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Internet Regulation: Multidisciplinary Perspective

Regulación de la red: perspectiva multidisciplinar

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ABSTRACT

The internet is probably the greatest technological revolution in recent history. The internet has modified human relations and a significant number of activities, including commercial transactions, among which e-commerce and advertising play a very important role. Power structures, including the governments of different states, have established various forms of regulation. Any unregulated global means of communication can pose a significant risk to any nation. Cyberspace in general and e-commerce in particular present various regulatory options.

Keywords: Digital economy; internet; freedom; neutrality; regulation.

RESUMEN

La red es probablemente la mayor revolución tecnológica de la historia reciente. Internet ha modificado las relaciones humanas y un importante número de actividades como, entre otras, las transacciones comerciales en las que ocupa un lugar muy relevante el comercio electrónico y la publicidad. Las estructuras de poder, entre las que se encuentran los gobiernos de los distintos Estados del mundo, han establecido diversas formas de regulación. Todo medio global de comunicación no controlado puede erigirse en un potencial riesgo notable para cualquier nación. El ciberespacio, con carácter general, y el comercio electrónico en particular admiten diversas fórmulas reguladoras.

Palabras clave: Economía digital, internet, libertad, neutralidad, regulación.

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1. INTRODUCTION

The possibility of transmitting, receiving and consulting all kinds of information, images and content by virtue of a globally interconnected network – the Internet – has to a certain extent opened the doors to a virtual world in which, *a priori*, the same relationships can be established – albeit more easily – than those that can form in the traditional world. From this set of relationships emerges what is called the information society. Such a society, among other aspects, can be characterized by a definitive break with territorial and temporal barriers that condition the external reality of the Internet (Plantin et al., 2018). It should be noted that we are dealing with a type of society that exists thanks to a technique that is poorly regulated – irrespective of the gradually increasing legal regulations adopted in this regard – while requiring very minimal management (Severino González et al., 2019). Among the many possible architectures that the Internet could have, it is evolving in a very precise sense from an unregulatable space to a regulatable one, within which, as we will examine, various possible options will exist. It is true that the Internet had a relatively uncertain origin as far as its governing because on this point, it was polemicized. For some, the space of freedom in which the Internet had been created had been vindicated because it was felt that cyberspace is a space quite different from the real world and free by nature, while others, by contrast, argued for the impossibility of such an option. Reality has fortunately given reason to believe the latter.

A brief of the well-known theory developed by John Perry Barlow, an advocate of Internet freedom, concerns the Declaration of the Independence of Cyberspace (Citron and Wittes, 2017). The brief was presented in Switzerland on February 8, 1996, in response to the United States Telecommunications Law. In Barlow's opinion, net neutrality and its evolution had been violated. In response to these threats not only from the United States but also from an increasingly growing group of nations seeking to control cyberspace, Barlow created this document. In it, he exalts the free and open nature of the Internet and its community. In addition, it favors the idea of cyberspace having its own sovereignty with no government controlling it.

We showcase the success of the alternative finally imposed (regulating the Internet), as the permissibility of a "lawless" space would have led to an inadmissible option, in the present reality, since it would become a sort of area in which tolerance of all attitudes, criminal or not, would give rise to its presumptive extinction (Feick and Werle, 2010). Indeed, freedom is of no use when there are no "rules of play" that allow it to be exercised in its entirety (Flyverbom, 2010). Freedom without law is a song of the absurd. Everything that is examined is linked to what has recently been called the Deep Web, which is accessed by the Tor browser, among others. However, anonymity should not be confused with the absence of regulation and impunity. The media most often speaks of the Deep Web to link it to criminal activities that take place in the impenetrable depths of the Internet and very rarely explain what it is. Approximately 90% of Internet content is not accessible through search engines (Martín-Romo Romero and De Pablos Heredero, 2018). If we are allowed a simile, it is akin to an iceberg. Only the tiniest portion is visible. It is part of the Deep Web, which includes all information that cannot be accessed publicly. The Deep Web includes conventional websites preserved by a paywall but also files stored on Dropbox, emails deposited in a provider's server, and all pages created over brief periods of time, such as when accessing a travel search engine and displaying its contents. If the Deep Web constitutes, as we have indicated, 90% of the Internet, the Dark Web would occupy, to put a number on it, only 0.1%. It is a fraction of the Internet deliberately hidden from search engines with hidden IP addresses and accessible only from a specific web browser for this purpose. The Dark Web, therefore, forms an inseparable part of the Deep Web, but they are different entities. The Dark Web is not illicit in itself, as it includes many websites with constructive content. In addition, one should bear in mind that the Dark Web serves as a refuge for revolutionaries persecuted in their respective countries where freedom of expression is suppressed. Others also benefit from being able to bypass local restrictions (often in the form of censorship) to access information.

