The Responsibility of Online Intermediaries for Illegal User Content in the EU and the US

Elgar Information Law and Practice series

Folkert Wilman, Member of the Legal Service of the European Commission, Belgium

Featuring foreword from Maciej Szpunar, First Advocate General at the Court of Justice of the European Union and Professor at the University of Silesia in Katowice

This book delivers a comprehensive examination of the legal systems that regulate the responsibilities of intermediaries for illegal online content in both the EU and the US. It assesses whether existing systems are capable of tackling modern challenges, ultimately advocating for the introduction of a double-sided duty of care, requiring online intermediaries to do more to tackle illegal content whilst also better protecting their users’ rights.

‘Folkert Wilman invites us to a journey into a virtual world where it is easy to formulate questions, but extremely difficult to answer them. In his analysis he displays remarkable knowledge, coupled with professional experience. [...] His book will definitely contribute to the ongoing discussion not only on both sides of the Atlantic, but in the entire world. It will constitute an extraordinarily valuable point of reference for lawmakers and courts, including, I believe, the Court of Justice.’

– From the Foreword by Maciej Szpunar, First Advocate General at the Court of Justice of the EU

‘The Internet offers countless opportunities for exchanging information and expression, but also entails risks of abuse. In dealing with the responsibility of intermediaries for illegal content, this book scrutinises laws on copyright, anti-terrorism, e-commerce and fundamental rights, in the EU and the US, successfully weaving different experiences and developments into a clear and comprehensive analysis. An insightful and thoughtful work, rich in references to case law, legislative history and legal literature. Obligatory reading for anyone working in the field.’

– Anna Marcoulli, Judge at the General Court of the EU

‘Wilman’s book is a timely review of some of the most contested laws of our age: the laws defining platforms’ responsibility for content put online by users. Wilman brings an inside perspective, having spent a decade helping develop EU platform regulations. His comparison of US and EU law is knowledgeable, serious, and comprehensive – and clear-sighted about the ways that such laws can affect anyone who depends on private platforms to share information and participate in society.’

– Daphne Keller, Stanford University, US

‘This book contains a well-researched and comprehensive analysis of the rules applicable in the EU and in the US on the liability of online intermediaries for illegal content of all kinds. It contains a useful and important parallel discussion of the two most important US laws for intermediary liability – Section 230 of the Communications Act and Section 512 of the Copyright Act – two legal regimes which should be discussed in parallel. While the book’s recommendations are focused on the EU, it offers many valuable insights, references, and suggestions for US practitioners and policy makers. It is an excellent work with critical but nuanced analysis that makes a helpful and insightful contribution to the global debate over intermediary liability regimes.’

– Blake Reid, University of Colorado, Boulder, US