

K-Economy and K-Community: Possibility and Challenges of Self-Governance

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ABSTRACT

The rapid rise of globalisation and electronic commerce and their increasing intrusion into everyday life, have given rise to the notions of K-Community and K-Economy. The healthy functioning of K-Community and K-Economy requires an effective governance structure. The present paper proposes an evolving multi-faceted self-governance framework for the regulation of K-Community and K-Economy by, for and of the users and service providers in these realms. The framework takes into account the policy and economical aspects of K-Community and K-Economy development, and seeks to devise balanced and sensible governance solutions.

Keywords

K-Economy, K-Community, Self-governance, regulatory framework

1.0 INTRODUCTION

The advent of the Internet over the past decade has created new possibilities for business dealings, be they transactions of products or provisions of services. This is coupled with the ascent of globalisation, which has enabled almost borderless transport of goods and services as well as exchange of ideas. As a result, tremendous convenience and savings, in addition of ready access to previously untenable knowledge, have been enabled by both globalisation and electronic commerce. The concepts of K-Economy and K-Community were thus engendered. In a K-Economy, the main items of commerce and trade would evolve from products and services to knowledge and ideas. The participants in such a K-Economy would interact with each other in a

K-Community, in which knowledge, perhaps more than financial wealth, reigns supreme. The slogan “knowledge is power” would indeed be applicable in such a K-Community.

Nevertheless, the proliferation and invasiveness of K-Economy, most prominently in the form of electronic commerce, into both business and individual lives – thus forcing the creation of a K-Community – have also given rise opportunities for unscrupulous parties to engage in malicious activities over the realm of ideas, often with greater ease, speed as well as harms to society. A typical knee-jerk reaction to these perceived “knowledge” endemic is the tightening of regulations by authorities. This paper attempts to explore an alternative answer. The paper first discusses the policy and economic dimensions of K-Economy and K-Community using the Internet as an example. Based on these observations, a multi-faceted self-governance framework is proposed for K-Economy and K-Community activities. The strengths and weaknesses of such a self-governance framework would also be discussed.

2.0 SOME CONTENTIOUS POLICY ISSUES IN K-ECONOMY AND K-COMMUNITY

Despite the seemingly democratic nature of the K-Community as manifested in the Internet, sound public policy over the Internet can make or break the healthy development of K-Economy. A public policy that restricts both the access and the contents of the Internet, for example, will almost certainly strangle the growth of K-Economy. Some of the important public-policy issues on K-Economy and K-Community may be divided into

three categories: intellectual property, content and privacy.

2.1 Intellectual Property

The property rights over intangible “property” which is the result of creativity and/or innovation are often referred to as intellectual property (IP). In a K-Economy, the main IP debates currently concerns Internet domain names and copyrights.

2.1.1 Internet Domain Names

Internet “domain names” have seen intense “turf fights” during the last decade. Domain names are unique Internet “addresses” which indicate a web page. A domain name consists of at least two components – a designation of the organisation (e.g., “ums”) and an abbreviation for the nature of the organisation (e.g., “edu”). The latter is known as “top-level domain” (TLD). A domain name registered in a country other than the United States usually has an additional country-designating component (e.g., “my” for Malaysia). In the United States, on the other hand, the domain names usually do not have an additional country-designating component, and these TLD’s are known as “generic” TLD’s (gTLD). For the K-Economy and K-Community worldwide, the “.com” gTLD has become a priced commodity, with its subtle phenomenological implications of commercial superiority. Nevertheless, confusion may arise out of similar gTLD. To illustrate, both University of Malaysia Sabah and University of Malaysia Sarawak may arguably have a legitimate claim to the Internet domain name “ums.edu” provided proper registration is made¹.

