Contents

1 Governing Internet Expression: An Introduction .................................. 1
   1.1 Why Freedom of Expression? ......................................................... 1
   1.2 A Bet and a Promise ..................................................................... 2
   1.3 Expression, Technology and Power .............................................. 3
   1.4 Speech, New Technology & Meaning .......................................... 4
   1.5 Expression, Technology and Power .............................................. 5
   1.6 The Global Default ..................................................................... 6
   1.7 Legitimacy Theatre and the Hidden Levers of Control .................. 7
   1.8 Unpacking Censorship to Understand Free Expression ............... 8
   Bibliography .................................................................................. 8

2 Towards a Theory of Information Control: Content Regulation, Disciplinary Capacity and the Governance on the Internet ........... 11
   2.1 Developing a Theory of Information Control ................................. 13
   2.2 Key Theoretical Concepts ......................................................... 17
      2.2.1 The Internet as a Communicative Construct .......................... 17
      2.2.2 Content Regulatory Agents: Gatekeepers & Communities of Practice ......................................................... 18
      2.2.3 Sedimenting Gatekeepers: Private or Public Institutions? ....................... 19
      2.2.4 Gates: The Boundaries of Speech Spaces ............................... 20
   2.3 ‘Speech Spaces’: Theorising Expression Governance Regimes’ ......................................................... 22
      2.3.1 Definition of Expression Governance Regimes ..................... 22
      2.3.2 Intentionality in Expression Governance ............................. 22
      2.3.3 Scope and Substitutability of the Regime .............................. 23
      2.3.4 Logics of Permissible Content ............................................. 24
      2.3.5 ‘Disciplinary Capacity’ and the Internet Ecosystem ............... 24
   2.4 Case Selection ........................................................................... 24
2.5 Operationalization and Methodology............................................... 27
  2.5.1 Overview..................................................................................... 27
  2.5.2 Participant Observation............................................................... 27
  2.5.3 Process Tracing and Semi-structured Interviews....................... 28
  2.5.4 Access to Internal Sources and Ethical Constraints............... 28
  2.5.5 Document Analysis: Published and Internal Documents........ 28
2.6 Conclusion......................................................................................... 29
Bibliography .......................................................................................... 29

3 Internet Technologies Increasing Ability to Control:
The Development of Disciplinary Capacity
in the Past Two Decades ........................................................................ 35
  3.1 ‘Disciplinary Capacity’ and the Internet Ecosystem .................... 36
  3.2 The Development of Disciplinary Capacity................................. 37
  3.3 The Shift in Internet Accessibility Devices.................................. 40
  3.4 An Ageing Phone Book: The Domain Name System............... 42
  3.5 Internet Service Providers............................................................... 43
  3.6 Networks: The Increased Use of Deep Packet
       Inspection Technology .................................................................. 45
  3.7 Infrastructure: The Increasingly Nodal Role
       of Internet Exchange Points ..................................................... 48
  3.8 Online Service Providers................................................................. 51
  3.9 Internet Hosts and Cloud Computing.......................................... 54
  3.10 Conclusion....................................................................................... 56
Bibliography .......................................................................................... 58

