



Search Engines and Censorship

The Law and Politics of the Digital Horizon

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Stalin, Source: <http://www.cs.dartmouth.edu/farid/research/digitaltampering/stalin1+2.jpg>



Stalin with Yeshov, Source: <http://www.cs.dartmouth.edu/farid/research/digitaltampering/stalin1+2.jpg>



Source: Star Wars Episode II, Attack of the Clones / the removal of Kamino from the Jedi Archives.



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Outline of presentation:

I > Examples

II > Systemic legal issues

III > Room for action and improvement

I > Examples

Government pressure



Index censorship

Keyword blocking

Packet filtering

Connection resets

For search engine censorship in China, see Nart Villeneuve, *Search Monitor (China)*, 2008, <http://www.citizenlab.org/papers/searchmonitor.pdf> . See also Deibert, Palfrey, et al, *Access Denied*, 2008.

'Self' - Regulation

Google.de

Jugendschutz

For German code of conduct, see FSM, Selbstkontrolle Suchmaschinen, February 2005, http://www.fsm.de/de/Selbstkontrolle_Suchmaschinen

**CENSOR
USER INTERFACE**



Web search for bomb recipes should be blocked: EU

Mon Sep 10, 2007 1:16pm EDT

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By Ingrid Melander

BRUSSELS (Reuters) - Internet searches for bomb-making instructions should be blocked across the European Union, the bloc's top security official said on Monday.

Internet providers should also prevent access to any site giving instructions on how to make a bomb, EU Justice and Security Commissioner Franco Frattini said in an interview.

"I do intend to carry out a clear exploring exercise with the private sector ... on how it is possible to use technology to prevent people from using or searching dangerous words like bomb, kill, genocide or terrorism," Frattini told Reuters.

The EU executive is to make this proposal to member states early in November as part of a raft of anti-terrorism proposals.



The background of the slide is a stylized Union Jack flag, rendered in shades of blue, pink, and white. The text is overlaid on this background.

Ofcom (UK) on accessibility regulation

Content regulation used to address content producers (availability)

Nowadays content regulation can only be effective if it also focuses on search and access providers (accessibility)

