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The Tussles Involved in Government Regulation of Anonymity

Since 1994, when the invention of Mosaic and the boom in individual Internet connectivity fostered the dynamic allocation of IP addresses, the peer-to-peer model has proved to be a powerful force on the Internet. Although the definition of peer-to-peer is open to interpretation, it is easy to see how these technologies could be used to facilitate anonymity on the Internet. The goal of this paper is to describe the tussles inherent in government regulation of this anonymity.

According to the Preamble of United States Constitution, the purpose of our government is to “establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.” In the two hundred or so years since those words were composed, countless thoughts and arguments have attempted to determine what our government can and should do, and many have paid the ultimate sacrifice in the struggle to define what our nation stands for and how it should behave.

The contentious issues of the past are all very familiar. The effects of slavery are still apparent, and the debate over the separation of church and state continues to rage. Today however, the advent of peer-to-peer technologies and their facility for anonymity now present us with a new and important issue. And while the details are particularly modern, the issue itself touches upon many familiar questions—the right to privacy, the need for government regulation, and the freedom of speech, among others.

In the past 200+ years, our nation has worked out basic notions of privacy, freedom, fair use, and private enterprise, ect. Granted, unresolved conflicts still abound, but even so, a rough consensus about these ideas and many others commonly exist. And while peer-to-peer networks and anonymity relate to many familiar ideas, the concept as a whole is still quite novel.

In my eyes, the most striking feature of anonymity as created by peer-to-peer networks is how previous assumptions about mundane activities are rendered useless; peer-to-peer's capacity for anonymity throws basic concepts into new, uncharted dimensions. For example, as an individual, I expect that what I do in my home is my own private business. And of course, I understand that if I murder someone in my home, then that is also the state's business. But short of such an obviously evil activity, I intend to conduct myself on my property in any way I choose. On the other hand, once I enter the public space, I understand that I must yield many of the expectations I held while I was at home. For example, I might walk around my house naked, but if I go down to Ninth Street naked, I know I'll get in trouble.

Granted, that tussle was less to do with peer-to-peer and more to do with a general tussle of the internet in general, but it serves as a good starting point for a more specific tussle the relates to peer-to-peer. There are certain activities that are regulated, and that we commonly want to be regulated. We expect that the government and society in general will work to protect our property and our interests. If I went to the bank and they informed me that I lost my savings due to a robbery, I'd obviously be upset. However, if I found out there were no security cameras installed at the location, I'd be twice as angry. Clearly we assume and expect that our society and our government provide basic and

reasonable measures to ensure Justice, promote stability, ect. But, as more and more of our lives move online, it becomes clear that anonymous activity threatens to operate outside of the realm of any sort of accountability or monitoring. If someone anonymously transfers my bank balance into some foreign account, I would hope that the government had some way of tracking down my investments.

So, anonymity creates a tussle between law-abiding citizens and the criminals when it provides a new vehicle for the guilty to carry out their bad deeds. And while we can attempt to address this issue, the solution often invokes a tussle of its own. This time, the innocent must be monitored so that they can be identified should they turn out to be the guilty. Going back to my “being at home” example, while in my home, I have neither expectation nor any tolerance for my activities being watched by some outside party. And so if I am on my personal computer and it turns out that the government is snooping on what I am doing, I am not going to be happy. Here again, a tussle exists. I could take advantage of one of the emerging technologies that provide increased anonymity, but for the reasons stated above the government should be even more compelled to try and identify who I really am.

In sum, the imperatives of new technologies blur previously clear lines. It used to be that public activities could only occur in public spaces. And furthermore, that an extremely high standard of privacy was expected within the home. Today however, what’s done in the home may very well be considered a public activity, such as the purchase of airline tickets. And likewise, the ability of others, namely the government, to monitor behavior in the home has radically expanded. As technology improves, these trends will become more significant. And the advent of peer-to-peer anonymity only

makes the issues involved more pressing. Like any tussle, there is no simple solution. An individual will want the convenience of doing public business from the home, but she want to relinquish the privacy that she's come to expect. Likewise, as home's become more like public spaces, governments will want to extend more authority into the home. Given the tremendous conflict and contradiction inherent in these tussles, I'm sure that questions relating to this issue are never going to be settled once and for all. Rather, I should expect the issues I've touched on in this paper to continue to be debated in the minds of men for perhaps hundreds of years.