THE INTERNET AND THE LAW:
AN ARTICLE EXAMINING THE PROBLEMS AND QUESTIONS CONCERNING THE REGULATION OF CYBERSPACE

INTRODUCTION

The Internet is the most striking example of the ICT revolution and the process of globalisation. Its immense popularity is shown by its millions of users all over the world. Our present Information Society is heavily affected by the Internet and the impact of this medium on every day life will probably very much increase over the years to come.

It is not really surprising that this new medium also creates certain important legal problems, for example in the field of copyright, protection of privacy, discrimination and national security to name but a few. However, there are still many people who claim, for various reasons, that law should, and also cannot, apply to the Internet. In my opinion these claims are certainly not justified. The legal problems of the Internet are numerous and therefore it is without a doubt that the Internet requires regulation. However, there are some significant problems that come to mind when one thinks about the regulation of the Internet, such as the tension between the borderless Cyberspace and territorially-based rule-making. In this essay I will consider some of the most significant problems and questions concerning the regulation of Cyberspace.

First of all, I will briefly describe what the Internet exactly is and how it has evolved over the past years, to get a better understanding of this new and revolutionary medium. Next, I will go into the legal problems the Internet engenders and show the necessity of regulation. Then, I will come to the important question of how regulation of the Internet should be given shape in practice. I will closely analyse the two possible options for the
regulation of Cyberspace, namely government regulation and self-regulation. I will consider the advantages and drawbacks of these two means of regulation and give my opinion on the question of how and by whom the Internet can best be regulated.

1 THE INTERNET

The Internet constitutes a large network of computers all over the world, which allows access to each of those computers. The Internet started as a project, sponsored by the Advanced Research Projects Agency (ARPA) of the American Department of Defence in 1969. The network of linked computers that was then created, was called ARPAnet. ARPAnet heralded the beginning of large scale computer-mediated communications and by the early 1990s, the network had developed into the Internet as we know it today.

While in its early days, the Internet was just an “obscure network of large computers used only by a small community of researchers”, now the Internet has grown to be the “center of attention for businesses, governments and individuals around the world”. The number of internet users world-wide has grown at tremendous rate over the past years, the current estimated number being about 513 million. While in 1994, there were only 500 websites world-wide, the World Wide Web today has close to 3 billion pages. All these numbers show the immense popularity the Internet has acquired over a very short period of time and the tremendous impact the Internet has on present everyday life. This impact will probably even increase more in the years ahead. It can be expected that the internet, “by enabling instantaneous and seamless communication and commerce around the globe, from almost any device imaginable, will be one of the key cultural and economic forces of the early 21st century”.

4 See Gates, B., op. cit.
5 Id.