Within the Deep Web, the Silk Road portal stands out. It was a black market that could only be accessed through the Tor browser and that only allowed subscriptions with Bitcoin, an electronic currency founded on

anonymity. For sale were drugs, weapons and other illegal activities and products. The success of this portal - with transactions worth more than 9.5 million Bitcoins (equivalent to approximately 1.2 billion dollars in its operating years) - drew the attention of American authorities, setting their sights on its illicit activities. Its founder, who used the alias Dread Pirate Roberts, was recognized as Ross Ulbricht. He grew up in a middle-class family and had been a Boy Scout as a child. Paradoxically, Ross was not the perverse genius that the media and authorities had predicted, not at all. It was not proven that Dread Pirate Roberts was a single person, since the platform's system of anonymity leaves quite a few aspects blank. Dread Pirate Roberts stated in an interview with Forbes that he was not the creator of the Silk Road. In this regard, it was stated that the username constituted a responsibility that would be passed from person to person as the website progressed. He was tried and sentenced to life in prison.

Everything we have just explained with respect to the Internet can in a broad sense be extrapolated to the field of e-commerce. In this regard, we feel it opportune and appropriate to carry out a brief study of potential ways to regulate the Internet and subsequently refer to their application to e-commerce, within which special attention will be paid to both e-contracting and interactive advertising.

It should be mentioned that what we have outlined has been shared at the level of comparative law. Thus, in France, in a prestigious report of the French Council of State adopted on July 2, 1998, a general recommendation is made to not create a specific Internet law but to combine a fixed minimum regulation with the self-regulation of actors themselves. The regulation of the sector must be a requisite minimum that must have more teeth in certain fields (e.g., in the criminal sphere) but must be almost imperceptible in others (e.g., the case of e-commerce) (López Jiménez and Redchuk, 2015).

Most regulations that are considered essential for the Internet will have to be created at a universal scale so that agreement between governments will be unavoidable (the intervention of public authorities is necessary to fairly reorganize the new order) even though they retain control over other more local aspects (DeNardis, 2012; Díaz-Perdomo, Álvarez-González y Sanzo-Pérez, 2020).

The most characteristic feature of the legal discussion in relation to the Internet is the fact that it must deal with something definitely unusual, because whereas the law normally lags behind social evolution, it must instead stay abreast of social evolution for the case that we are discussing (Brousseau y Marzouki, 2012; Pineda-Albaladejo, Moya-Faz y López Puga, 2017).

2. REGULATORY OPTIONS

There are different ordering models of the Internet in general and e-commerce in particular. Among them are different options: self-regulation, heteroregulation, coregulation and, finally, regulated self-regulation. Such options, in turn, have different variations.

2.1. Industry self-discipline

One of the most provocative options for the purposes of managing the Internet lies in its self-discipline. Below we analyze its origins, conceptual delimitation and virtuality as a complement or alternative to deregulation.

2.1.1. Origins

Administration has changed notably in recent years, becoming extreme with the advent of the welfare state and the rule of law. This factor has led to an increase in government interventionism in multiple social scenarios, which, together with the complexity of the technique and the ethical problems presented by these new spaces, has led to the administration becoming completely overwhelmed with tasks and in certain circumstances incapable of completing them through their classic ways of proceeding. It is not surprising that

the view has turned no longer to the collaboration of private subjects, but to their own regulations or self-regulating activity.

In this context, it is understandable that in certain cases, the administration is being forced to increasingly resort, in certain sectors of its activity, to self-regulation or to the actions of private individuals who previously provided their own binding rules.

It should also be recognized that catering to general interests should also be attributed to private organizations and subjects as well as the need to consider certain private regulatory instruments developed by them as important tools that can be used by the administration for the fulfillment of its purposes (Khan, 2017).