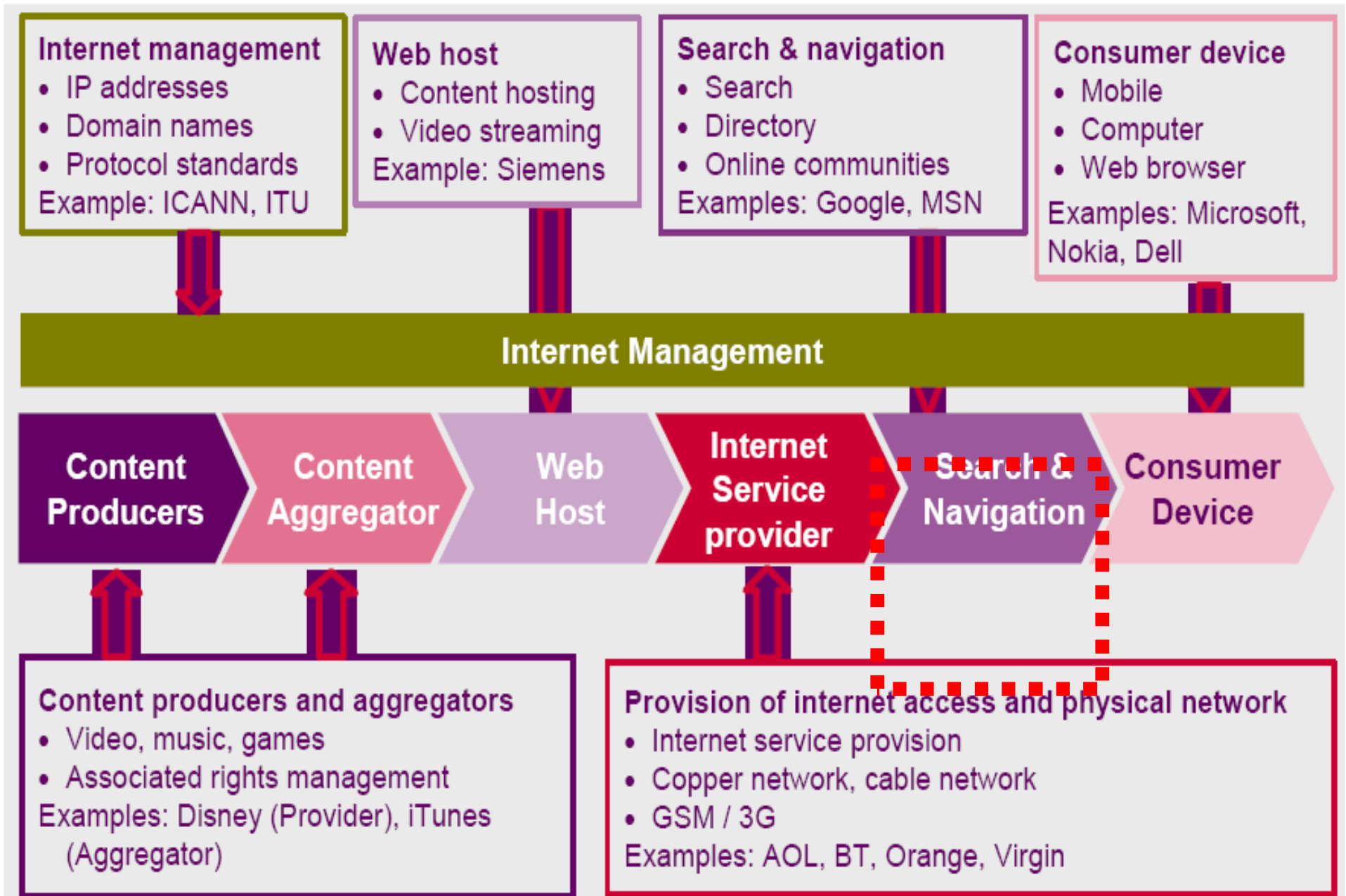


Figure taken from Ofcom's response to the Byron Review, UK,
http://www.ofcom.org.uk/research/telecoms/reports/byron/byron_review.pdf

Government SEO

[includes]

“manipulating search engine results, so that undesirable content becomes more difficult to find (hiding)”.

Suppression by others

DMCA

[implies]

**notice and takedown on request of
rights holders**

ZOEK[MP3]

See Joris van Hoboken, 'Legal Space for Innovative Ordering', 2009, p.11,
http://www.ivir.nl/publications/vanhoboken/legal_space_for_innovative_ordering.pdf

MININOVA

Forthcoming: 26 augustus 2009 / Judgment Court in Utrecht (*Brein v. Mininova*).

TRADEMARK PROTECTION

See e.g. Chris Soghoian, Google censors political-donation transparency ads , 2008,
http://news.cnet.com/8301-13739_3-10122713-46.html.

See also Google Adwords litigation at the ECJ, e.g. the referral by the German Supreme Court:
<http://ipkitten.blogspot.com/2009/01/bgh-refers-main-adword-question-to-ecj.html>

DE-INDEXATION OF PRIVATE DATA

See e.g. Soghoian & Shokooh Valle, 'Adiós Diego: Argentine judges cleanse the Internet', OpenNet Initiative, 11 November 2008, <http://opennet.net/blog/2008/11/adi%C3%B3s-diego-argentine-judges-cleanse-internet>. See also Joris van Hoboken, *Legal Space for Innovative Ordering*, 2009, p. 6, http://www.ivir.nl/publications/vanhoboken/legal_space_for_innovative_ordering.pdf

II > Systemic legal issues

i > Search engine liability

ii > Market consolidation

iii > User privacy

iv > Publisher / Webmaster Control

See generally, Joris van Hoboken, 'European Search Engine Law and Policy and Freedom of Expression', forthcoming in Stalder et alii, Deep Search, 2009, http://world-information.org/wii/deep_search/en/videos.