During the latter part of 1990’s, two initiatives have been made to resolve the gTLD disputes. There was initially the “gTLD Memorandum of Understanding” (gTLD-MoU) (International Telecommunication Union, 1997) developed by an international *ad hoc* body in 1997, with participations from both the World Intellectual Property Organization (WIPO) and the International Telecommunication Union (ITU). The gTLD-MoU proposed a seemingly autonomous gTLD governing structure with various functioning arms such as a policy advisory body, a

policy oversight committee, a depositary (the ITU) for the MoU, a council of registrar, and an administrative challenge panel. Despite its limitations, the gTLD-MoU may be viewed as one of the first international efforts in arriving at a self-governing structure for K-Economy and K-Community. The main advantage of gTLD-MoU is that it is a truly international attempt to resolve an international problem. The main disadvantage, on the other hand, is a lack of criteria to separate the genuine, interested participants of the gTLD debate from those who incidentally avail themselves of the benefits of the MoU.

In response, the United States proposed its own domain name system reform policy in 1998 (National Telecommunications and Information Administration, 1998). Under the American initiative, a non-profit corporation was formed with headquarters in the United States to manage gTLDs and to resolve international gTLD disputes. Both the strength and the weakness of this structure concern its backing by the American government. While US backing lends credibility to the proposal, a significant amount of suspicion has also been raised. The European Union has criticized that the American proposal was not arrived at with sufficient international consensus. Others view the US proposal as the extension of US Internet domain name policy to the K-Community in the rest of the world. Over the past few years, however, the US proposal has more or less been grudgingly accepted and practiced around the world.

2.1.2 Copyrights

Another contentious IP issue concerning K-Economy and K-Community is copyrights. The history of copyright law witnessed the conflicting demands between, on the one hand, the authors of protected creative works who would like to exact their due shares whenever their protected works are reproduced, and, on the other hand, the user of the protected works who would like to ensure his access to the greatest amount of materials, protected or otherwise, with as little charges as possible. This constant struggle is magnified on the Internet, which is in turn a manifestation of K-Community and K-Economy, as was the case with online peer-to-peer “swapping” services, which have provided a means for their members to exchange digital music files that may or may not be protected by copyrights. The Internet has made reproduction of protected works relatively

¹ In actuality, University of Malaysia Sabah uses the URL www.ums.edu.my, while University of Malaysia Sarawak uses the URL www.umimas.my.

effortless. This phenomenon no doubt gave rise to a tension within the K-Community and in the course of K-Economy between those who would be more egalitarian in knowledge sharing and those who are concerned with the demise of creativity in both K-Economy and K-Community due to non-protection of the fruits of knowledge creation.

A further complication is that the global reach of the Internet implies that restructuring of the copyright law and policy must necessarily be universal. In addition, the debates over copyrights between the developed and developing countries often assume a non-economic and political nature. Some argue that the present copyrights system protects the interests of developed countries who limit the flow of "protected" information to developing countries which cannot afford to pay the often stiff royalties for the vital information necessary for the latter's national development. The Internet thus enables the developing countries to obtain crucial "protected" information with relatively low costs. To summarise, the issue of copyright in K-Economy and K-Community as manifested in the Internet allows no simple solution, but demands continuous give-and-take among various interested parties.

2.2 Content

The huge amount and diversity of opinion and materials expressed and exchanged on the Internet constitutes a main reason for the tremendous development of K-Community in general and K-Economy specifically. Governments around the world are gently waking up to the potential of the Internet in providing essential services. They are also rudely awakened by the poorer taste or appropriateness of some of the Internet contents. The governmental impulse, then, is often to regulate Internet content allegedly for the public good. This was the case, for example, in Germany² and China³. It remains to be seen whether these draconian policies would hamper the healthy K-Economy and K-Community development in those countries. Nevertheless, these measures may not be as effective as they first seemed in

² See *German Information and Communications Act of August 1997*.

³ See *Computer Information Network and Internet Security, Protection and Management Regulations of December 1997*.

eradicating "harmful" material. The global nature of the Internet means that a prohibition on certain content production in one country would help the content-creation industry in another country, since the demand for the content remains the same. Therefore, a more effective system may be a self-regulatory "content" framework, such as the "content forum" with industry and expert representation such as that proposed under the Malaysian Communication and Multimedia Act 1998.

