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ISSUES OF ACCESS TO AND USE OF INFORMATION-BY-INFORMATION INTERMEDIARIES

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Abstract
This article examines the legal issues surrounding the right of information intermediaries to access and use information within the framework of Uzbekistan's civil law. Although civil law traditionally governs property and non-property relations, the activities of information intermediaries such as searching for, obtaining, processing, and disseminating information are carried out within the scope of civil legal relations. The author analyzes theoretical and practical approaches to defining the legal status of intermediaries in accessing data, including their role in forming and regulating information flows. The article also evaluates comparative legal models from the United States, the European Union, Germany, France, and Russia. It is argued that information access rights are often limited by proprietary and contractual frameworks, which may conflict with personal non-property rights, such as the right to receive information. Based on this analysis, the author proposes a new hybrid legal approach recognizing intermediaries as both private actors and entities responsible for upholding public interest, ensuring a balance between ownership rights and freedom of information in digital environments.

Keywords: Information intermediary, civil law, information access, content filtering, digital rights, public interest, proprietary rights, user rights, CDA §230, EU Directive 2000/31/EC, DMCA, data platforms, legal regulation, information freedom, transparency.

Introduction

The issue of the right of information intermediaries to access and use information is one of the pressing and multifaceted topics in Uzbekistan's civil law. Although civil law is traditionally aimed at regulating property and personal non-property relations between individuals, the activities of information intermediaries particularly those involving the search, acquisition, processing, and dissemination of information resources are carried out within the civil-law framework.

In the Civil Code of the Republic of Uzbekistan, information is recognized as an independent legal object. In particular, Article 1096 of the Code stipulates that information is considered an object of property rights, and its use, dissemination, or transfer is permitted only on legally established grounds. Such grounds may include a contract concluded with the information owner, statutory authorization, or other documents confirming proprietary rights.

In legal practice, information intermediaries are often engaged in activities such as creating databases, providing information services, promoting content, or aggregating information, usually operating as legal entities or sole proprietors[1]. These types of activities are carried out on a legal basis through various forms of agreements, such as licensing contracts related to information, information service agreements, or temporary data usage contracts. Such agreements allow information intermediaries to use specific information resources under certain conditions and limitations. Particularly, when dealing with personal data or information constituting a trade secret, compliance with the provisions of the Law of the Republic of Uzbekistan "On Personal Data" (No. ЗРУ-547, dated July 2, 2019), the Law "On the Protection of Trade Secrets" (No. ЗРУ-374, dated September 11, 2014), and relevant by-laws is mandatory. From this perspective, the right to access and use information is never absolute it is limited by legal interests, personal privacy, and competition law[2].

According to Part 2 of Article 33 of the Constitution of the Republic of Uzbekistan, "everyone has the right to seek, receive, and disseminate any information." Additionally, Paragraph 1 of Part 2 of Article 4 of the Law of the Republic of Uzbekistan "On Informatization" (No. 560-II, dated December 11, 2003) states that "ensuring the exercise of constitutional rights of everyone to freely receive and disseminate information, and to freely use information resources" is one of the key directions of state policy in the field of informatization.

Furthermore, provisions affirming a person's right to seek, receive, and disseminate information are also reflected in several international legal instruments. In particular, Article 19 of the Universal Declaration of Human Rights, adopted by United Nations General Assembly Resolution 217 A (III) on December 10, 1948, states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"[3]. Similarly, Article 19(2) of the International Covenant on Civil and Political Rights, adopted on December 16, 1966, provides: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"[4]. This principle is also enshrined in Article 10(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in 1950 and in force since September 3, 1953[5].

The role of information intermediaries in ensuring access to information must be studied within the framework of civil law principles, such as property relations, freedom of contract, and ownership of information as a form of property. In the Civil Code of the Republic of Uzbekistan (specifically Chapter 64), information is recognized as an independent object of property rights.

[1] Maglio P., Barrett R. Intermediaries personalize information streams //Communications of the ACM. – 2000. – Т. 43. – №. 8. – P. 96-101.
[2] Kitch E. W. The law and economics of rights in valuable information //The Journal of Legal Studies. – 1980. – Т. 9. – №. 4. – С. 683-723.
[3] https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf
[4] https://www.ohchr.org/sites/default/files/ccpr.pdf
[5] https://www.eods.eu/library/CoE_European%20Convention%20for%20the%20Protection%20of%20Human%20Rights%20and%20Fundamental%20Freedoms_1950_EN.pdf

Accordingly, actions such as the use, storage, dissemination, and transfer of information must be based on legal grounds. From this perspective, the information intermediary operates as a subject of civil law within the scope of property rights as a carrier, processor, or distributor of information.