'THE' PRESS

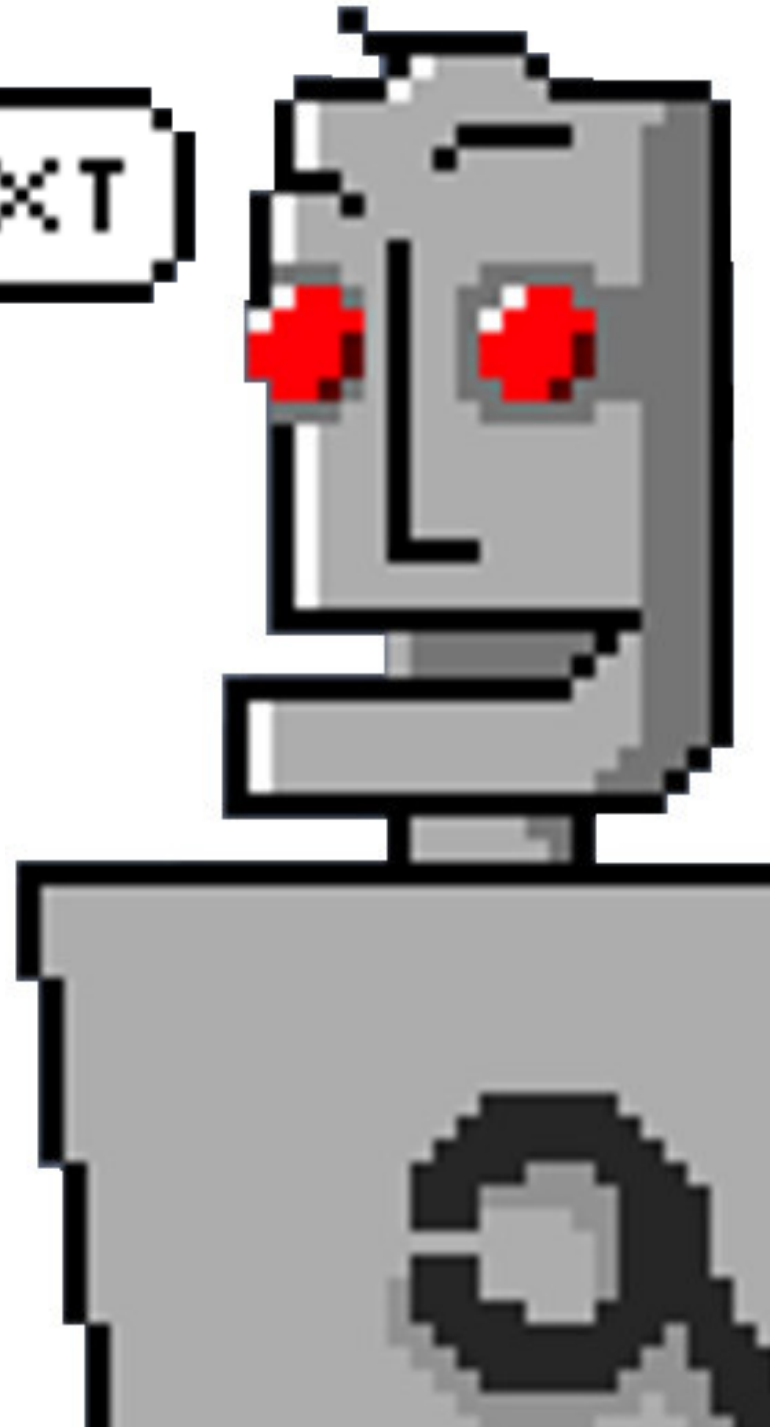
V.

GOOGLE

See Copiepresse case, <http://googleblog.blogspot.com/2007/02/about-copiepresse-decision.html> See generally, http://circa.europa.eu/Public/irc/markt/markt_consultations/library?l=/copyright_neighbouring/consultation_copyright/hoboken_peguera/_EN_1.0_&a=d

GET /ROBOTS.TXT

**from
robots.txt**



See <http://www.robotstxt.org//>

to ACAP



See <http://www.the-acap.org/>

EC GREEN PAPER LEAVES ISSUE UNRESOLVED

See European Commission, Green Paper on Copyright in the Knowledge Economy, 2008, http://ec.europa.eu/internal_market/copyright/docs/copyright-info/greenpaper_en.pdf. See also http://circa.europa.eu/Public/irc/markt/markt_consultations/library?l=/copyright_neighbouring_consultation_copyright/hoboken_peguera/_EN_1.0_&a=d

From a footnote in the Green Paper:

“[S]earch engines are not asking for prior permission from copyright owners to index content of web pages. Search engines argue that, if a content owner does not want the content of the web page to be indexed, he can encode the message in a text file called "robots.txt" in order to opt-out and block the search engine from copying content. If no such technology is applied, they believe that this is tantamount to an implied licence for a search engine to copy and index.”

Implicitly: search engines might need permission of websites to index content.

III > Room for Action

LEGAL / POLITICAL

i > Better provisions on liability (ECOM)

ii > Transparency about removal

iii > Copyright exception for search

TECHNOLOGY / ADVOCACY

i > Chilling effects in Europe

ii > Herdict for Search

iii > Meta search and P2P search

iv > Other?



Q & A

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