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VIEWING CYBERSECURITY AS A PUBLIC GOOD: THE ROLE OF GOVERNMENTS, BUSINESSES, AND INDIVIDUALS

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ABSTRACT

This paper explores the role of government for establishing an appropriate legal, social, and ethical framework to enhance cybersecurity. Previous doctrines of cybersecurity are briefly analyzed, and the concept of cybersecurity as a public good is explored. To better understand public cybersecurity, the paper compares it with safety, another public good. Similar to public safety, cybersecurity requires that federal, state, and local government, organizations, and individuals implement good cybersecurity controls that result in to the protection of national security. The paper concludes with a set of examples that illustrate the role of government to enhance cybersecurity and to mitigate cyber insecurities.

The global reach of information systems at both the organizational and individual level has raised concerns over security and has made organizations and individuals more vulnerable to security threats. Organizations must pay special attention to cybersecurity. For example, a recent study about software vendors indicated that organizations lose around 0.6 percent in stock price when vulnerability is reported, and the impact is more severe when the cybersecurity flaws are not addressed in advance. However, while most organizations consider cybersecurity management as critical to their operations, fewer than 25% of them have security measures as an integrated part of their operations.

There is an even darker side of computer systems. They are used to program weapons of mass destruction, biologic and chemical weapons, military applications, and financial applications where trillions of dollars are transferred every day. If these applications fall into the wrong hands, they can have a devastating impact on organizations and the lives of individuals. Because of this dependence on information systems, cybersecurity concerns have grown in parallel with the development of computer technology itself. As a result, organizations and computer professionals have developed new technologies for improving cybersecurity. But technological solutions must be deployed carefully and best practices must protect them from being circumvented by attackers. In addition, cybersecurity policy should create incentives for system developers, operators, and users to act in ways that enhance rather than weaken cybersecurity.

Preparing an appropriate legal environment to deal with enhanced cybersecurity and mitigate cyber insecurities requires, among other things, a comprehensive legal framework. At the federal level, the legal framework in cybercrime is currently provided by US Code & 1030

section 1030a), which includes seven actions considered to be federal offenses, as follows: access computer without authorization; access digital financial records; access a computer used by a federal agency; access a computer and benefit more than \$5000 per year; create and use a computer program to do any of the above; cause physical or medical damage via a computer or computer program; and transmit a virus intending to benefit financially. This framework is supplemented by the copyright and child pornography laws.

The above legal framework is not adequate. Cybercrime is a unique type of crime, a crime which involves the use of computers or computer expertise. Cyberspace and cybersecurity are always dependent on technology, and the fast pace of technology changes require fast changes in the cybersecurity legal framework. The rapid changes in computer technology make it a formidable task for the U.S. legal system to develop laws related to the security of technology. Another challenge toward creating a workable framework for cybersecurity is the “transnational nature” of cybercrime. International jurisdictional issues must be solved through international cooperation among law enforcement agencies.

There is a compelling need for a cybersecurity doctrine. This paper explores the concept of cybersecurity as a public good. This examination will help to address important questions with regard to the role of government in enhancing cybersecurity. For example, should U.S. taxpayer money be used to enhance the security in cyberspace? Can government intervene and mandate private industries to set up or improve their cybersecurity? What authority gives Congress or the Executive branch the right to regulate this area? Finally, do private organizations have a responsibility to protect national security and comply with cybersecurity regulations and guidelines?

A MULTINATIONAL ANALYSIS OF CORRUPTION AND ECONOMIC ACTIVITY

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ABSTRACT

The relationship between corruption and economic activity is a complex one. The purpose of this study is to examine the relationship in selected countries between level of corruption and economic activity, using data obtained from the Organization of Economic Cooperation and Development (OECD) and Transparency International (TI). Transparency International publishes annually a ranking of countries according to the Corruption Perceptions Index (CPI). Examples of corruption activities include: (1) bribery, (2) corporate fraud, (3) cartels, and (4) corruption in supply chains and transnational transactions. Corruption is associated with a variety of problems, such as impeding economic development. Effective corporate governance that restricts corruption benefits not only the business firm but also economic activity in host countries. Results of this study offer insights into the consequences of corruption on economic activity. Generally lower-corruption countries have experienced significantly less unemployment than higher-corruption countries. In addition, gross fixed capital formation and foreign direct investment were more favorable (though not significantly different) for the lower-corruption countries.