From the perspective of civil law, access to information is carried out through property rights related to information resources such as rights of use, lease, or licensing. For example, a search engine operator classifies data sources and provides references to them based on the public access terms established by the owners of those information resources[6]. Although this activity is often conducted outside the scope of formal contracts, in practice it is based on a functional right of use and may, to a certain extent, be regarded as the exercise of a proprietary right. However, this gives rise to certain problematic issues:

Firstly, the freedom of access to information by information intermediaries emerges as a complex and contradictory issue within the framework of civil law. According to Article 1096 of the Civil Code of the Republic of Uzbekistan, information is regarded as an object of property rights, and access to, use of, or dissemination of such information is only permitted on legal grounds based on a contract, license, or other documents confirming property rights[7]. This legal framework limits the activities of information intermediaries by requiring the consent of the information owner, thereby weakening their legal and social role in facilitating the circulation of information in society. Information intermediaries do not create information themselves but act as technical and legal conduits for its distribution. Therefore, their right to access information should be assessed not only within the boundaries of property rights but also in conjunction with personal non-property rights, such as the right of individuals to receive and disseminate information[8]. For instance, an online platform collecting health-related data cannot access the database of a private medical institution without entering into a contract, which restricts its ability to provide users with necessary information. This situation reflects a conflict between the property rights of the information owner and the functions of the information intermediary, indicating that the right of access to information must be regulated through a legal approach that harmonizes property and non-property rights, ensuring the protection of human rights.

Secondly, when an information intermediary performs the function of selectively transmitting information, it is inappropriate to view its role as merely technical facilitation. If a search engine does not transmit information in a neutral manner but instead prioritizes certain websites based on its own algorithm, commercial interests, or platform policies, users are not provided with impartial and diverse information instead, they receive filtered and selectively shaped content[9]. For example, when searching for medical information, a user may be shown

[6] Weinrib A. S. Information and property //U. Toronto LJ. – 1988. – T. 38. – C. 117.
[7] Womack R. Information intermediaries and optimal information distribution //Library & Information Science Research. – 2002. – T. 24. – №. 2. – C. 129-155.
[8] Formaniuk V. et al. Protection of Personal Non-Property Rights in the Field of Information Communications: A Comparative Approach //J. Pol. & L. – 2020. – T. 13. – C. 226.
[9] Bilić P. Search algorithms, hidden labour and information control //Big Data & Society. – 2016. – T. 3. – №. 1. – C. 2.

advertisements or paid content over scientific or unbiased sources, thereby limiting access to reliable information. In such cases, the intermediary is not simply a technical service provider but a proactive actor that influences the substance of the information. This restricts citizens' right to adequate and free access to information, hinders the exercise of their personal non-property rights, and undermines the principles of neutrality, transparency, and equal opportunity in the circulation of information.

Thirdly, when an information intermediary possesses the authority to delete, filter, or restrict access to information, its activity may be assessed in civil law as a restriction on the use of information[10]. This is particularly relevant for entities such as hosting providers, file storage platforms, and social networks, which may delete user-uploaded content based on internal platform rules. Such actions should not be regarded merely as technical services they also affect contractual and personal non-property rights. If such restrictions are not explicitly stated in the contract or terms of use, this may result in a breach of contractual obligations, limitation of the right to use and disseminate information, and potential harm to the user's personal non-property rights[11]. For instance, if a user publishes lawful content on their page that does not violate platform rules and it is removed without justification, the platform may be considered to have violated the terms of the contract concluded with the content owner. In such a case, the information intermediary may bear contractual liability, including the obligation to compensate for non-material damage. Therefore, any actions related to the deletion or restriction of information must be evaluated not based on the platform's subjective policies, but in accordance with user interests and contractual guarantees under the law[12].

Fourthly, regardless of the fact that an information intermediary does not generate content, it directly influences the circulation of information through its functions of transmission, aggregation, temporary storage, or selective presentation[13]. Online platforms such as search engines or social networks do not merely transmit, store, or host user-generated content; rather, they shape users' access to information by hiding, prioritizing, or restricting certain content based on algorithms. If lawful and impartial information is labeled as "political content" and excluded from search results, citizens may remain unaware of critical information, thus rendering their right to access information practically restricted[14]. In such cases, the platform is not merely a technical service provider it becomes an active agent influencing the flow of information and interfering with users' personal non-property rights and rights to access information. Therefore, assessing the role of an information intermediary as a "passive

[10] Wielsch D. Private law regulation of digital intermediaries //European Review of Private Law. – 2019. – T. 27. – №. 2.

