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Introduction: Imagining the Networked Information Society

Over the last two decades, the rapid evolution of networked information and communication technologies has catalyzed equally rapid change in the organization of economic and social activity. Spurred by the perceived economic opportunities and threats that new digital technologies create, powerful actors have endeavored to define and channel flows of information in ways that serve their goals. Those efforts have led to prolonged and often bitter struggles over the content of law, the design of technology, the structure of information markets, and the ethics of information use. In addition, they have stimulated heated scholarly and policy debates about what a good information society should look like.

The ongoing debate among U.S. legal scholars and policy makers about the structure of the networked information society has two odd features. First, the emerging regime of information rights and privileges is publicly justified in terms of economic and political liberty, but as a practical matter, it allows individuals less and less control over information flows to, from, and about themselves. In particular, the commercial, legal, and technical infrastructures that define the individual experience of the network are converging around relatively strong default protection for intellectual property rights in information—most notably copyright and trade secrecy—and relatively weak protection for individual privacy. To an extent, the explanation for this is political. Advocates of strong copyright and advocates of weak privacy share interests in strengthening the commodification of information and in developing infrastructures that render individual activity transparent to third-party observers. Those entities wield considerable political and economic clout. But the gap between the rhetoric of liberty and the reality of diminished individual control is nonetheless striking.

Second, despite their practical convergence, legal and policy discussions about control of cultural information and control of personal information have remained largely separate. For the most part, the leading scholarly books on these topics do not acknowledge, much less attempt to explore, the interconnections. Within the wider public policy arena, copyright and privacy issues are rarely linked. To an extent, this disconnect also has a political explanation. Advocates of increased commodification and transparency have nothing to gain from highlighting the overlap. Advocates of “free culture” and “access to

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