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Understanding current cybersecurity challenges in law: digital governance and social responsibility meet user-generated content (Article 2) - IT World Canada

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13-17 minutes

Digital governance refers to the strategic management of a governing body or corporation, over that which is connected to their position and function online – including the impacts of their actions in that position. Digital corporate social responsibility extends the social obligations related to the digital governance of a corporation or other governing body to that which is connected to their position within the digital sphere. The legal issues which intersect with, and relate to, user-generated content can be wide-ranging, including: determination of ownership and copyright, personal privacy protection, individual freedom of expression, issues of cyberbullying, illegal content distribution, and large-scale corporate data breaches.

User-generated content adds an extra layer of complexity to digital governance and social responsibility, as it is the intersection of the creator, the consumer, and the host. This blurs the line between corporate social responsibility, and civil responsibility for individuals, adding uncertainty to the mix.

Previously in this series, we have discussed the concept of data sovereignty as a challenge in our global digital world as it relates both to law and to cybersecurity, and examined the complex issue of cross-border data transfers. You can view our last article here:

Understanding current cybersecurity challenges in law: data sovereignty & cross-border data transfers (Article 1)

This is the second article in our new six-part series. In this article, we will examine the concept of digital governance, governance strategies, and the relation between digital governance, data sovereignty, and law around the world.

Governance and strategy

Governance refers to the structures and processes that are designed to ensure accountability, transparency, responsiveness, rule of law, stability, equity, inclusiveness, empowerment, and broad-based participation. It encompasses the way rules, norms, and actions are structured, sustained, regulated, and held accountable, as well as all the processes of interactions, be they through the laws, norms, power or language of an organized society over a social system. The principles of governance can apply to jurisdictional government, as well as organizations and corporations.

In corporate governance, we often hear the word “strategic” thrown around. Strategic governance involves the interplay between governance and strategic decision-making. It often takes the form of collaborative efforts in which private actors opt into additional self-regulatory measures, while receiving support and guidance from public bodies (such as international organizations or national regulatory agencies). The area of strategy, risk, and governance includes:

- The role of corporate governance within an organization
- The formulation of strategies
- The translation of those strategies into specific business objectives and actions
- The implementation of those strategies

For corporations, strategic governance plays into the different levels of operational decision-making, with regard to budgetary and financial restraints, as well as centralized and decentralized control divisions. Flowing from governance, we now also have digital governance, which represents a framework for establishing accountability, roles, decision-making, and change management authority for the digital presence of an organization or corporation.

Digital governance and social responsibility

The concept of corporate social responsibility is based on the premise that a business must not be concerned solely with its profitability and growth, but also with its social and environmental impact. The goal of corporate social responsibility is to maximize shared value among organizations, employees, shareholders, customers, local stakeholders, and community members. Accordingly, corporate social responsibility refers to a commitment made by a corporation to manage the effects of its operations responsibly and in line with public expectations: socially, environmentally, and economically.

The idea of corporate social responsibility is not a new concept but has been a part of corporate social relations for many decades. As businesses and organizations move their presence from a traditional stationary physical structure to the digital world, the responsibilities and extending implications of social responsibility have shifted. The addition of responsibility in a digital sense is a natural extension to the field of corporate social responsibility. There are three basic principles which, together, comprise social responsibility in national, corporate, and organizational governance: sustainability, accountability, and transparency.

The online world, while not entirely different from that in the offline sphere, extends the reach of corporations on a global level. As a result of this extension and shift, it has become necessary for the facets of corporate social responsibility to change as well, to accommodate for the increased scope of influence.

In relation to social responsibility, digital governance requires the acceptance by the government, corporation, or organization of the effects of actions undertaken directly or indirectly online. Digital governance is a framework for establishing accountability, roles, decision-making, and change management authority for an organization's digital presence.

Content in context

Digital content refers to any type of content which can be transmitted online or via networked computer systems. Digital content, also known as digital media, comes in many forms, including: text, audio, videos files, graphics, animations, programs, and images. Digital content can be online or offline, such as content stored on a USB flash drive. Online digital content can also come from a wide range of sources, including: large media companies, small businesses, content entrepreneurs, and social media account users.

Most generally speaking, digital content refers to information which is made available for download or distribution on electronic media, such as: an eBook, mobile game, video, or audio file. However, many creative content and online media "digital content" is an umbrella term for all shared electronic, digital, and/or online content. It follows, then, that every tweet, hashtag, status update, video upload, blog update, and social media share, retweet, reblog, upload, etc. will all fall under the umbrella of "digital content" as it applies in this context. When referring to digital content which is interpreted through a commercial marketing perspective, the term "media" may also be used interchangeably with "content".

Corporations which operate online, or have any form of online presence, can stand to benefit from a variety of types of digital content or digital media. Online digital media can be further broken down into three categories: earned media, owned media, and paid media. The relationship between the corporation and the media content is given in the name of the type of media.

