

Paper's provisional title

The liability of Internet Service Providers (ISP) for violations of data protection laws in the era of Web 2.0

Abstract

Since the adoption of the E-Commerce Directive, web hosting has dramatically changed. Internet sites made of user-generated contents are now structured as platforms facilitating and supporting users in preparing content and making it available. Moreover, such platforms are run in most cases by commercial companies who make profit by associating advertisements with user-generated materials.

This paper will address the issue of the legal framework applicable to the ISPs. Can they be considered as mere host providers, having regard to their activities of enabling upload of content, distribution, indexing and linking to advertising? These questions emerged dramatically in the famous Italian “Google case”, where Google executives were convicted for violating data protection law, in connection with the online posting of a video showing a disabled person being bullied and insulted. As user-generated-contents often concern third parties, the paper tackles the question if liability exemptions are applicable also to data protection violations regarding third parties’ information uploaded by users.

The methodology used in this paper is (comparative) legal research. The research questions will be answered through a comparative case law analysis of the liability of host providers for user-generated content, in particular with regard to data protection. We will take into account ECJ’s and ECHR’s decisions, EU members states’ and third countries’ case law, as well as opinions of the national data protection authorities.