


A New Framework for Protecting Consumers on the Internet

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Overview

- The Internet:
 - Personal mainframe
 - Unlimited connectivity
 - Framework as part of ongoing research
- Enforcement: elephants and mice
- New issues
 - The last mile
 - Personal information
 - Consumers as producers
- Disclaimer: my personal views

Elephants and Mice


➤ Elephants:

- Large & powerful organizations
 - Large retailers, etc.
- Vulnerable:
 - Practically impossible to hide, have assets
- Thick-skinned
 - Lobbyists
 - Defense attorneys for enforcement
- Much the same for offline & online enforcement

Mice

- Small, nimble, multiply quickly
- E.g., phishing
 - New emails constantly
 - New web sites
 - If filter email or take down site, new attacks
- Often have nests overseas
- Main strategy for mice – stay hidden

Other Mice Activities

- Phishing
 - Spam
 - (Nigerian) frauds
 - Viruses, worms & drive-by downloads
 - Kiddie porn
 - “Piracy” and other P2P uses
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A Better Mousetrap?

- Major themes for consumer protection and enforcement:
 - International enforcement
 - Technological expertise in-house, to support enforcement the way economists support antitrust enforcement
- For elephants, enforcement is largely the same as offline
 - Key challenge is to prove the facts in a case

New Consumer Issues

- Last Mile – the Internet needs connectivity
- Connectivity as the new utility
- History of monopoly concerns for utilities
 - Query – when do innovation & competition make this utility different from the history?
 - Discrimination – “net neutrality” & regime for carriers not restricting content
 - Wifi & McChesney/Podesta article on the historical role of public competition in taming private utilities

Personal Information

- VA laptop & personal mainframes
 - > 20 million individuals at risk
- Multiple market failures
 - Intrusion – spam, telemarketing
 - Data breach
 - Privacy & violation of policies
 - Overuse of “unique” identifiers
- Large & growing set of issues

Consumers as Producers

- Ordinary consumers can produce:
 - Blog
 - Digital photos
 - Create, “sample”, and “mix” video & audio
 - Sell worldwide – online auction sites
 - Collaborate – Wikipedia
 - Write software – Linux & other Open Source

“Harm” to Consumers

- Information consumers are information producers
- Consumer harm when their production is limited, when the computer is “locked down”
- Many consumer actions are for non-commercial goals:
 - Leisure – it’s fun
 - Creativity & self-expression
 - Build community
 - Political speech

Consumers are Producers

- History of intellectual property
 - Focus on professional & industrial producers
 - PTO, Copyright Office designed for that
- Today, consumers create IP
 - What institutions will do consumer protection for consumers-are-producers?
- Also, issue of when consumers are subject to producer rules
 - Ad substantiation and the FTC for blogs, etc.

Consumer Protection & the Internet

- The Internet:
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- Enforcement: elephants and mice
- New issues
 - The last mile
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 - Consumers as producers
- A framework for study, for this year & beyond