Earned media refers to content publicity gained through promotional efforts other than paid media advertising. Earned media does not include any media content which is bought, owned, managed, or directly generated by the corporation, brand, or organization. Rather, it must be grown organically, as content related to that entity receives gradual recognition, consumer loyalty, and/or an online following through online communication channels. Common examples of earned media include social media shares, positive consumer reviews, and online referrals.

Owned media is a type of advertising or media presence which is generated, managed, and/or otherwise controlled by the brand or company. Owned media also includes communication channels that are within the control of an entity, such as its own websites, blogs, or email accounts.

Paid media, or paid advertising, refers to external marketing efforts that involve a paid placement, such as pay-per-click advertising, branded content and display ads. It is often thought of in the context of traditional advertising strategies, which gained substantial popularity prior to the acceleration and widespread adoption of the internet and online commercial activity.

A University of South Carolina study found that “positive earned media was more effective on people’s consumer engagement intention and download intention than paid media, but it did not work on perceived credibility of the post or product attitude. Positive earned media was found to be less credible than owned media. Among all the five types of media content, owned plus positive earned media was proven to be the most effective one on perceived credibility of the post, consumer engagement intention, brand attitude, and purchase/download intention.”

User-generated content

User-generated content refers to any content created by the users of a product or service who are not compensated for the content created; content that is not created or directly controlled by the company or the online content hosting platform. By engaging with user-generated content, a company or brand can open up larger and more numerous communication channels, allowing for more extensive customer interaction.

User-generated content can consist of any form of digital content created by individual users rather than by commercial brands, organizations, or companies. User-generated content occurs when customers create and disseminate online ideas about a product or the firm that markets it. Examples of user-generated content in relation to corporations include things like social media posts that mention a brand or company by the name, online product reviews and ratings, or images and videos of a product being used by a customer.

The intersection of corporate social responsibility and user-generated content is a challenge to navigate within the law, as there has been a strong debate between the rights and ownership of the content produced and the responsibility of the corporations concerning that content. While a corporation cannot necessarily be held accountable for content created by its users, the growth of digital content hosting platforms has altered these considerations, as online enterprises begin to retain profit from the hosting of such content. It is increasingly necessary for both corporations and governmental organizations to consider the wide-ranging impacts of corporate activities online, whether financial, social, or content-related.

We can group the stakeholders involved in all aspects of online digital user-generated content into three major groups: content creators, consumers, and hosts. Arguably, a fourth stakeholder could be the society or community in which the digital content has an impact, whether positive or negative.

The content creators are the individuals or groups who are the creative developers behind user-generated digital content. It is these users who generate and upload novel content to online hosting platforms. Highly influential content creators, or those whose content attracts a high number of views, may be rewarded with monetary compensation, royalties, or other incentives provided by the hosting platform as a means of encouraging the content creator to continue producing and uploading novel content. Creators of digital content can include a wide range of platform users, including: artists, performers, musicians, designers, comedians, influencers, or consumers.

The content consumers are the viewers, readers, observers, and absorbers of user-generated content. We can subdivide consumers of user-generated content into two consumer subtypes: the freeloader, and the purchaser/subscriber.

The content hosts are the online platforms (or websites) which host user-generated content. The host provides the uploading application, infrastructure, and maintenance necessary to operate the online hosting platform. This category includes any digital service provider that facilitates interactions between two or more distinct but interdependent sets of users — the creators and the consumers — who interact with each other through the service via the internet.

For example, Person X is a digital content creator who has just created Video A. Person X uploads the video to HypotheticalTube, the hosting platform for a variety of digital content. The video is then accessed, viewed, and downloaded by Person Y, the content consumer, via the HypotheticalTube specialized content subscription service. Now, this seems fairly straightforward, but what happens when Video A turns out to feature illegal content? We have a content creator, a content host, and a content consumer, but how do we determine which party holds the responsibility for the illegal content featured in Video A?

Conclusion

Digital corporate social responsibility extends the social obligations related to the digital governance of a corporation or other governing body, to that which is connected to their position within the digital sphere. The legal issues which intersect with and relate to user-generated content can be wide-ranging, encompassing: determination of ownership and copyright, personal privacy protection, individual freedom of expression, issues of cyberbullying, illegal content distribution, and large-scale corporate data breaches.

User-generated content adds an extra layer of complexity to digital governance and social responsibility, as it is the intersection of the creator, the consumer, and the host. This blurs the line between corporate social responsibility, and civil responsibility for individuals, adding uncertainty to the mix. All of this becomes even more complex when we are faced with user-generated digital content which is transmitted, uploaded, or otherwise shared between legal jurisdictions.

In our next article in this series, we will delve into the challenge of recognition and enforcement of law, online, where data sovereignty may be compromised, and the strategies of digital governance vary between jurisdictions or nations.