Online gambling and pornography in New Zealand

Bruce Curtis

Department of Sociology, University of Auckland
b.curtis@auckland.ac.nz
Abstract

This paper explores the relationship between households and the internet around the accessing of online gambling and pornography in New Zealand. Attention is focused on two areas: domestication and regulation. In terms of the latter, the state is portrayed as having difficulty in keeping pace with technological change (Wilson, 2007). It is suggested that the rise of non-commodity or gift-based forms of exchange, predicated on file sharing and often of user generated content is significant. Accordingly the internet impacts the moral economy of households in important ways, but of potentially greater significant are the ways households stand to remake the generalized system of equivalence and exchange expressed within the internet.

Key words: Internet, domestication, regulations, households, gambling, pornography.
Introduction

This paper explores aspects of the dynamic relationship between households and the internet, particularly the accessing of online gambling and pornography. The use of personal computers (PCs) within households to access the internet to engage in gambling and pornographic activities is presented as an example of ‘domestication’ (Silverstone, Hirsch and Morley, 1992). The internet is understood as the means where the private-public divide is negotiated, the moral economy of households is transformed by commodities, and the internet is in turn subjected to change. The focus of the paper is to assess the regulation of online gambling and pornography in New Zealand in terms of a dynamic relationship between online producers and consumers or fans (Austrin, 1998, 2001; Austrin and Curtis, 2004). This paper explores ways in which the internet impacts the moral economy of households, and ways households impact the moral economy of the internet. One consequence of this flux is, as Wilson notes (2002, 2007), that the state and its regulators have difficulty in keeping pace with technological change.

Households are central to our understanding if only because they are the main sites for internet use in this country. A recent survey estimated that the proportion of all individuals 15 years and over who accessed the internet from home was 60.4% (Statistics New Zealand, 2007).

There is widespread concern about the impact of the internet on households, on families and specifically on the children within households (Bell, et al., 2007; Weatherall and Ramsay, 2006). The most threatening technologies are those with the greatest capacity to open up households to the outside world and / or provide unsafe or illegal products for domestic usage (Sefton-Green, 1998). For this reason the personal computer / internet is a major threat because it enables a multidimensional opening of households to the world.

The interactions of households with the internet that are most troubling for policymakers and commentators alike appear to be those of online gambling and pornography (King, 1999; NetSafe, 2007). The key legislation, The Gambling Act (2003) and the Films, Videos, and Publications Classification Amendment Act (2005) are sophisticated attempts to regulate broad fields of social interaction of which online relationships are an important domain. (Markland, 1996; Wilson, 2002, 2007).

Households: domestication and the internet

Domestication refers to the process by which objects are incorporated by households (see Haddon, 2007; Sayer, 2000). This article uses Silverstone, Hirsch and Morley’s seminal 1992 work, to explore the interaction between households and the internet, with a particular focus on online gambling and pornography in New Zealand and its regulation.

Like television in the early 1990s household use of the internet to access online gambling and pornography has matured and become a fairly stable set of arrangements. The domestication of the internet for these purposes has centred on the use of the household internet-connected PC; notably its appropriation, objectification and incorporation, and - most importantly - conversion by households (Silverstone,
Hirsch and Morley, 1992). Such appropriation occurs at the point where a commodity is purchased and exits the generalized system of equivalence and exchange for that of the more bounded moral economy of the household. At this point of crossing from public to private sphere the commodity becomes a meaningful domestic object.

The gift economy has played an important part as a precursor to the financial transactions by which consumers make purchases from operators in the fields of online gambling and pornography (Barbrook, 1998). For example, most online gambling sites allow free play or downloads of poker and other games with the restriction that they are not played for money. Most pornographic sites allow free access to ‘thumbnails’ of images or time-delimited downloads of streaming video.

The dominant current business model for the internet has elements of gifting as an important driver (Barbrook, 2005).

Gambling and pornographic websites can make a reasonable claim to have championed this very successful approach. One consequence is that the appropriation of online gambling and pornography is often staggered in households, appearing first as products that are gifted in free trial periods, etc.

