

Is there too much, or too little regulation in the ict area(s) and why?

[Technology](#)



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Discuss with at reference to reasons given for regulations generally, and objections to regulation, in at least three sources. Include both supplier and user perspectives.

The ICT's industry is an ever growing and innovative industry, from the internet to telecommunications to the convergence of varied technologies including the mobile phone and MP3's. It can often be perceived as difficult to keep up with the pace of regulations. It can be argued that regulation is imperative to this industry for various fundamental reasons, for example the control of the market and content of information communication technologies. It is argued that the trend of regulation is set to regulate the general market in the interest of the public. One of the most important questions is when does regulation become too much or too little? This essay aims to examine the importance of regulation in the ICT's area. Although the ICT's area is rather broad, the main focus of this essay will be centralised around the digital networked environment, the 'Internet'.

It will also query the balance of the application of regulation i. e. whether regulation is too much or too little, these issues will be examined from the perspective of both the suppliers and users whilst evaluating the social-economic and technical factors. It will analyse general justifications given for regulation including market failure, self-regulations, whilst examining resistance which include privacy, data protection etc. It will take a look at various case studies like content regulation (for example pornography, SPAM i. e. unsolicited deceptive emails etc) and market regulation (for example online music distribution, copyright the etc). Prior to breaking down the structure of this essay it is imperative to define the term regulation. Based <https://assignbuster.com/is-there-too-much-or-too-little-regulation-in-the-ict-areas-and-why/>

on my knowledge Regulation may be defined as a set of rules designed to govern an entity.

Firstly, it will explore the general scope of regulation in the ICT's area, whilst focusing on some more specific issues surrounding regulation of internet. Secondly, it will be exploring issues of over-regulation in the ICT's industries and how it may have had a diverse impact on suppliers and users (it will be citing references to some relevant examples); it will subsequently examine the role of the innovation and convergence of technologies in regulation. Whilst taking a look at the convergence of regulating bodies like OFCOM. (Ofcom is a Converged regulator lets company's to self-regulate but if regulation is not working, they are enforced to intervene and impose laws, if measures prove ineffective.

It will take a look at justification for regulation i. e. the reasons, why regulate? It will explore arguable reasons for regulatory intervention for example, regulation is required to stop monopoly power on the market, or is needed to control content of technologies in order enhance the public interest or a specified user group. Thirdly, it will discuss the opposite position of the aforementioned argument whilst focusing on copyright it will also give reference to some cited examples. Finally, it will give an overview of the positions of the actors involved concluding with my analysis of the arguments in questions. These objectives will be attained by focusing on case studies accumulated from the innovations of the ever growing ICT's industry for example convergence of technologies.

This sections aims to give an overview of the general scope of regulations in the ICT's area, whilst focusing on issues surrounding regulations of the <https://assignbuster.com/is-there-too-much-or-too-little-regulation-in-the-ict-areas-and-why/>

internet. Prior to delving into this analysis it is imperative to note that innovations and convergence of ICT's are rapid and ever growing. Hence it can be argued that the ICT's area constitutes of a multitude of information and communication technologies, but the impetus of the regulation of ICT's is the convergence of technologies and the introduction of the internet respectively. This may be due to the internet's undefined infrastructure, it is arguable that internet at its early stages was an open means with certain features that made it hard to control.

From a technical point of view, the internet may be viewed as a digital networked environment, meaning that it comprises of a number of units such as computers, communication channels (e. g. web cams, mobile phones, PDA's) , etc that are networked and are used to process data that it transmits. It is argued that technological innovation creates a discourse (i. e. social of shaping of technologies by various social groups leads to the various uses of the same technology, a good example will be the mobile phone). This is because it was originally created as a tool for business men and went through as discourse that has allowed it to identify other user groups. It can be argued that this discourse is the driving force of the convergence of communication channels and the personal computer. It can be argued that convergence of technologies facilitate the notion over-regulation.

This segment aims to explore the projection of over-regulation on the internet, it can be argued that innovation and convergence of technologies has played its role in the conceptualisation of the term over-regulation. This may be due to vast growth technological innovations; it is arguable that we will

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be a nation of disarray if we had no regulations given the structure of the internet. For example, let's take a look the online music distribution regulations. If there were no rules or structure in place, how many people will bother purchasing a Music CD from the stores?

When it is possible to get it free online and with the domestication of the reproduction of CD's this is feasible. In contrary to this statement it can be argued that no industry has been as challenged by the growth of the Internet and its related technologies (i. e. MP3 players, IPOD, 3G etc) like the recorded music industry. It is argued that despite the introduction of regulations, to stop P2P (peer to peer) networks like Kazaa and Morpheus from distributing illegal contents, users tend to be oblivious to the consequences of copyright-infringements. Therefore online music distribution is not totally eradicated but statistics (see appendix) illustrate that has been a significant rise in the sale since the implementation of the law.

Another example of over-regulation is the controversial issues of communication data retention. Communications data' maybe described as system that monitors who sends what to whom, when and (sometimes) where it is delivered. Although it claims not to be interested in the content of the communication. Communications data has always had military importance because the contents of military and diplomatic communications tend to be encrypted. Having worked for the local government I am aware that these regulations are still in use. It can be argued that this violates privacy as the contents of the communication will have to be monitor in order to specify if the content is harmful.

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Another important aspect of regulation maybe deemed as the e-commerce sector. These legislations are in place to enhance the fair trading within markets, it is imperative that consumers are fully informed of goods that they are buying online, in 2000 there was debate to regulate the software as well which a lot of company's at the time felt that it was irrelevant to apply these rules.