NAVIGATING CORPORATE SOCIAL RESPONSIBILITY COMPONENTS AND STRATEGIC OPTIONS: IHR PERSPECTIVE

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ABSTRACT

This study has attempted to build linkages between cross-cultural ethical issues and potential corporate social responsibility (CSR) strategic options in a firm-industry specific context so as to achieve a proper balance between a firm's global strategy and its local responsiveness through the eyes of international human resource management. While for many people and individual firms, globalization has become a reality, business ethics and CSR concepts have not yet been globalized. Multinational corporations that have outsourced or moved their operations from advanced to developing or emerging economies are often caught in spotlight for sweatshop working conditions, child labor practice, environmental pollution, and lack of welfare programs for workers and their families. Many of these ethical and social issues have a direct link to the human side of business. Although companies increasingly feel compelled to engage in CSR, most have not figured out how to do it well. It is particularly challenging to align CSR activities with a firm's global strategy, thereby the company and society both benefit because the firm brings unique assets and expertise to improve the competitive context as well as the quality of life in the place or locations where it operates. To the contrary, research findings suggest that CSR is often approached more as a form of public relations or promoting a company's image and brand, with an emphasis on publicity rather than social impact. Through this research, we propose that strategic international human resource management (IHR) has a key role to play in helping the firm identify, prioritize, and achieve CSR goals, thereby improving firm-industry specific social and environmental conditions locally and across borders. As social norms and institutional rules continue to be local, often having loopholes for corporate scandals or misconduct because of weak supervision by enforcement agencies, disparity in economic development, or different expectations by diverse stakeholders, MNCs' IHR function has a special role to play in formulation, communication, training, integrating, monitoring, and enforcement of an organization's moral standards and CSR commitment. Ethical leadership and enhanced CSR values should be nurtured across all functional and managerial levels and business networks, including MNCs' headquarters and foreign subsidiaries, suppliers, contractors, subcontractors, employees, consumers, competitors, and the communities. IHR will thereby become well positioned as a potential unifier to coordinate strategic CSR efforts internally and externally. Suggestions for future research are discussed and a framework for CSR strategic options provided.

Keywords: Corporate social responsibility components, strategic options, international human resource management, emerging economies, culture, regulatory environment

THE FIRST AMENDMENT PROTECTS COMMERCIAL SPEECH FROM OVER REGULATION BY STATE AND FEDERAL GOVERNMENTS

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ABSTRACT

Last year the Supreme Court overturned state statutes passed by Vermont and California. Both sought to regulate industries, one dealing with health care and the other with entertainment. In following those decisions this year, a federal district judge held the Food and Drug Administration could not compel graphic pictures be placed on cigarette packages to discourage smoking.

INTRODUCTION

Last term the Supreme Court heard two cases involving state statutes which regulated commercial speech. One was *Sorrell v. Ims Health Inc.* (Sorrell). The other was *Brown v. Entertainment Merchants Association* (Brown). In Sorrell, the Vermont legislature had enacted a statute which forbade pharmacies from supplying to data gatherers what drugs doctors were prescribing to their patients. This information was then sold to pharmaceutical companies which used the information to promote the use of their drug to those physicians. The statute only restricted the dissemination of this information to data collectors for the purpose of marketing. This sole restriction the court majority found burdened disfavored speech by disfavored speakers. Because of the law's aim the court applied strict scrutiny (Sorrell, 2664). Applying this rule, the court found that Vermont imposed a restriction on access to information in private hands. Did Vermont's restriction advance a substantial governmental interest? Vermont said it was necessary to protect medical privacy of doctors and to improve public health and reduce health care costs. The court found neither goal withstood scrutiny (Sorrel, 2668).

In *Brown v. Entertainment Merchants Association*, the court examined a California statute which forbade the sale or rental of violent video games to minors and required their packaging to be labeled "18" (Brown). Because the challenged law restricted the content of protected speech, it was subject to strict scrutiny (Brown, 2738.) The court agreed with the district court and court of appeals that the statute violated the First Amendment. Video games are protected by the First Amendment. Justice Scalia, writing for four other associates, pointed out that children were exposed to violent acts long before the advent of video games. He noted books read to children, such as Grimm Fairy Tales contained descriptions of violent acts, such as the wicked queen in Snow White made to dance in red hot slippers until she fell dead or Cinderella's evil stepsisters who had their eyes pecked out by doves and the children in Hansel and Gretel who kill the old women by baking her in the oven. In high school students read in

Homer's Odysseus of the blinding of Cyclops by grinding out his eye with a heated stake (Brown, 2736).

CONCLUSION

In March 2012, a federal district judge granted summary judgment to tobacco companies who sued the Food and Drug Administration over proposed new regulations which required graphic labels on cigarette packages (Blog). The judge held that pictures of a diseased lung or a man with a hole in his throat to be placed on the front of cigarette packages violated the First Amendment by compelling speech. The judge did suggest other means for the federal government to educate the public about the dangers of smoking which would not unconstitutionally compel speech. Those examples included downsizing the proposed labels, picking graphics based on fact rather than disgust, increasing taxes on cigarettes, and improving efforts to restrict sales to minors.

REFERENCES

- Blog of Legal Times. (2012). Judge grants summary judgment to tobacco companies in graphic labels case. Retrieved March 1, 2012, from <http://legaltimes.typepad.com/blt/2012/02/judge-grants-summary-judgment-to-tobacco-companies>
- Brown v. Entertainment Merchants Association, 131 S.Ct. 2729(2011).
- Sorrell v. IMS Health Inc., 131 S.Ct. 2653(2011).