The origins of self-discipline systems lie in business sectors that freely decide to adopt a self-regulating instrument that all members must comply with, covering any gaps left by government regulation on the matter even though, in their absence and along with the advantages that self-regulation entails, managing the subject in addition to being effective will certainly be worthy of praise (Levi-Faur, 2011).

The self-regulation of e-commerce in general and specifically that of a cross-border nature is a product of the growing development of transnational or nongovernmental regulations (differentiated from government legislation and international regulations and basically integrated into international conventions) relevant not only for the organization of commercial relations but also for the protection of consumers in an environment of expanding international consumer acquisition (López Jiménez and Dittmar, 2018).

In the Anglo-Saxon sphere represented primarily by the United States and United Kingdom, self-regulation systems arise as a result of the private sector's own initiative. In this same area, as far as its basis is concerned, self-regulation is far from being a natural response of the groups from which it emanates to become a forced response, anticipating rigid regulation imposed by public authorities. The situation is radically diverse in the context of the European Union, where the birth of self-regulation systems is in most cases not motivated by spontaneous private initiatives but the object of impetus by community legislation of the national level (López Jiménez et al., 2013). It should be stated that such laws (civil (Continental Europe) and common law (Anglo-American)) are not incompatible or irreconcilable legal systems. The unification of the two most influential and developed systems in the world would subsequently allow for the incorporation of other legal principles of the remaining legal systems.

In Spain, there is a limited self-regulatory tradition of the media in general and in e-commerce in particular (Martín-Romo Romero and De Pablos Heredero, 2017). The self-regulation of e-commerce does not arise in the Kingdom of Spain so much because it has been proposed by the sector itself (irrespective of a few marginal exceptions observed from other governments, which Germany has been operating successfully since 1997) but above all by the promotion of European initiatives and standards that promote self-regulation of the Internet and within it, e-commerce. Along these lines, a plausible legal recognition of self-regulation may be found, though a certain evolution towards coregulatory options can also be observed.

2.1.2. Conceptual delimitation

The phenomenon analyzed involves a discipline of certain issues based on the initiative of regulated agents, although at times, it is promoted by the public sector. That is, it represents an organization of the private sphere and that is thus not undertaken by the government, so it is not mandatory.

Self-regulation does not entail opposition to regulation. The counterpositioning between regulation and self-regulation, as two competing realities, does not answer to the order of relations currently prevailing among government (powers and public authorities), society (private subjects and organizations) and markets (López Jiménez, Dittmar and Vargas Portillo, 2020).

It may be, in this sense, that self-regulation is linked to the coordination of new regulatory strategies promoted by public authorities (Levi-Faur, 2011). By virtue of the latter, attempts are made to improve the participation and responsibility of individuals in complying with certain public objectives, ensuring the

effectiveness and coherence of legislation. In fact, it involves improving the effectiveness of government regulation.

As the digital world is subject to a high degree of self-regulation by agents that interact in this setting, expanding on such an organizing mode represents an ideal solution to problems posed by the Internet. However, the phenomenon of self-regulation offers specific solutions to sectoral problems with varying intensity.

The advantages that adopting different self-regulation techniques can provide to e-commerce are diverse. The instruments derived from self-regulation make it possible to adapt to changes of a more technological, economic and sociological nature faster than conventional management channels can offer in this regard. This is a remarkable fact in a sector as dynamic and changing as the Internet. The prerogatives of the system of self-regulation, among others, are volition, which considerably facilitates its practical application and compliance without requiring intervention and the imposition of public authorities; flexibility; specialization; developing standards that ensure high levels of correction; transparency; the prevention of infringements in the regulated field, especially if prior assessment mechanisms are available (e.g., in our case, interactive advertising prior to its broadcast or dissemination); low costs in different realms such as infringement procedures; covering any legal loopholes; and easy access (López Jiménez, Vargas Portillo and Dittmar, 2020). Finally, it is necessary to take into account the time-saving, legal and economic resource-saving advantages for public authorities that may entail the empowerment of these self-regulation techniques in different consumer protection models. This is the case because in addition to this added protection through which all such techniques are translated for the consumer, it can help free the legal-public system itself from the costs of regulation.