This segment will be exploring issues surrounding under-regulation, such as regulation of content of porn on the internet and its effects on the convergences of technology. It can be argued that the convergences of mobile phones and video technologies act as an impetus to increase the numbers of sex offenders as the technology is not currently sufficiently regulated. Self-regulations often possess to be the most ethical form of regulation, but players argue that " Self-regulation works to a point, but there are sites that always contain paedophilia and we want to take a legal stand and say that we will not tolerate it on our service."(www. silicon. com: 14/03/04).

It can be argued that regulation on the internet occurs due to various reasons, which include its occurrence as a result of market failure; this may be due to self-regulatory being insufficient or not in the general interest of the public, A good example will be regulations set to ensure underage children cant access porn related websites as it is in the interest of the public. It also exists to ensure fair competition. An example of regulation to ensure fair competition will the regulations set to stop one firm to have over a specified proportion of the market e. g. BT.

It is arguable that the most prevalent regulatory issue on the internet is copyright. This is a very important aspect as it covers online music distribution, misuse and manipulation of photographic images and intellectual property. One of the most recent cases of defamation was case of Kerry and Fonda (see Appendix). In this case manipulations of photographs were created deliberately to evoke a public reaction. In cases like this regulation is adamant, unfortunately the regulation in place seemed to be rather inefficient as OFCOM regulations necessitate validity which should have covered the picture/s in question but it seems there are more grey areas in terms of regulation than black and white.

One of the most controversial issues of under-regulation on the internet is Privacy/Free speech on the internet. There doesn't seem to be a lot of rules to govern this aspect, it can be argued that the issue in question has official governing body, instead there is a multitude of networked computers with everyone given the freedom of speech to express their thoughts whether or not it is harmful to others and yet there is no official regulations in site to control it.

In contrary to this statement, the digital networked environment poses to be an anonymous medium where no one is necessarily watching, but it is essential to query is privacy, as some claim that an e-mail is easily intercepted by anyone with enough technical skill, from personal experience I found that various websites have the ability to track its users, and these tracking tools are available widely on the internet and are free to use. In cases like this it will be in the public's interest to implement laws that protect

their privacy. The only query on my mind is where is the benchmark for what the public interest constitutes of?

According to Malcolm Wallop version of Government regulation would benefit AOL at expense of the Internet, the introduction of the regulation was not entirely in the publics' interest. He argues that " in this instance the public interest and that of AOL do not converge". In cases like this, it vital to have external governing bodies to regulate the regulators.

Site-scraping is often described as a search and salvage process for information published on the internet. It gains information from various websites, it can be argued that these kind of spiders have the ability to search through pages that they are not necessarily suppose to search through acquiring information about users. It is important that regulations are set to ensure the users have privacy when the surf particular websites.

This segment is giving an overview of the overlapping of over and under-regulatory. It is appropriate to say that some cases of over and under-regulation overlap, good examples of this will be issues of copyright, intellectual property etc. In saying, I mean that at times a law maybe under-regulated in one country which may have diverse effects on the public. But the same issue in another country is over-regulated and the public feel a need for convergence of regulations or eradication of regulation respectively. An example of this would be issues of ISP liability by those trying to protect their copyrights; Poynder states that " In Germany a court ruled that AOL Germany had broke copyright laws by failing to take action to prevent subscribers swapping pirated music" but then it was overturn because the

company could not have technically blocked its users from accessing such material.

The basic copyright law in the UK constitutes that ownership starts from the moment of creation, but other countries copyright laws expect that copyright is only valid in the country of creation or in some cases the countries where people have paid for it. It is unfortunate that there are so many rules around the world yet in most cases one is not covered completely by them.

In conclusion, it is not easy enough to say there is too much or too little regulation. There are socio-economic and technical factors taken into consideration whilst regulating. It can be argued that the internet is considered as a self-ruling, self-governing revolutionary body. Taking into consideration the notion of the virtual culture by futurist, the users of the internet may not deem regulation as viable; it is argued that "the underlying notion is that the internet, like a biological organism, will automatically move forward and perfect itself. Consequently any interference with its operations may prove harmful". (Lees T, Ralph S and J, L Brown 2000: 285) Some may feel that there is too much regulation, while some may feel that the implementation of over-regulation does not necessarily mean that the laws are abided by.

Taking a look at copyright for example, different rules apply in different regions in addition to this one also has the option of self-regulating. The query on my mind is, isn't it enough to self-regulate? In cases where despite enormous amount of laws, one is not necessarily protected by them. Is Ofcom the newly emerged converged regulatory body adequate to regulate.

Critics argue that it doesn't make sense to have one single body regulating <https://assignbuster.com/is-there-too-much-or-too-little-regulation-in-the-ict-areas-and-why/>

across the Internet and telecommunications. On the contrary, there are some more serious cases of market failure, where the public interest is concerned. For example there have been issues of cases where people have been raped and killed as a result of internet pornography and rule need to be to put in place to protect the public.

There is also the case of the lost of funds unknowing due to online gambling which, therefore regulation is rather imperative as this will ensure that suppliers inform consumers adequately of the repercussion of playing games online and not deceiving them in order to accumulate debts. It is vital that limits are imposed in regulation as society needs some form of structure for its existence, Lees T, Ralph S and J, L Brown argue that " The virtual cannot be subjected to legislative tyranny of the real" (2000: 284) Futurist like Toffler see the internet as a virtual society. If the internet is defined by its virtual cultures, isn't enough to be self-regulatory? How is legislature controlled? How are these regulations structured in terms of Ofcom? Is enough for a regulatory body to examine where regulation is needed and can be withdrawn? Are rule being abided by? Are we fully protected by regulations? The aforementioned are some questions to ponder upon with the deliberation of the prospects of an ever growing information society.

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