2.3 Privacy

The protection of personal Information is essential to integrity to both human dignity and commercial integrity. Without such protection, active and healthy participation in both K-Community and K-Economy would not be possible. Therefore, the protection of Internet users' and producers' information privacy is important for the continuous development of K-Community and K-Economy. Without an adequate privacy protection framework, potential participants would be deterred from engaging in K-Community and K-Economy, lest their personal data become tradable commodity. To answer this concern, most developed countries, such as the European Union (European Union, 1995 and 1997), the United States⁴, and Organisation of Economic Cooperation and Development (Organisation of Economic Cooperation and Development, 1980), have been drawing up their respective data privacy laws, policy and guidelines.

3.0 SOME ECONOMIC CONCERNS IN K-ECONOMY AND K-COMMUNITY

The momentous growth in the number of Internet service providers (ISP's) implies the strength of K-Community and K-Economy. It can, however, be observed that the economic growth of the Internet has been concentrated in too few hands; there is a lack of competition among the major ISP's. In the wholesale Internet market, for example, the top three US ISP's accounted for about 73% of US market share (BoardWatch, 1999). In the retail Internet market, the number of AOL subscribers outdid that of its top ten competitors. (International Telecommunication Union, 1999) The fear is that with their overwhelming market shares, giant ISP's may

⁴ In 1998, US Congress considered a bill protecting on-line consumer privacy.

squeeze out smaller competitors and thereafter inflate service prices. Governmental regulation in the form of anti-trust policy is often suggested as a suggestion. But is this an effective solution?

Perhaps not for Ronald Coase, the 1991 Nobel laureate in economics, who once said, "All solutions have costs and there is no reason to suppose that government regulation is called for simply because the problem is not well handled by the market or the firm". (Coase, 1960) One version of the Coase theorem states if transaction costs are zero (i.e., if the parties involved are able to make any agreement that is in the mutual benefit of the parties), an economically efficient outcome will be reached regardless of any initial definition of property rights. For example, in the case of pollution, if left alone to bargain, both the polluter and polluted parties will reach an economically efficient settlement, regardless of their initial entitlements.

The chief criticism of Coase Theorem is that in reality all transactions entail cost. For example, Arrow (1969) demonstrated that there is *a priori* no market where the transaction cost is zero. However, others have argued that at the least Coase showed that for some problems there is no fixed rule or best regulation that will generate an economically efficient solution. (Anonymous, 1999)

4.0 ELEMENTS OF A PROPOSED INTERNET SELF-GOVERNANCE FRAMEWORK

The lessons learned from the extended discussions above indicate that the most important elements of a proposed self-governance framework for K-Community and K-Economy may be referred to as "K-Interest Groups" (KIG), representing the interests of the various members of the K-Community and K-Economy. The chief beneficiaries of such self-governance would hopefully be the participants in K-Community and K-Economy.

One KIG crucial for self-regulation will be a "Commercial KIG", an "virtual" chamber of commerce. The Commercial KIG will enable K-merchants to act in concert to safeguard their commercial interests while the diversity of opinions and modes of business within the K-Community and K-Economy will prevent them from developing into a self-perpetuating mono-

poly. In many circumstances, the commercial KIG may also resolve commercial disputes among its members in the form of alternative dispute resolutions, to avoid the high costs and long delays of the traditional judicial systems.

Another "interest groups" should be a "Professional KIG" akin to the professional societies in the traditional community, such as Medical and Bar Associations. These professional bodies set the crucial standards for their members, as they are in the best position to know what is sound for the healthy development of their trades. K-Economy today is highly specialized, just as the regular working world. The hardware technicians, the software designers, the chat room moderators and the on-line auctioneers should all establish their professional associations, much like the medieval masters and their guilds. The professional KIG may, for example, adjudicate cases of breaches in professional ethics.

