

A study analyzes the legal problems of social networks

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This is a laptop with a photo "negative effect" filter. Credit: Carlos III of Madrid University

Research in which the Universidad Carlos III de Madrid is participating analyzes the legal challenges and problems faced by the users and communications media that utilize 2.0 social networking tools in Spain.

This study, published in the journal *El Profesional de la Información* by the Universidad Complutense de Madrid professor, Antonia Salvador and the UC3M professor, Maria Estrella Gutiérrez, deals with how traditional communication media are implementing applications based on Internet, built upon the ideological and technological basics of the Web 2.0, which allows forms of interaction based on collaborative

participation and on the contents generated by the user himself. "Using these social media is a way to capture an audience and obtain a greater number of followers, as well as constituting a source of contents which represents no cost at all for the media," professor Gutiérrez explained.

The legal problems and challenges that can arise in this context are related to [intellectual property](#), personal data, private life, personal honour, and the right to self image. Regarding authors' rights, one of the issues that is not always clear in the user conditions of the services offered by the on-line media is if the contents posted by the users suppose transfer of the possible rights to exploitation (reproduction, distribution, public communication or transformation), the study pointed out. When the user for example, posts photos or videos that he or she has taken, made or edited, they could be original works by which the author generates rights to intellectual property, such as authorship and respect for the integrity of the work, as well as possible rights to the exploitation in case it is decided to commercialize this material. "When the communications media uses contents generated by the user, the user policies that are published in its web do not always respect the Law of Intellectual Property, because it is not always very clear who the holder is of those contents," Gutiérrez summed up, who is from the Department of Public Law at UC3M.

Commerce of data

Another problem that these researchers have detected is that the privacy policy carried out by these social networks does not always respect the law in force in [Spain](#). For example, they point out that in the case of protection of personal data, when someone joins a social network, he or she has to include a series of personal data, some of which are specially protected, since they require express written consent by the holder, which does not always happen. In addition, in the privacy policy, there is no usual caution about what importance the collection of these data can

have, nor do they inform about the social network policies for transfer of data with this personal information. "Another common practice which we detected," according to Professor Gutiérrez, "was that in many of the social network privacy policies it is indicated, that although the user wishes to unregister from the social network, his data is still kept and can be given to third parties for commercial purposes". Moreover, the configurations by default of privacy are almost always the least secure and protected of the data contents, contrary to the recommendations of the Spanish Agency for the Protection of Data, which points out the need to establish a maximum level of security protection.

In this study, the researchers also have considered the issue about who should assume the responsibility for contents. An example: slander and libel. Is the one who posts the contents the only one responsible?

"According to the law in force that regulates e-commerce and the Information Society, in principle, those who provide these services, in this case, the social network or where appropriate the communications media that operate the social network, they do not have a general supervision responsibility, but it is true that they can become responsible for what third parties publish", they continued. In this sense, the courts are beginning to find for the legal responsibility of the providers in the ambit of the information society and Internet for contents which the users themselves post, that is, what is generated by third parties. The Supreme Court has just confirmed this in a very recent ruling, where a person in charge of a blog was judged responsible for slanderous contents which internauts posted against third parties, according to the researchers.

Provided by Carlos III University of Madrid

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