Objectification and incorporation refer to the impact objects have on the spatial and temporal (re)organisation of households. Objectification is primarily concerned with display and usage; incorporation with function and routines of households. In this regard, online gambling and pornography point to individualising aspects of consumption of the internet, insofar as the technology to date encourages a one-on-one PC engagement within the household (future developments in cost, wireless technology, local area networks and social networking may well undermine this characterisation). At the same time the content and interaction around online line gambling (e.g., risking a portion of the household budget) and pornography (e.g., masturbating) reinforce an individualising dynamic – although exceptions are no doubt frequent and seem more likely to occur because of transformations in the product form of the online activity. Thus the objectification and incorporation of online gambling and pornography to date points to multiple claims made on household PCs as a means of accessing the internet (Poole, 2000).

The internet adds to the disaggregation and networking of households (Kennedy and Wellman, 2007). The PC, at least as entry point to the internet, is therefore a genuinely contested commodity for which display and routine at the level of the household may be crosscut by the hidden / putatively forbidden usages by individuals accessing gambling and pornography. Unsurprisingly the strategy suggested by organisations most concerned with issues of safety – child safety - within the home is for the ‘public’ display and usage of the internet within the private sphere of the household (NetSafe, nd).

Conversion provides the mirror of appropriation in that it captures the extent to which households make claims for themselves around the routines and usage of technologies beyond the domestic space. Kennedy and Wellman (2007) emphasize the networked household and the ways in which the PC as access to internet is domesticated. Perhaps more importantly, conversion provides the moment whereby the individual but networked decisions in the moral economy of households re-enter the generalized
system of equivalence and exchange. In the case of online gambling and pornography this process of conversion seems set to transform the internet, because it may undermine the commodity form of the accessed product and the internet.

State licensing

The liberalisation of gambling in New Zealand has its justification in the neoliberal, more-market, policies of the 1980s (Austrin and Curtis, 2004; Curtis, 2001). The Gambling Act (2003) can be understood as both an effort at omnibus legislation – in part reflecting a technological convergence among gambling products (Austrin and Curtis, 2004)- and demonstrating a concern / moral panic about the negative consequences of gambling. The Act also makes online gambling from sites based in New Zealand illegal. As a result of this law change Christchurch Casino was forced to sell its online gambling site ‘Kiwicasino.com’ to overseas interests. On the other hand the Act places no restrictions on New Zealand consumers accessing foreign-owned online gambling sites and allows the two state-owned gambling operators, the Lotteries Commission and the Totalisator Agency Board (TAB access the to internet.

Online gambling can be said to straddle a fault line within the legislation where the pressures of state interest, in terms of the revenues and taxes from licensed gambling, and a legacy of more-market policies butt against those concerns around the limitation and treatment of problem gambling. Overall the Gambling Act (2003) reifies a rationale favoured by the state that gambling in all its forms is safest where it is secured by license and direct state-ownership (despite the fact that this results in large monopolies of gambling operators). It remained as an important driver in sorting responses to a moral panic about gambling whereby the forms of gambling not owned by the state or in licensed casinos were further stigmatised – that is, gaming machines run by charitable trusts and located in clubs and pubs.

This moral panic about the impact of gambling has rumbled on despite conclusive evidence that increasing per capita spend on gambling does not equate with rising numbers of problem gamblers and that indeed the numbers of problem gamblers may well have peaked (Abbott, Williams, Volberg, 1999). In terms of terrestrial gambling the Gambling Act (2003) furthers the interests of state-owned or licensed forms against all other forms. The rationale for online gambling is harder to explain. The state appears willing to forego tax revenues from New Zealand-based online gambling sites, while allowing freedom of access for New Zealand consumers. This is in direct contrast to the European Community where terrestrial casinos are able to go online (enhancing revenues and tax take) and to the United States where – King Canute like- the state is trying to prevent consumers accessing online gambling.

The regulation of online pornography is somewhat simpler to encapsulate largely because the state is not an operator nor is it engaged in the licensing of pornographers as such. Whereas legislation and regulation was used in the 1980s and 1990s to greatly expand gambling in New Zealand – a trend only partially reversed by the Gambling Act (2003)- the law relating to pornography has struggled to keep abreast with technological innovation and the generalised influx of pornographic products (Wilson, 2002, 2007). Thus the range of objectionable material has been somewhat expanded by the Films, Videos, and Publications Classification Amendment Act (2005) and the penalties for possessing and distributing objectionable material have
been substantially increased. However the state has taken no discernible steps to limit terrestrial or online access to non-objectionable pornography from its jurisdiction.