Currently, considering the need for Internet regulation, a certain controversy arises regarding the most relevant way to manage the Internet in general and e-commerce in particular (DeNardis, 2014). In this regard, it is more appropriate to debate whether to impose a pure self-regulation system, a coregulation system with the collaboration of public administrations or a regulated self-regulatory system. Pure self-regulation is largely perceived as not the most suitable approach; instead, theories are favored that support the relevance of mixed self-regulation (or coregulation), whose success lies in close cooperation with the government to create documents stemming from self-discipline or to grant certain prerogatives to those with certain requirements or for the latter to ultimately become the entity responsible for resolving disputes arising from self-regulatory systems.

The position to which we have just referred was glimpsed decades ago, specifically around the 1980s, by authors such as Boddewyn (1992), who, in considering relations arising between government and private subjects or agents, listed up to four different systems of self-regulation. The first is Pure Self-Regulation, where standards are developed, implemented and complied with by the industry involved in the system. The second is Coopted Self-Regulation, where it is the industry that on its own will involves third parties such as, for example, consumers, government representatives and experts in the field with the purpose of creating, developing and complying with rules that will govern the self-regulation system. Third, Negotiated Self-Regulation involves industry voluntarily negotiating rule creation, development and compliance with outsiders or third parties, which may include consumer groups or government departments. Fourth and last, under Mandated Self-Regulation, the government orders the industry to create, develop and comply with regulations so that they coercively regulate themselves.

The purer the system of self-regulation is in this area of society or in any other, the more disadvantages it will have based on the characteristics of members that make it up. Without any prior obstacle, this will make their personal interests prevail in the document or code of conduct that is finally adopted. Such a statement is certainly understandable, because if not all agents who should act in the economic sector in question are involved in the preparation of a self-imposed document, the participants will prevail and consequently defend their own sectarian, dissenting interests, and in many cases those of the consumers or users themselves.

Similarly, if the public sector is not involved directly or indirectly, its effectiveness, sometimes determined at the sanctioning level, may be limited as a testimonial or symbolic document.

To summarize, nonbinding law or self-regulations within which codes of conduct are framed present certain disadvantages that must at least be stated. These will be, as we have said, greater the purer the system is. Thus, the advantages of traditional binding law include, among many others, its democratic approval procedure, its application and effectiveness to all equally, its obligations and, for cases of noncompliance, the possibility of sanctioning such behavior. These predictable advantages of traditional law do not exist in the field of nonbinding law, and we can therefore speak of a kind of weakness or disadvantage. In effect, the procedure for adopting nonbinding law is sometimes, on the one hand, the least debatable (e.g., not all parties involved intervene, the procedure for approving the final text is not transparent, etc.). On the other hand, when faced with a nonbinding and therefore voluntary right, it is not universally applicable. From this statement, it may be inferred that the most conflictive entrepreneurs will not be interested in adhering to a self-regulatory system and, in the case of adhering and not considering it suitable regardless of the reason, may freely abandon the system.

At the community level, the phenomenon of self-regulation can be interpreted as a product of soft law as opposed to a mandatory rule passed by legislature (hard law or in Latin *dura lex*). However, it is not the only one, since other rules may be included within soft law (e.g., the European Union's Recommendations).

While soft law is integrated by nonbinding acts or provisions (note that it proposes, but does not impose, the realization of conduct), this does not imply that it lacks legal effectiveness, since it must be taken into account in frameworks of the interpretation of other provisions of community law and national standards (Edwards and Veale, 2017).

2.1.3. Complement or alternative to deregulation

Deregulation could be conceived as the slogan of a campaign that, in the strictly economic sphere, has the continued and widespread privatization of public services as its stated objective. In other words, it represents the achievement of the minimum state by virtue of an exaltation of the market, the overcoming of national borders, the decentralization of decisions, social self-regulation and an alleged 'dejuridification.'

It can be said that the government has been reducing its intervention mainly through two channels: first, by virtue of the transfer of functions and activities to the private sector, and second, by eliminating (i.e., deregulating) legal regulations that, in a certain sense, limited or conditioned the initiative and development of both public and private business activities. Deregulation could be conceived as more complex legislation accompanied by privatization processes subjected to supervisory bodies that, in the manner of regulatory authorities, are created for activities that had previously been managed directly by the government.

Deregulation does not amount to the suppression of norms. It is not about provoking pure anomie. Rather, it attempts to examine what types of rules the sector has regulated and replace them with different ones. The term "deregulation" refers to different processes linked by unquestionable logic: the removal of existing regulations and a process of establishing less rigid norms, whose origins lie in various sources of regulation.

