

Comparative Studies on the Intermediary Liability of Web 2.0 Platforms in China and the European Union

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Abstract:

In this user-led content generation, there will be more and more national and transnational cases concerning the liability of Web 2.0 platform for users' infringement. There are many academic discussions on internet intermediaries in European countries. China has the largest number of internet users in the world, and the number of lawsuits against Web 2.0 platforms is also increasing rapidly. Rules concerning indirect liability of internet intermediaries aren't fully harmonized in these two areas. Therefore, I intend to give a comparison on the existing provisions which can be applied to cases regarding the liability of Web 2.0 platforms for users' infringement in China and in the EU.

I will introduce briefly the relevant regulatory frameworks in these two areas first, and then by comparative analysis and by case studies, I will examine the main differences in respect of the following issues: "neutrality" test, "knowledge" test, requirement of notification and monitoring obligation. All of them are essential for deciding the liability of Web 2.0 platforms, and the divergence indicates the different opinions of legislators and judges of China and the EU, furthermore, it may also indicate the diverse official attitudes towards internet regulation and governance.

Key words: Chinese Tort Liability Law, E-Commerce Directive, knowledge, notification, monitoring obligation.