[11] Bilousov Y. et al. Protection of property and non-property rights of internet users //International Journal of Public Law and Policy. – 2022. – T. 8. – №. 3-4. – C. 173-187.

[12] Nooren P. et al. Should we regulate digital platforms? A new framework for evaluating policy options //Policy & Internet. – 2018. – T. 10. – №. 3. – C. 264-301.

[13] Barrett R., Maglio P. P. Intermediaries: An approach to manipulating information streams //IBM Systems Journal. – 1999. – T. 38. – №. 4. – C. 629-641.

[14] Ranjan A. K. Technology and Law: Social Media and Online Content //Legal Lock J. – 2024. – T. 4. – C. 70.

technical service provider" is insufficient; instead, it must be evaluated as a regulatory actor that shapes information flows and affects users' rights in the digital environment[15].

In the United States, the right of information intermediaries to access information is primarily based on Section 230 of the Communications Decency Act (CDA). According to this provision, entities providing services over the Internet—such as search engines, hosting providers, and aggregator platforms—are not considered the source of the information they transmit, but merely service intermediaries[16]. Therefore, they may provide users with access to databases, content collections, or platforms only with the consent of the information owner. In civil-law relations, the right to access information is governed by contractual arrangements. For instance, in order to use a database, an internet platform must conclude a time-limited licensing agreement or obtain consent from the information owner to process the data[17]. Thus, the right to access information is not treated as an independent right but is exercised within the framework of contractual relations.

This legal framework directly ties the activities of information intermediaries to the discretion of the information owner and restricts access to information based on proprietary rights. As a result, a number of problematic issues arise in the United States concerning the right of intermediaries to access information.

First, the dominant proprietary rights of the information owner limit the intermediary's ability to disseminate information that may be important to the public. If the information is controlled by a private owner and not made publicly accessible, the intermediary may only process it on the basis of a contract or license[18]. This creates a conflict between public interest and private proprietary rights.

Second, since access to information is entirely dependent on contractual mechanisms, the intermediary must reach an agreement with the information owner to gain access[19]. In practice, however, these agreements are often governed by commercial interests or monopolistic conditions, leaving the intermediary without access.

Third, Section 230 of the CDA grants platforms the right to present or restrict information based on their own rules and algorithms[20]. As a result, intermediaries may actively edit or exclude certain information from appearing in search results. This restricts full and impartial access to information and transforms the intermediary from a mere technical service provider into an actor influencing the structure and availability of information.

[15] Snell R., Sebina P. Information flows: The real art of information management and freedom of information //Archives and Manuscripts. – 2007. – T. 35. – №. 1. – C. 54-81.

[16] Sharp-Wasserman J. Section 230 (c)(1) of the Communications Decency Act and the Common Law of Defamation: A Convergence Thesis //Colum. Sci. & Tech. L. Rev. – 2018. – T. 20. – C. 195.

[17] Mezzanotte F. Access to Data: The Role of Consent and the Licensing Scheme //Trading Data in the Digital Economy: Legal Concepts and Tools. – Nomos Verlagsgesellschaft mbH & Co. KG, 2017. – C. 159-188.

[18] Easton E. B. Public Importance: Balancing Proprietary Interests and the Right to Know //Cardozo Arts & Ent. LJ. – 2003. – T. 21. – C. 139.

[19] Bonatti P., Samarati P. Regulating service access and information release on the web //Proceedings of the 7th ACM conference on Computer and communications security. – 2000. – C. 134-143.

[20] Ofchus K. Cracking the Shield: CDA Section 230, Algorithms, and Product Liability //UALR L. Rev. – 2023. – T. 46. – C. 27.

Fourth, although Section 230 provides intermediaries with broad freedom, it does not clearly define their obligations to ensure the circulation of information in the public interest[21]. Thus, while intermediaries enjoy operational freedom on the one hand, on the other hand they lack legal guarantees to provide access to important public-interest information. In this way, the right of information intermediaries to access information in the U.S. is restricted by proprietary and contractual rights, creating tensions between information freedom and individuals' right to receive information[22].