4 The Public Sector and Content Regulation: Focussing
on Pornography and Child Sexual Abuse Material.............................. 63
  4.1 Case 1: The United States............................................................... 66
      4.1.1 Regulating an American Internet....................................... 66
      4.1.2 NCMEC CyberTipline......................................................... 69
      4.1.3 How NCMEC and Congress Normalise
           Self-Regulation of Content............................................... 71
      4.1.4 Final Remarks on the U.S................................................... 72
  4.2 Case 2: The United Kingdom......................................................... 74
      4.2.1 The UK as International Innovator in Internet
           Content Regulation ........................................................... 74
      4.2.2 Normalising Self-Regulation: The Internet
           Watch Foundation.............................................................. 75
      4.2.3 From Watching to Cleaning: Inducing Automatic
           Enforcement....................................................................... 77
      4.2.4 From Cleaning to Normalising ........................................... 78
      4.2.5 Concluding Remarks on the UK......................................... 79
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3</td>
<td>Case 3: Germany</td>
<td>80</td>
</tr>
<tr>
<td>4.3.1</td>
<td>The On-Going Struggle over Statehood on the Internet</td>
<td>80</td>
</tr>
<tr>
<td>4.3.2</td>
<td>Creating Self-Regulatory Institutions:</td>
<td>83</td>
</tr>
<tr>
<td></td>
<td>Jugendschutz. Net, FSM and Eco</td>
<td></td>
</tr>
<tr>
<td>4.3.3</td>
<td>Institutional Competition About Internet Content Regulation</td>
<td>84</td>
</tr>
<tr>
<td>4.3.4</td>
<td>Internationalising the German Regulatory Regime</td>
<td>87</td>
</tr>
<tr>
<td>4.3.5</td>
<td>Concluding Remarks on Germany</td>
<td>88</td>
</tr>
<tr>
<td>4.4</td>
<td>Final Analysis and Preliminary Conclusions</td>
<td>89</td>
</tr>
<tr>
<td></td>
<td>Bibliography</td>
<td>91</td>
</tr>
<tr>
<td>5</td>
<td>The Private Sector and Content Regulation: The Margin of Permissible</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td>Expression</td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>Introduction</td>
<td>97</td>
</tr>
<tr>
<td>5.2</td>
<td>Case 4: America Online (AOL)</td>
<td>99</td>
</tr>
<tr>
<td>5.2.1</td>
<td>Creating a Curated Internet</td>
<td>99</td>
</tr>
<tr>
<td>5.2.2</td>
<td>Generating and Localising Norms of Appropriate Expression</td>
<td>100</td>
</tr>
<tr>
<td>5.2.3</td>
<td>External Influences on the Norms Generated by AOL</td>
<td>102</td>
</tr>
<tr>
<td>5.2.4</td>
<td>Conclusion – AOL’s Role in Co-creating Expression Governance</td>
<td>103</td>
</tr>
<tr>
<td>5.3</td>
<td>Case 5: Google</td>
<td>104</td>
</tr>
<tr>
<td>5.3.1</td>
<td>Algorithmic Content Regulation</td>
<td>104</td>
</tr>
<tr>
<td>5.3.2</td>
<td>Generating Norms – “Content Regulation Is a Mathematical Problem”</td>
<td>105</td>
</tr>
<tr>
<td>5.3.3</td>
<td>External Influences on the Google’s Expression Governance</td>
<td>107</td>
</tr>
<tr>
<td>5.3.4</td>
<td>Conclusion – Google’s Role in Creating Expression Governance</td>
<td>108</td>
</tr>
<tr>
<td>5.4</td>
<td>Case 6: Facebook</td>
<td>110</td>
</tr>
<tr>
<td>5.4.1</td>
<td>Facebook – A Self-Enforcing ‘Sanitized Internet’</td>
<td>110</td>
</tr>
<tr>
<td>5.4.2</td>
<td>Generating Norms – When All Users Are Considered 13 Year Old</td>
<td>111</td>
</tr>
<tr>
<td></td>
<td>American Adolescents</td>
<td></td>
</tr>
<tr>
<td>5.4.3</td>
<td>External Influences on the Facebook’s Content Regulation</td>
<td>113</td>
</tr>
<tr>
<td>5.4.4</td>
<td>Conclusion – Facebook</td>
<td>115</td>
</tr>
<tr>
<td>5.5</td>
<td>Conclusion and Wider Implications</td>
<td>116</td>
</tr>
<tr>
<td></td>
<td>Bibliography</td>
<td>118</td>
</tr>
<tr>
<td>6</td>
<td>Governing Internet Expression: Sketching Out the Borders of a Global</td>
<td>121</td>
</tr>
<tr>
<td></td>
<td>Default of Freedom of Expression</td>
<td></td>
</tr>
<tr>
<td>6.1</td>
<td>The ‘Global Default’: A Global Private Governance Regime</td>
<td>121</td>
</tr>
<tr>
<td>6.2</td>
<td>The Communities of Practice</td>
<td>123</td>
</tr>
<tr>
<td>6.2.1</td>
<td>Strongly Mobilised International Network</td>
<td>123</td>
</tr>
<tr>
<td>6.2.2</td>
<td>Sedimenting Communities of Practice in Quasi-Public Institutions</td>
<td>125</td>
</tr>
</tbody>
</table>
6.3 Mechanisms of Governance ............................................................. 126
  6.3.1 Universal Scope of Governance ............................................... 128
  6.3.2 Governance Through Architecture ....................................... 130
  6.3.3 Discursive Spill-Over and ‘Disciplinarity Envy’ ..................... 130
  6.3.4 Functionally Differentiated Gatekeeping .............................. 131
  6.3.5 Choosing Architecture over Public Sector Governance ........... 132
6.4 Conclusion .................................................................................. 133
Bibliography ..................................................................................... 133

7 Global Expression Governance: The Norms of a Global Regime .... 137
  7.1 Governing for Children .............................................................. 137
  7.2 Imagining Memory ..................................................................... 142
  7.3 Imagining Sex and Sexuality ..................................................... 145
  7.4 Analysis of Three Imaginaries ................................................. 149
    7.4.1 A Debate Around False Truths ........................................... 149
    7.4.2 As a Purely Functional Means of Exerting Power ............... 150
    7.4.3 Creating Identity Through Excluding Others ........------------ 150
    7.4.4 As an Urgent Need for Solidarity ...................................... 151
Bibliography ..................................................................................... 153

8 Symbolic Power and Legitimacy Theatre: Constructing
  Legitimacy in Global Internet Governance ...................................... 157
  8.1 Developing Structures of Justification ..................................... 158
  8.2 Power and Legitimacy – The United States 
    and the Early Internet ................................................................. 160
  8.3 Structures of Justification – ICANN & ‘Multi-stakeholderism’ .... 161
  8.4 Justification at the UN – The WSIS Process ............................ 164
  8.5 Global Legitimacy Theatre – Diplomatic Alphabet Soup .......... 165
  8.6 Contesting Legitimacy Theatre – Multistakeholderism & WCIT ... 168
  8.7 Symbolic Legitimacy Left Behind – Shells of Justification ....... 170
Bibliography ..................................................................................... 171

9 Conclusion: Logics of Appropriate Governance
  in Internet Governance and Global Governance ........................... 175
Bibliography ..................................................................................... 180

Additional Sources and Interviews .................................................... 183
  Interviews, Personal Conversations and Correspondence ............... 183
Global Free Expression - Governing the Boundaries of Internet Content
Wagner, B.
2016, XV, 184 p. 19 illus., 12 illus. in color., Hardcover
ISBN: 978-3-319-33511-7