The dialectic between government and society and public and private would manifest in the progressive shifting of government regulation towards recognizing self-regulatory systems in which there is, as the case may be, lesser or greater social initiative (López Jiménez, Dittmar and Vargas Portillo, 2019). Both deregulation and self-regulation – especially as regulated self-regulation – could to some extent be considered to contribute to the fulfillment of certain public purposes. In the case under review, it would be determined by the safeguarding of the consumer and/or user in the field of e-commerce in a broad sense.

2.2. Regulatory governance or heteroregulation

The government has a legal regulatory monopoly according to a continuous process of phasing out any regulatory production center that is foreign to it. This has been reflected in constitutional forecasts resulting from the procedure that has shaped the familiar Rule of Law model. On the basis of such consideration,

citizens are only subject to rules originating from one of the bodies entitled to their issuance. Such rules must have been the subject of a previous legislative or administrative procedure that has made possible a confrontation of opinions. In the parliamentary sphere, political parties are the custodians of trust offered by the people in elections. In the regulatory sphere, approval is the responsibility of administrative bodies with the participation of citizens, in some cases by legal imperative, while in others, it will be for appearance in the process of processing such a rule (Jiménez, Anton and Crichlow, 2017).

Likewise, the creation of formal regulations and how binding each rule is are related to two concurring components: legitimacy on the one hand and legality on the other. In this regard, it should be specified that the law would be the competent system from which legality derives, which in turn finds its legitimacy in those with authority in the political system (Citron, 2009). To a certain extent, this involves a recurring process of self-legitimation.

Strictly speaking, it could be said that policy making constitutes the system that makes it possible to make mandatory decisions (legislative power) for which the government is ultimately responsible (Nash et al., 2017). The administration would be the appropriate system for implementing such policy decisions (executive power). Finally, the legal system would be considered responsible for addressing conflicts arising from the application of such decisions (judicial power).

Under constitutional recognition, the government has a monopoly over legal production. In light of this, what manifests from self-regulation cannot in any way be considered reputed legal norms. In the same way, this reference from legal to technical norms could turn entities involved in self-regulation into participants of regulatory power conforming to the law (Nooren et al., 2018).

Regulatory governance or heteroregulation involves managing the Internet from the outside or via entities that are not the main actors of e-commerce, which are, fundamentally, governments or supranational or international organizations.

The impact of new information technologies occurs with particular vigor in the field of political power, where surveillance is revealed as an extremely effective instrument or method for exercising power (Epstein, 2013; Arredondo and Alfaro Tanco, 2019). In this way, technology and its use and exploitation result in economic power and social control (Musiani, 2014; Tanganelli, 2017; Domínguez-Escrig et al., 2020).

The government must have control over activities, assets and people, with obsessing over inspection becoming characteristic of public action (Villalobos Antúnez, 2013). It is therefore in the clear interest of public authorities to understand the development of the life of society and to control information both within and outside its borders (Sánchez Torres, Rivera González and De Maestrich Jorba, 2018). Interest present in the origins of power reflects the need to obtain the maximum and best information to effectively exercise its functions and present itself as a strong and secure subject in front of not only its citizens but also other nations. It is the intention of the legislator to provide means and simultaneously face the challenges of fostering a loss of fear (or contribute to building trust) of modernity and activities associated with it (which is e-commerce), since it must strengthen democracy.

At the start of the 21st century, consumption is intensifying (as well as what is linked, directly or indirectly, to it) traditional inspection or research functions of the government in different areas, especially with the unstoppable advance of information technologies that, among other aspects, allow it to monitor administrative services and the services of other public entities and private subjects, to determine whether their behaviors comply with the legal system (Villalobos Antúnez, 2016).

The administration is reluctant to lose its parcel of power in such a capital environment for shaping the future in all its aspects (social, economic, political, cultural, etc.) as the Internet. In fact, virtual activities of e-contracting and interactive advertising must be adjusted (irrespective of the margin of freedom recognized under the principle of the autonomy of will) to established public regulations. The importance of matters regulated by the public sector in all the subject matter examined is very significant because in addition to addressing many areas, these are very sensitive in certain cases.

Content directly or indirectly linked to the Internet in general and to e-commerce in particular, in which the public sector has influence, is truly diverse (Omer, 2014). Therefore, a neat and thorough enumeration would involve undertaking a task that would far exceed the intent of this subsection, which is to manifest the notable impact of the legislator in numerous areas of life and on the Internet in particular.