In the European Union's Directive on Electronic Commerce (Directive 2000/31/EC), it is clearly established that an information intermediary's right to access information is not autonomous or automatic, but may be exercised only with the lawful consent of the information owner or on a contractual basis[23]. According to Article 12 of the Directive, an intermediary is recognized as a "mere conduit" only if it acts solely as a technical transmitter of data in transit, without interfering with the content of the information. However, the right to use information is not granted to the intermediary under this provision. On the contrary, Articles 14 and 15 of the Directive state that an intermediary's access to information must be based on contractual freedom and the proprietary rights of the information owner. Therefore, access to information is considered lawful only in cases where there is an appropriate legal basis and the consent of the owner. Furthermore, Article 42 of the Directive emphasizes that "the activities of information society service providers shall be organized through contractual arrangements," indicating that intermediaries may access information resources only through agreements. This legally limits the freedom of information intermediaries to access information.

In Germany, this framework is regulated by the Telemedia Act (Telemediengesetz, TMG) adopted in 2007. According to the law, an information intermediary plays a mediating role in organizing the distribution of information and access to it on the Internet[24]. The intermediary may access information only on the basis of a contract, license, or another legal ground established with the information owner. The intermediary is not authorized to modify or create new content; it functions solely as a technical transmitter of information. Therefore, access to databases or digital content is only permitted when a legal relationship exists with the information owner.

In France, the Law on Confidence in the Digital Economy (LCEN) of 2004 treats the information intermediary as a technical conduit and stipulates that access to information must be based on legal grounds, including contracts concluded with the information owner[25].

[21] Sharp-Wasserman J. Section 230 (c)(1) of the Communications Decency Act and the Common Law of Defamation: A Convergence Thesis //Colum. Sci. & Tech. L. Rev. – 2018. – T. 20. – C. 195.

[22] Litman J. Information privacy/information property //Stan. L. Rev. – 1999. – T. 52. – C. 1283.

[23] Lodder A. R. Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market //EU Regulation of E-Commerce. – Edward Elgar Publishing, 2017. – C. 15-58.

[24] Schulz W. Regulating intermediaries to protect personality rights online—the case of the German NetzDG //Personality and data protection rights on the Internet: Brazilian and German approaches. – Cham : Springer International Publishing, 2022. – C. 289-307.

[25] Stalla-Bourdillon S. Sometimes One Is Not Enough-Securing Freedom of Expression, Encouraging Private Regulation, or Subsidizing Internet Intermediaries or All Three at the Same Time: The Dilemma of Internet Intermediaries' Liability //J. Int'l Com. L. & Tech. – 2012. – T. 7. – C. 154.

According to the law, hosting service providers and data storage platforms do not have independent access to information sources; rather, they may access such resources only on the basis of an agreement.

Article 1253.1 of the Civil Code of the Russian Federation recognizes an information intermediary as a subject engaged in the dissemination, storage, or provision of access to information[26]. According to this article, the right to access information may be exercised only with the consent of the information owner[27]. If the information is not publicly available, the intermediary has no right to use or distribute it. The conditions for accessing information are determined through a civil-law contract[28]. This is particularly relevant in the operation of databases, web content, and digital platforms.

In the legal systems of the United States, the European Union, Germany, France, and Russia, the right of information intermediaries to access information is of a complex nature and is primarily regulated based on the principles of proprietary rights and contractual freedom. The EU's Directive on Electronic Commerce (2000) considers the intermediary merely as a technical service provider and ties access to information to the consent of the information owner. This restricts the intermediary's freedom of action, subordinates it to proprietary rights holders, and reduces opportunities for public access. Section 230 of the U.S. Communications Decency Act (CDA) grants intermediaries the right to manage content based on their own rules and algorithms. Although this gives them significant influence over information flow, it imposes no obligation to protect public interest resulting in a powerful, yet unaccountable position.

The legal frameworks of Germany, France, and Russia are closer to the EU model, tying access rights to a contract, license, or other legal basis. Intermediaries in these systems do not generate content independently, but serve as technical transmitters. These models disrupt the balance between the protection of property and the freedom of information. Access to information is often restricted by contract or license, increasing the control of information owners and limiting intermediaries' ability to disseminate data in the public interest[29]. For example, if a pharmaceutical company conceals the adverse effects of a drug, the intermediary cannot disclose this information without contractual basis potentially leading to the concealment of vital public health information and harm to public welfare. Therefore, in order to reduce inequality in the information environment and restore the social function of intermediaries, a new legal approach is needed one that harmonizes the freedom of access to information with proprietary rights.

