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LAW AND THE INTERNET: SYMPOSIUM FOR THE NEW MILLENNIUM

FOREWORD

Professor Patrick Wiseman[†]

The Internet, or, more specifically, the World Wide Web (WWW), has changed the nature of commerce irrevocably. Created in 1993, the WWW enabled user-friendly access to almost all of the pre-existing resources of the Internet and enabled the creation of new resources. Since the advent of the WWW, the nature of the Internet has changed enormously, shifting from a predominantly government or university network to a largely private, commercial network. Future observers will decide whether this transformation is for good or ill, or perhaps a modicum of both. For now, in its infancy, this new medium presents challenges to those who would use it to conduct business.

The articles in this Symposium issue of the Law Review address some of the commercial challenges of the Internet. For example, when a sale takes place over the Internet, to what terms are seller and buyer bound, and how are those terms made clear to the seller during the course of the transaction? Professor Mark E. Budnitz, observing that consumer sales on the Internet are on the rise,¹ addresses these and other basic questions of contract formation. Professor Budnitz surveyed a number of popular commercial Web sites to discover how they conduct consumer transactions. In his article, he reports on this survey, explains the applicable law, and suggests proposed amendments to the law to address the consumer protection concerns that his examination of existing sites raised.

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1. Mark E. Budnitz, *Consumers Surfing for Sales in Cyberspace: What Constitutes Acceptance and What Legal Terms and Conditions Bind the Consumer?*, 16 GA. ST. U. L. REV. 517 (2000).

Should regulation of commerce in an information economy, an economy in which information is a commodity, be governed by the law of commodities, and so be given minimal judicial review, or by the law of speech, in which case it would get heightened judicial review? Professor Daniel A. Farber suggests that the line between expression and commodity is becoming blurred, and that this blurring is likely to change the legal regime applicable to each.² The blurring “poses both intellectual opportunities and doctrinal challenges.”³ Professor Farber suggests that it presents an opportunity to reexamine online speech regulation (law of speech) by analogizing it to international trade barriers (law of commodities), to examine the way in which the Internet creates an international “marketplace of ideas,” and to determine how that marketplace can legitimately be subject to local regulation. Professor Farber also identifies a doctrinal challenge: First Amendment doctrine tends to be far more permissive than ordinary economic regulation; thus, a conflation of the two could frustrate the goals of economic regulation.

Our lives will surely be transformed by the Internet. If we are not vigilant, the transformation could as easily be bad as good. We need thoughtful scholars like those who have contributed to this symposium to alert us to the public policy concerns to which we should be attending and to suggest law reform responsive to those concerns.

2. Daniel A. Farber, *Expressive Commerce in Cyberspace: Public Goods, Network Effects, and Free Speech*, 16 GA. ST. U. L. REV. 585 (2000).

3. *Id.* at 585.