



# **Law and technology**

## **Impedance mismatch**

# New talk, who dis?



Public domain, probably. First published in Nordisk familjebok, 1876.  
Digitised by Project Runeberg at <http://runeberg.org/nf/>.

I am:

- mjec
- a practicing lawyer
- the EasyCount guy
- an Arch/i3wm user

# New talk, who dis?



Public domain, probably. First published in Nordisk familjebok, 1876.  
Digitised by Project Runeberg at <http://runeberg.org/nf/>.  
Modified by me drawing some lines.

I am not:

- my employer
- your lawyer
- a 1337 h4x0r
- vexatious

# Lawyers and politicians don't get it

- Governing behaviour that is not well understood is hard



IN CS, IT CAN BE HARD TO EXPLAIN THE DIFFERENCE BETWEEN THE EASY AND THE VIRTUALLY IMPOSSIBLE.

Randall Munroe 2014 CC-BY-NC 2.5  
<https://xkcd.com/1425/>

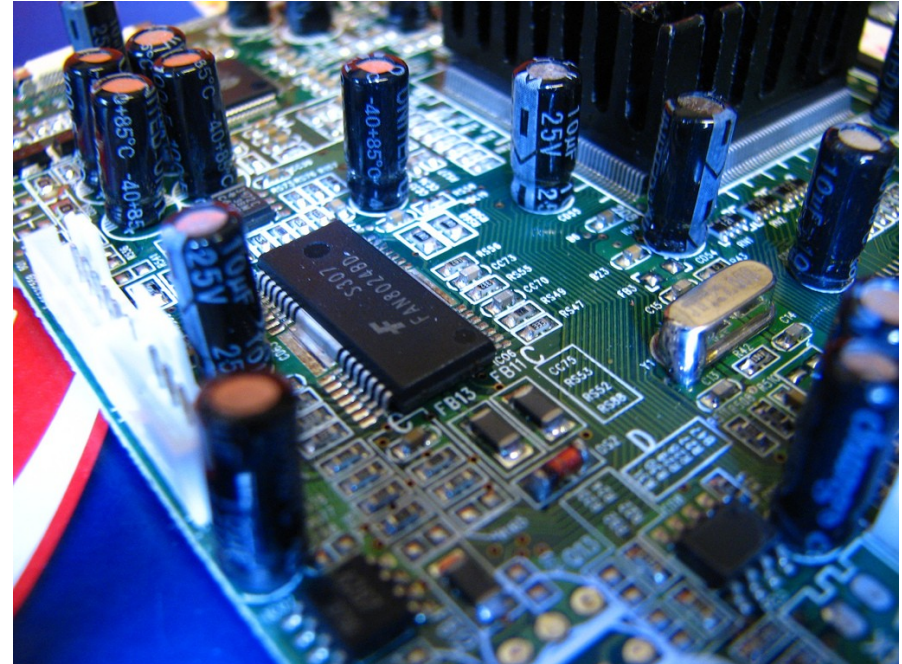
# Tech people don't get it either



- Good reasons for complexity in law
- Technology isn't neutral

# Legal detailed programmatic specificity

- Construction
- Food
- Civil aviation
- Broadcasting



fdecomite 2011 CC-BY 2.0 <https://flic.kr/p/9fNt59>

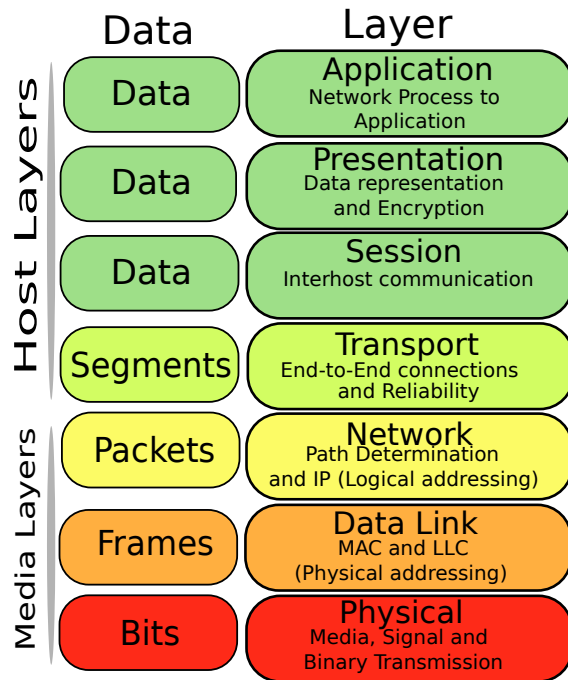


# Some quotes from one law

Namely the *Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015* (aka C2015A00039)

- a service for carrying communications, or enabling communications to be carried, by means of guided or unguided electromagnetic energy or both
- type of communication  
*Examples:* Voice, SMS, email, chat, forum, social media.
- type of the relevant service  
*Examples:* ADSL, Wi-Fi, VoIP, cable, GPRS, VoLTE, LTE.