In both gambling and pornography there is a strong possibility that state efforts at control over online activity within their jurisdictions will soon be significantly undermined. Online gambling is the likely catalyst here, insofar as Antigua and Europe have, in 2007, successfully used the mechanisms of the World Trade Organisation (WTO) to protest efforts by the USA to restrict online gambling. The implications for censorship of pornography and online policing are not yet clear.

**Online policing in NZ**

The implementation of legislation and regulation of online gambling and pornography has very different consequences in terms of individuals and households accessing websites based in New Zealand. While the main internet search engines do not distinguish terrestrial domains in their default settings, potential consumers looking for online gambling websites in the ‘co.nz’ and ‘org.nz’ domains will be disappointed. Indeed there appear to be no online gambling websites based in New Zealand. By contrast there are a number of websites in ‘co.nz’ and ‘org.nz’ selling online pornography. Of course there are vast numbers of websites selling gambling and pornography beyond New Zealand (e.g. in ‘.com’) and accessing this material from New Zealand appears to be unfettered by government initiatives.

Differences for consumers in accessing online gambling and pornography websites point to similar distinctions for online policing. Online policing— in effect the prosecution of illegal operators or licensed operators engaging in illegal practices— is arguably far easier to achieve against those who retain terrestrial enterprises than against their more ‘virtual’ counterparts (Wall and Williams, 2007). In practice the problematic for policing is further subdivided: (1) the terrestrial or virtual location of the operator, and (2) the material or immaterial (that is, electronic) character of the product, (3) the commodity or gift form of the product.

The success of the DIA in disbarring gambling websites hosted in New Zealand also reflects the historical reliance of this type of online activity on the commodity form. Arguably this is the paramount consideration in making online activity visible and accountable to police and regulators. The comparisons between gambling and pornography are very instructive in this sense. Gambling is typically an activity that involves the risking of money on the outcome of games. The role of the gambling operator acting as the ‘house’ is central to gambling in all its modern, state-licensed or illegal variants (Curtis and Wilson, 2001). The house provides gamblers with a range of games, determines the rules, collects on losses and pays out on wins. Gamblers must have faith in the house, in the middleman role of the gambling operator, in order for the enterprise to succeed. This applies equally to terrestrial and virtual forms of gambling. One consequence of the house acting, in effect, as a bank is that it must be credible. While there are numerous instances of online gamblers not receiving their winnings from websites established by criminals, this appears as a minority of cases and an important aspect to the growth of online gambling has been the online uptake of credit- and debit-cards and third party arrangements that secure bets and betting.
File-sharing and user generated content

In practice the commodity form of internet activity, and of e-business, can only prosper where consumers are certain that their transactions will be honoured. Arguably, it is in this realm that online gambling and pornography may have pioneered a business model that other industries and operators (Amazon, e-Bay, iTunes) have followed (King, 1999). In this untold history of the internet the role of gambling and pornography was twofold. First, gambling and pornographic websites engaged in the gift economy (Barbrook, 1998; McGee and Skågeby, 2004). Second, these websites pioneered forms of e-banking that guaranteed transactions and hence the commodity form of exchange. It has to be stressed that the consumers of online gambling and pornography were among the very first to routinely make online financial transactions and in this way acted to kick start e-commerce.

The activities of households around gambling and pornography are one of the factors that has made the gift economy quickly passé on the internet. Barbrook (2005) recently revisited his earlier formulation, that: “By adding his own presence, every user contributes to the collective knowledge accessible to those already online. In return, each individual has potential access to the information made available by others within the net. Everyone takes far more out of the net than they can ever give away as an individual.” (Barbrook, 1998: 134). More than half a decade later the internet has matured and been (re)shaped by households so that, on reflection the argument that: “the choice wasn’t the commodity or the gift. On the Net, the same piece of information could exist both as a commodity and a gift. Nowadays, this conclusion is hardly controversial. My ideological opponents have long ago left the theoretical battlefield. We won’t hear their arguments again until the next wave of innovation within the information technologies creates the conditions for another revival of McLuhanist prophecy. In the meantime, it is common sense to describe the Net’s economy as a mixed economy. Information is shared and sold. Copyright is protected and broken. Capitalists benefit from one advance and lose out from another. Users get for free what they used to pay for and pay for what they used to get for free.”

