Chapter 1
My Click is My Bond:
The Role of Contracts, Social Proof, and Gamification for Sysops to Reduce Pseudo-Activism and Internet Trolling

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ABSTRACT

The growth in Internet use is not only placing pressure on service providers to maintain adequate bandwidth but also the people who run the Websites that operate through them. Called systems operators, or sysops, these people face a number of different obligations arising out of the use of their computer-mediated communication platforms. Most notable are contracts, which nearly all Websites have, and in the case of e-commerce sites in the European Union, there are contractual terms they must have. This chapter sets out to investigate how the role contract law can both help and hinder sysops and their users. Sysop powers are limited by sysop prerogative, which is everything they can do which has not been taken away by statute or given away by contract. The chapter finds that there are a number of special considerations for sysops in how they use contracts in order that they are not open to obligations through disabled or vulnerable users being abused by others.

INTRODUCTION

"And this is why we can't have nice things," is what it said on the website of Anonymous after it had been brought down by one of their dissident members (Yin, 2011). The group, known for their online acts of 'transgressive humour' often abused people online for their own entertainment. Groups like Anonymous have called themselves 'trolls' in order to legitimise their abusive behavior, with the term troll originally referring to people who try to entertain others through winding people

up. Others more subtly spread misinformation to a website's users in order to get kudos points such as share counts. Abusive behavior like this causes difficulties for website owners, but there are things they can do to mitigate this, using contract law.

It is commonplace in the present day for contracts to be completed either at a distance, such as on the Internet, or equally in person. In media and research organisations it is becoming commonplace to issue confidentiality contracts to new staff (Kalra, Gertz, Singleton, & Inskip, 2006). Since the Electronic Communications Act 2000 electronically signing contracts has become equally valid as signing them in person. Many legal cases around the ECA have been whether something constitutes a signature within the meaning of the Act. In J Pereira Fernandes SA v Mehta [2006] EWHC 813 (Ch) Judge Pelling ruled that if a party or a party's agent sending an e-mail types his or her or his or her principal's name to the extent required or permitted by existing case law in the body of an e-mail, then in his view that would be a sufficient signature for the purposes of Section 4 of the ECA.

BACKGROUND

It is sometimes the case that vulnerable and disabled people are at particular risk of entering into contracts with online communities believing that website requires standards of good behaviour, only to be targeted for their disability. This is despite it being argued by some that online medium can promote political equality by facilitating participation and engagement amongst those otherwise excluded from the public arena (Trevisan, 2010).

It is clear, however, that disabled people find the online medium offers easy and accessible communication, as well as greater command over aspects of their life (Bowker & Tuffin, 2002). Indeed, a poll found that disabled people go online and use e-mail twice as much as people without disabilities (Morrell, Mayhorn, & Bennett, 2002).

For many disabled people the Internet offers a means where they can be judged on their merits in the messages they post and not be abused simply for having a medical condition (Pfeil & Zaphiris, 2009). However, whilst many disabled people will go online for help to deal with their impairments, all too often they will come across people all too eager to abuse them as offline if they disclose they have a disability. They are often put in a position where they rely on the owner of the website, known as a systems operator, or sysop, to intervene to help them. All too often no help is forthcoming, and the person with the disability is seen as a troublemaker and excluded from the website in the same way as they are excluded offline. This paper will investigate the extent and limitations of the power of sysops to treat disabled people less favourably than others in terms of contract, known as 'sysop prerogative.'

Pseudo-Activism and Its Effects

Pseudo-activism is a type of group-think, social loafing, or free-riding, where people join organisations based around activism, but their intentions are based more around a kind of empathism, where it is more important to be part of a group that believes, than be part of movement that does. In the South Wales Valleys for instance, if one is setting up a not-for-profit organisation, it is expected that it will be member based and not business-minded. Often in this locality people's worth is judged by how often they turn up to a meeting and not how much they actually contribute in real terms. The art of being seen to be doing something, while actually not doing anything is a type of pseudo-activism known as 'slacktivism', describing a form of "feel-good" activism which has little social or political effect (Morozov, 2011). An online equivalent of this is clicktivism, which is a form of pseudo-activism online which simply satisfies the need for affiliating with a group and for social interaction (Alexandrova, 2011)

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