community to enhance the image of the market segment and improve marketing possibilities

self-regulation tends to be used as a measure to induce government legislators not to pass any formal laws.

- Rules created by the participants of a specific community are efficient because they respond to real needs and mirror the technological aspects as they actually occur.
- Meaningful self-regulation provides the opportunity to adapt the legal framework to changing technology in a flexible way.
- Since rules are not imposed by a specific authority in case of self-regulation, chances are good that the rules contain incentives for compliance.
- Self-regulation can usually be implemented at reduced costs (saving effect).

Weaknesses of Self-regulation

self-regulation only regulates those motivated or principled enough to take part in them as market pressure is not yet strong enough to oblige everyone to adopt the respective rules.

The main deficiency of self-regulation, though, is its lack of enforcement mechanisms, i.e. self-regulation is not legally binding

Non-compliance does not necessarily lead to sanctions. Possibly, to the extent a contract has been concluded, the threat of being forced to pay a penalty can be a sanction;

International Legal Framework

a few theoretical concepts have already been established regarding the type of enforcement to be done internationally: they are

1. “Transgovernmental Networks”

In "A New World Order," Slaughter proposes the concept of "transgovernmental networks" as a solution to the governance dilemma. These networks are cooperative arrangements between similar agencies across borders to address global issues, creating a new form of power and authority. The viability of transgovernmental networks is examined by Raustiala, particularly in areas like securities regulation and environmental policy. This model views governments as disaggregated entities, each with its own powers and motivations, contrary to traditional views of unitary states. Slaughter suggests delegating sovereignty to supranational officials to tackle complex global issues collectively, bypassing lengthy treaty negotiations. However, criticism of government networks includes concerns about democratic accountability and potential for a top-down approach limiting democracy. Public-private partnerships are also considered as a variation, allowing for more efficient implementation of goals by pooling resources and expertise from various sectors. While public-private partnerships have advantages in empowering developing countries and managing public budgets, they are criticized for lack of transparency and accountability, potentially benefiting the private sector excessively, particularly within emerging technologies like IoT. Further interdisciplinary research is recommended to strengthen the principles of transgovernmental networks.

2. Proposal for a New International Legislator

Given the global nature of the IoT, there may be a need for an international legislator to represent the interests of civil society worldwide. This could lead to the formation of a governance body at an international level, comprising government officials, private sector representatives, and scholars, to oversee IoT issues. The governance body would need an election mechanism to ensure equal participation from all regions and categories of participants for legitimacy and accountability. While national democratic elections could determine government representatives, creating a process within trade unions may help represent businesses. Scholars could be elected by the academic community based on their expertise in various IoT aspects. Establishing a governance body may take time, but it is important to address legal issues related to the IoT before they become widespread. Overall, a diverse representation in the governance body is crucial for effective IoT oversight.