This interpenetration of consumers and fans still retains import elements identified by Fiske (1992, also Hills, 2002; Jenkins, 2004). In the gift economy networks of operators (producers) and consumers are displaced by networks of fans who trade online material at no cost. The most worrying example of the gift economy is the trading of child pornography, defined as objectionable material by the Films, Videos, and Publications Classification Amendment Act (2005). This online activity is notoriously difficult to police (State Services Commission, nd).

Online policing is almost universally limited to public reporting of objectionable images, education campaigns, the proliferation of institutional protocols and various online undercover and surveillance operations (Marsden, 2008). The main dilemma for police and regulations is that a relaxation of the commodity form means that the need for gambling or pornographic operators to be credible and hence, somewhat visible and even represented terrestrially, is also relaxed. Indeed where the commodity form is subsumed by the gift form of the product (image) the need for an operator / house dissipates altogether. For example, the rise of fan driven
pornographic websites and (Jacobs, Janssen and Pasquinelli, 2007) and a host of file-sharing arrangements (Beer and Gane, 2006; Gibb, nd; Hafner, 1996).

Developments in file-sharing impact the internet as an entity. The internet began as a highly centralised network and is evolving into a distributed one (see figure 1). This evolution is implicated in the processes of domestication pursued by households, in particular aspects of appropriation and conversion around online activities like gambling and pornography. Before exploring this dynamic for change, that is itself the result of domestication, it is useful to note the multiple levels to decentralisation.

Figure 1: Centralized, decentralized and distributed networks


The movement from centralized to decentralized and distributed networks consists of two elements: increased numbers of ISPs and increased connections per household. This development is intertwined with improvements to connection speeds, including broadband (Firth and Mellor, 2005). There is also a software component to decentralisation. Recent developments have moved beyond the simple peer-to-peer file-sharing arrangements that characterised the early internet. For example, BitTorrent allows file-sharing through a distributed process by which each recipient is multiply sourced and in turn provides an origin for further sharing. Much of the capacity for distributed file-sharing is linked with the rise of user generated content on the internet. This apparent transformation is commonly referred to as Web 2.0. Beer and Burrows (2007) provide a good review of this recent literature, while Beer and Gane (2006) point to the blurring of private and public domains this facilitates. The
Conclusion

The rise of distributed file-sharing and user generated content has obvious implications for online policing, regulators (Marsden, 2008; Wilson, 2002, 2007) and households. For the former sets of actors, the development of a fully distributed internet poses immense problems in terms of enforcing the law. This dilemma centres on protecting the position of state sanctioned or licensed operators and limiting illegal activities. Distributed file-sharing is of great benefit to individuals interested in collecting or exchanging objectionable material. The methods of sharing data made possible by BitTorrent and other software allows an illegal and highly stigmatised activity to become invisible to public scrutiny and harder to locate and track by police (Villeneuve, 2006).

The same applies for operators seeking to act illegally in terms of selling ‘mainstream’ pornography and gambling products. The images / software can be distributed without recourse to a centralised operator. This reduces the technical requirement for a centralised operator or ‘house’ to nil – although the issues of credibility and reputation among consumers making financial transactions remain.

Broadband coupled with distributed file-sharing of user generated content tends to undermine the commodity form of online gambling and pornography in general. There is some divergence however, in respect to the need for an operator / house in the field of gambling, but the tendency is toward the decline of online products as commodities in both fields. Thus, Bragster and other websites allow wagering without the presence of a house (although wagers are taken in tokens rather than dollars). More significantly, amateur porn is a fast emerging phenomenon, whereby household consumers become creative fans and producers.

This aspect of the process of appropriation and conversion is in policy terms at least an unexpected moment in the domestication and regulation of the internet in New Zealand. It points to a radical re-negotiation of the private-public divide, the extent to which households make claims for themselves around the routines and usage of technologies beyond the domestic space, and –if the proponents of the Web 2.0 thesis are correct- the transformation of the internet. Indeed the transformative aspects of distributed file-sharing and user generated content may already be passé and its integration with commodity forms of online product already well advanced. For example, social networking sites like Xtube and PornoTube allows members to share ‘homemade’ or amateur pornographic videos. Xtube claims that it has over 2 million registered users and at any moment more than 50,000 households are online. In short, while the internet impacts the moral economy of households, of arguably even greater significant are the ways households stand to make over the generalized system of equivalence and exchange expressed within the internet.

References

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