It should be noted that the public sector takes on a number of very significant challenges in the implementation and consolidation of the information society that are difficult to overcome due to, among other factors, technological delay and the slow development of information policies (Calvo Calvo, 2019).

Likewise, the first thing that could be highlighted is a lack of adequate legal norms. A negative factor leading to the failure of the full and effective implementation of the information society in a broad sense considers all actions aimed at achieving effective consumer and/or user trust in e-commerce. Citizens or associations representing their interests cannot be blamed for such a scenario, since their actions, at least in the sector under review, are clearly positive. The delicate situation described is rooted in a lack of initiative and public intervention.

For its implementation and consolidation, the information society requires the active commitment of all sectors and actors involved or public and private institutions in a broad sense. All measures and initiatives adopted in Spain are framed within the European Union, which sets a legal environment for actions taken in the information society.

The regulatory modalities through which the Spanish public sector will channel its postulates are very diverse. Except where matters affecting fundamental rights or public freedoms are addressed (in which case Organic Law must be used), ordinary law, Royal Decree and regulation may be used, among others.

We are in a sector where the community legislator has set the tone in a pioneering way to be followed by the various European governments. In effect, the European Union is aware of the extremely heterogeneous, predicable spaces of subjects under consideration. To harmonize such regulatory scenarios, it has adopted (and, in this regard continues, to do so) numerous Community Directives, representing a regulatory act prepared by the Council of the European Union or European Commission binding all or some Member States to the objective to be achieved but allowing them to choose the form and means of doing so. In effect, as provided in art. 189 of the European Economic Community, "the directive obligates the recipient Member State as to the result to be achieved but leaves the choice of form and means to the national authorities." The obligation it establishes is set up as a result, as it is up to the national authorities to choose the form and means for putting the European standard into effect.

For the Decisions, whose regulations have also been used, they are binding in all of their elements and bind the recipients whom they expressly designate.

For Resolutions, the European Parliament stands out among community bodies, as its content is on numerous occasions of notable interest in the field of e-commerce.

2.3. Mixed self-regulation

Self-regulation is a new state leadership tool (Sagasti, 2019). However, its use better serves the achievement of public objectives that arise in new areas of action. The result is a blurring of regulations and factual boundaries between government and society that translates into more collaboration between the two. Thus, self-regulation presents recipients of public regulations as potential actors.

As anticipated, there are several regulatory options for the Internet, although the specific determination of which is most appropriate does not have to be exclusively binding, since the most suitable model combines pure self-regulation and heteroregulation, giving rise to coregulation. The latter combines elements of its own legislation (especially its predictable and binding nature) with the more flexible nature of self-regulation.

This alternative must be distinguished from a regulatory governance of self-regulation giving rise to what is known as regulated self-regulation. What is being discussed, self-regulation, passes through certain parameters marked in advance by the legislator.

It can be said that public authorities should actively collaborate in the creation of self-regulatory instruments (codes of conduct, model building codes, ISO standards, UNE standards, quality assurance seals, etc.) of quality in the digital environment. However, together with public authorities, remaining private subjects interacting in the field of e-commerce should be involved. Put in colloquial terms, public and private subjects, in line with the above, must understand each other.

Current trends in the area of e-commerce within the European Union and in the United States are committed to coregulation, seeking, in any case, the aid and cooperation of self-regulation. Public, national, community and out-of-community institutions recognize the value of self-discipline mechanisms created by industry itself as a complement to national or regional legal systems.

In short, one must recognize that the intervention of the legislator (national, community and international) in the virtual sphere with a marked international vocation is essential (heteroregulation) while sharing the spotlight with private sources of regulation (self-regulation, giving rise to what has been called coregulation.

2.4. The regulatory governing of self-regulation

The constitutions of a significant number of governments, including European ones, impose on public authorities a direct obligation to effectively protect the legal rights and assets sanctioned within them. In this sense, article 51 of the Spanish Constitution expressly assigns to public authorities the protection of many other rights and assets that may be especially affected by the Internet, (e.g., safeguarding minors under article 20.4 or the protection of personal data under article 18.4). In such cases, a government must not only refrain from harming protected assets but also be entrusted with obligations to defend, guarantee and promote them.