# OSI model anyone?



Gorivero et al, 2015 GNUFDL 1.2 / CC-BY-SA 3.0  
<https://commons.wikimedia.org/wiki/File:Osi-model-jb.svg>

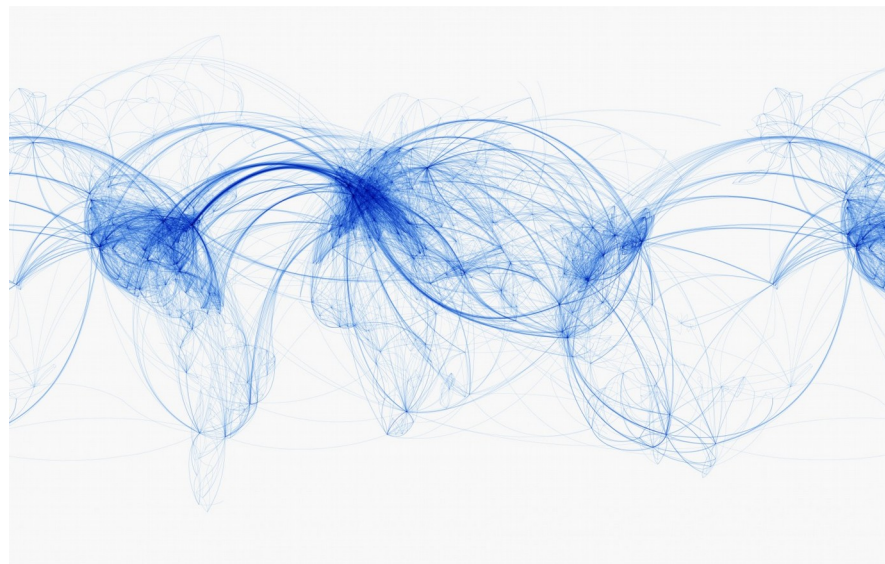


Blue Tones 2009 just posed to a forum somewhere  
<http://www.mcfc-forum.co.uk/forum/viewtopic.php?f=2&t=1304>



# Something less obvious

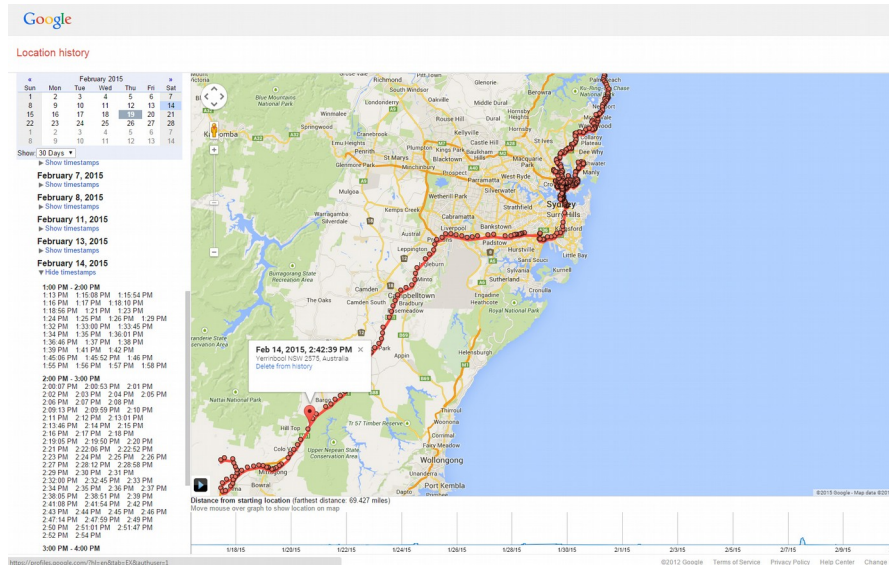
- *Privacy Act* on cross-border disclosure
- Distinction between 'use' and 'disclosure'



SquidHammer 2009 'Wikipedia licence'  
<http://squidhammer.blogspot.ca/2009/03/world-airline-map.html>

# Something less obvious to government

- Analysis of 'anonymous' data
- Name
- Photo
- GUID



Nick Ross 2015 (no licence but fair dealing for research or study claimed)  
<http://www.abc.net.au/technology/articles/2015/02/19/4183553.htm>

# Hundreds of examples

- Encryption
- Unauthorised access
- Copyright
- Evidence



RodneyRuxinEverybodyCallsMeRuxin <http://imgur.com/gallery/zqUDplk>  
Originally from Naked Gun 33 1/3. Fair dealing for parody or satire claimed.



An obvious, ~~easy~~ solution

~~Everyone must know about technology~~

# Just make lots of contracts

- Copyright
- TOS
- EULAs
- P3P



TheeErin 2006 CC-BY-NC-ND 2.0 <https://flic.kr/p/dQD2u>

# Laws which are fit for purpose



Charlotte L 2011 CC-BY 2.0 <https://flic.kr/p/eDyNd>

- An ISP is not an IRC server
- VOIP isn't PSTN
- Focus on the outcome, sometimes



# A somewhat radical shift in legal approach

- It turns out the internet is (sometimes) different
- *United States v. Causby*



Detail from photo by Fons Heijnsbroek 2007 CC-BY-NC 2.0 <https://flic.kr/p/h4xXU2>



# You can help!

- Don't ignore law
- Don't be too technical
- Don't expect a technical solution
- Think about policy solutions
- Talk to everyone
- Occasionally sue government





# Questions?

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