The second shortcoming lies in the fact that legislative models similar to Section 230 of the U.S. Communications Decency Act (CDA) grant intermediaries broad discretion to filter,

[26] Исаков В. Б., Сарьян В. К., Фокина А. А. Правовые аспекты внедрения Интернета вещей //ИТ-Стандарт. – 2015. – №. 4. – С. 9-16.

[27] Ларионова В. А. Информационный брокер как новый субъект информационного права в эпоху Big Data //Право в сфере Интернета. – 2018. – С. 62-103.

[28] Жарова А. К. Условия оказания услуги по предоставлению доступа к облачным вычислениям //Государство и право. – 2012. – №. 12. – С. 86-90.

[29] Van Alstyne M., Brynjolfsson E., Madnick S. (1995). Why not one big database? Principles for data ownership. Decision Support Systems, 15(4), pp. 267–284.

present, or reject content, but do not legally define their obligations to guarantee access to information[30]. Intermediary platforms shape content through algorithms, participating in the information dissemination process not as mere technical facilitators but as legal actors[31]. However, the requirements for accountability and transparency regarding this influence are not sufficiently enforced. As a result, selective dissemination, one-sided distribution, and even censorship can occur. The rules governing information on such platforms are often opaque, leaving users unaware of what content is being shown to them and why other information is being withheld. For example, Facebook or YouTube may, based on their internal policies, choose not to distribute, recommend, or even remove certain videos or posts. In doing so, the platform unilaterally decides what information reaches users and what does not—without being held accountable for such decisions, and without transparency in how those decisions are made. This undermines the public interest and restricts individuals' right to equal and unbiased access to information.

The third shortcoming is that the legal systems of the United States, Germany, and France do not provide a legal evaluation of the civic responsibilities of information intermediaries toward society. In these countries, intermediaries are predominantly viewed as technical service providers within the framework of proprietary relations, and their role in disseminating information is not regulated from the perspective of public interest. For example, the U.S. DMCA, Germany's Telemedia Act (TMG), and France's Law on Confidence in the Digital Economy (LCEN) stipulate that intermediaries are exempt from liability when they do not influence the content. However, their impact on information security or socio-political stability is not taken into account. As a result, the intermediary is legally treated not as a primary information gatekeeper in the digital environment, but merely as a technical partner. For instance, in 2020, YouTube temporarily removed videos related to the Black Lives Matter movement in response to user complaints[32]. These videos addressed issues such as police brutality and racial inequality. YouTube justified its action under its rules prohibiting hate-based content. However, human rights organizations assessed this as a restriction on public discourse and suppression of socially important information. U.S. law treated the platform's action as a decision within the internal rules of a technical service provider[33]. This situation clearly reflects the legal failure to recognize the intermediary's role and responsibility toward society.

Conclusion

The legal analysis presented in this article demonstrates that the right of information intermediaries to access and use information remains constrained by rigid proprietary and

[30] Liu H. W. The transatlantic divide: intermediary liability, free expression, and the limits of trade harmonization //International Journal of Law and Information Technology. – 2023. – Т. 31. – №. 4. – С. 376-398.

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[32] Case, S. (2020). Why Are Black Lives Matter YouTube Videos Getting Removed? Teen Vogue. Retrieved from: https://www.teenvogue.com/story/black-lives-matter-youtube-videos

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contractual regimes in both national and international legal systems. While civil law frameworks—such as those in Uzbekistan, the United States, the European Union, Germany, France, and Russia—recognize intermediaries as primarily technical service providers, they often fail to account for the significant role these entities play in shaping digital information flows and influencing public access to socially significant content.

The examined legal models reveal several systemic shortcomings. First, the dominance of property rights restricts intermediaries' capacity to disseminate information that serves the public interest. Second, platforms enjoy broad discretionary powers to filter and control content without corresponding legal obligations to ensure access or transparency. Third, the civic functions of intermediaries as digital information gatekeepers remain unregulated, leaving their societal impact legally unrecognized.

In response to these challenges, this article proposes a new hybrid legal approach: one that redefines the information intermediary as both a subject of private law and a public-interest actor. This model should ensure a balanced regulation of information access, rooted in the principles of transparency, accountability, and the harmonization of proprietary rights with the fundamental right to receive and disseminate information in a democratic digital society.

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4. https://www.ohchr.org/sites/default/files/ccpr.pdf
5. https://www.eods.eu/library/CoE_European%20Convention%20for%20the%20Protection%20of%20Human%20Rights%20and%20Fundamental%20Freedoms_1950_EN.pdf
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