The ultimate protection of the above constitutional assets is a matter for government, though the main risks against them come from individuals' activities. Such assets are subject to protection, especially by documents derived from self-regulating e-commerce.

Self-regulation, as an alternative to legal-public regulations and introductory obligations, through rules of conduct has a remarkable tradition of public intervention itself. Thus, it could be argued that the simple possibility of returning to alternative public intervention poses a threat likely to cause those affected to reach agreements mandatory for greater transparency in self-regulatory instruments (Ananny and Crawford, 2018). Such an extreme does not prevent the existence of self-regulation. In other words, it refers to the establishment of mandatory public norms, whose dangers could come from possible confinement in the functioning of instances of self-regulation. In any case, government is ultimately responsible for the outcomes of self-regulation.

It should be specified that when the purposes of self-regulation are imposed and controlled by a government, self-regulation becomes a state regulatory strategy or equally a regulated self-regulation. As can be inferred from the expression itself, regulated self-regulation does not develop in a truly free manner but is encouraged and directed within certain previously established parameters by novel forms of state regulation. It may therefore be stated that regulated self-regulation constitutes a new strategy of state planning. By virtue of this management technique, public administration oversees the private action of approval and subsequent application of rules derived from self-regulation as well as private controls established for compliance with the latter. It could be inferred that with the regulation of self-regulation, agents interacting in e-commerce in a broad sense would be subject (voluntarily) to rules and controls set by the administration.

One might also argue that regulated self-regulation is a new regulatory instrument used by a government through its transformation where imperative instruments of action are replaced by indirect regulatory techniques.

By combining these latter indirect regulatory options and instruments derived from self-regulation, two lofty goals can be achieved. On the one hand, the specificity of standards applicable to a particular sector can be significantly increased. On the other hand, controls that can go into effect as intensity can also increase.

The new position that a government would take across this order of issues is collaboration with the private sector (Villalobos Antúnez, 2018), which to a certain extent provides a government information and control that would be inaccessible from imperative techniques of action. In fact, through regulated self-regulation, a government intervenes in very specific market sectors, affecting aspects that are part of the sphere of individuals.

Public administration's commitment to digital self-regulation systems, rather than a simple legislative policy option, seems to be a requirement of the Internet system, complex by its own nature and for different reasons not sufficiently consolidated (Van Eeten and Mueller, 2013). We should note the notable distrust of consumers and/or users in the aforementioned areas (Villalobos Antúnez, 2015). The role that documents derived from self-regulation play in such sectors is very relevant.

Public intervention in self-regulation aims to protect the consumer and user of the Internet by incentivizing private liability on the one hand and incorporating public assurances and controls into self-regulatory instruments on the other (Ziewitz and Pentzold, 2014). In effect, when an administration realizes the important role that it can play in satisfying public interests typical of any social state, it begins (based on the requirements of community regulations) to intervene in this area. In other words, a government uses this form of regulation between regulation and self-regulation to address certain public needs. With this, the government is able to improve the effectiveness of regulation.

3. CONCLUSIONS

In early 1996, Barlow, founder of the Electronic Frontier Foundation, declared that the Internet was independent of national governments. For years, this libertarian thinking served as Silicon Valley's guiding philosophy because technology companies rejected attempts to regulate them or control online behavior. This lack of regulation allowed them to build large monopolies and obtain enormous profits. Currently, Silicon Valley is facing repercussions. Amid widespread concerns about fake news, influence campaigns, cybersecurity and the exchange of violent and extremist content, an increasing number of countries are pushing to regulate high-tech. In this regard, the UK government proposed expanding new powers to address violent content, fake news and harmful material. Australia has acted similarly with regulations imposing obligations on web companies and allowing a newly formed Internet regulator to issue fines and block websites. Pure self-regulation among technology companies has not been sufficient, and action is now needed in the form of regulation that complements this. In this way, coregulation is achieved. Few would deny that there are significant problems with the Internet and that government measures are needed to solve them.

The European Union adopts a more regulatory profile in terms of the Internet and therefore of e-commerce than Anglo-Saxon countries such as the United States that are more committed to self-regulation. In any case, as we have pointed out, it seems that in both spaces, there is talk of coregulation. This reveals that governments have long recognized the usefulness of self-regulation irrespective of the fact that the industry itself is becoming increasingly aware of this need because, among other things, without trust, stable business cannot exist.

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