Yet another, and probably the largest, KIG is the "Consumers KIG", which is made up of K-Community and K-Community consumers. As a consumer advocacy group, this KIG should act as a watchdog in ensuring the quality of service delivered to the consumers in K-Community and K-Economy.

An "Experts KIG" should also be formed including prominent K-Community and K-Economy academics and researchers who have contributed and continue to contribute significantly to the development of electronic commerce. The role of this KIG is to render learned advice in charting the future course of the Internet.

A "Workers KIG", like a union, may also be formed to look after the welfare and benefits of those who rely on the K-Economy as their means of livelihood. A healthy functioning of this KIG is crucial to the morale and hence the productivity of K-Community and K-Economy work force.

The last ECIG, the "Development KIG", takes care of the special needs of the developing countries, representing the interests of the majority of earth's population who yearn to accede to the K-Community and K-Economy.

It is important that the memberships in these KIG's are not exclusive of each other. A member of the professional KIG, i.e., a prominent K-Economy practitioner, may indeed also be a member of the experts' KIG. Relatedly, KIG

memberships are not limited to natural persons, but are open to companies, organizations, or other interested entities. However, each KIG should devise rules for the eligibility of its membership. These KIG's are also not exhaustive, and will evolve over time. As both the mode and speed of K-Community and K-Economy evolves, new KIG's may be formed, and some or all of the existing ECIG may be replaced. The KIG's should be formed at local, national, regional and international levels.

The overall governance structure of K-Community and K-Economy can best be based on informal consultations among the various KIG's. The informality of decision-making preserves the great Internet tradition of "off-handedness" and casualness which has been vital to the continuing survival of the Internet, while providing a flexible means of resolving problems or seizing opportunity as an K-Community. The informal consultations may be held continuously via electronic means. In this way, issues may be brought to the bulletin board in a less confrontational manner. It is hoped that sound policy will sublimate from the benefits of informal discussions, much as they have been so throughout the history of the Internet. A conceptual depiction of the self-governance framework for K-Economy and K-Community is shown in Figure 1.

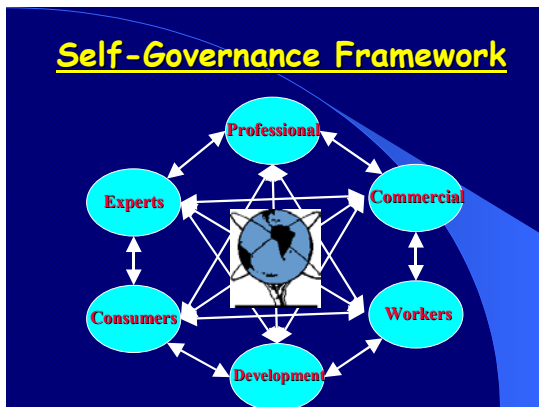


Figure 1: Conceptual depiction of a self-governance framework for K-Economy and K-Community

Criticisms may be voiced on such a self-governance system for K-Community and K-Economy. For example, the system lacks enforcing authorities (such as governments), and may hence be ineffective in handling serious challenges, either technical or policy, to electronic commerce. It should be kept in mind, however, that the K-Community and K-Economy are

reputedly quite proactive and would more readily rise up to challenges or accept responsibility, which is the basis for the self-governing framework is proposed for K-Community and K-Economy. Besides, just as in an off-line community, those who broke the KIG rules, though not sanctioned by law, will often face alienation, ostracization, or outright expulsion.

5.0 CONCLUSIONS

The present paper discusses some of the policy and economical concerns of the Internet and then proposes a self-governance structure for K-Community and K-Economy based on policy formulation through informal consultations among the various K-interest groups. The self-governance framework proposed is not a perfect one, and will require constant refinement. It is, nevertheless, a baby step toward responsible governance of K-Community and K-Economy.

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