

## Accountability of Internet Access and Service Providers - Strict Liability Entering Ethics?

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[Shortened title: Accountability of Providers]

# Accountability of Internet Access and Service Providers – Strict Liability Entering Ethics?

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## **Abstract**

Questions regarding the moral responsibility of Internet access and service providers relating to information on the Internet call for a reassessment of the ways in which we think about attributing blame, guilt, and duties of reparation and compensation. They invite us to borrow something similar to the idea of strict liability from the legal sphere and to introduce it in morality and ethical theory. Taking such a category in the distribution of responsibilities outside the domain of law and introducing it into ethics, however, is a difficult thing. Doing so seems to conflict with some broadly shared and deeply felt intuitions regarding the individuality of responsibility and the relationship between responsibility and guilt. These convictions coincide with some basic ideas in Kantian moral theory and the ascriptive theory based on these ideas. Nevertheless, the problems to which the proposed liabilities / responsibilities relate are so serious that they do not seem to leave room for aloofness. At least, they encourage us to reconsider the idea of strict liability carefully and to assess its merits.

**Keywords: Internet Providers, Accountability, Responsibility, Liability, Information Technology Ethics, Ethics and Law**

## INTRODUCTION

One of the burning questions in the debate on new information technologies, ethics and law is about the responsibilities of Internet access and service providers (hereafter: IASPs) with regard to the information that is originally provided by a content provider and which is made available and accessible by them. Should IASPs be blamed for the harm or offense caused by, for example, racist expressions and images, slander, offers of drugs, plagiarism, etc., which occur in the contents that are supplied by others? Do they have any kind of obligation to prevent or to compensate for the harm and offense that may be caused by such matters? These are complicated questions. In this paper, I will not defend a clear-cut “yes” or “no” to either of them; I will only sketch some preliminaries for the debate on responsibilities of IASPs. In doing so, I will clarify some particularities of the current mainstream in thinking about attributing moral responsibility. As a matter of fact, I will argue that if moral responsibilities are to be attributed to IASPs, then these responsibilities will be of a kind that is similar to the legal category of strict liability. Introducing a category like strict liability in the distribution of responsibilities, outside the domain of law, however, is a difficult thing. Doing so seems to conflict with some broadly shared and deeply felt intuitions regarding the individuality of responsibility and the relationship between responsibility and guilt. These convictions coincide with some basic ideas in Kantian moral theory and mainstream ascriptive theory. Ascriptive theory is the special sector of moral philosophy that is dedicated to questions concerning the attribution of actions and their consequences to actors. I will explain that the kind of

responsibility that perhaps could be attributed to IASPs would better fit in with consequentialist moral theories. Nevertheless, I will also show that, with some adjustments, it may in the end also turn out to be reconcilable with prevailing Kantianism, the moral outlook that hinges on and is dominated by a constitutive ideal of the autonomy and dignity of individual persons.

The position that I will defend differs significantly from the one defended some years ago by Deborah Johnson.<sup>1</sup> Johnson suggests that the relationship between organizations resembling IASPs – she was in fact writing about organizations maintaining electronic billboards – and the negative consequences of the information put forward by content providers can only be evaluated in terms of the legal category of strict liability. She is of the opinion, however, that this is an exclusively legal matter. She opposes the idea of applying strict liability to organizations like IASPs on the basis of normative reasons, i.e., reasons regarding the conflict that may arise with information-related freedoms. This seems to be right in many specific cases. Turning this into a general claim seems to go too far. In any case, Johnson is undoubtedly right in assuming that where the question of accountability of IASPs occurs, a notion resembling the one of strict liability is *conceptually* the most suitable to be applied. Johnson is wrong, however, where she separates the legal and the moral perspectives so strictly, and where she seems to advocate a kind of moral agnosticism regarding the responsibilities of IASPs. It is my opinion that, in doing so, she was led by the predominant Kantianism in current ascriptive theory and the part of our moral outlook that reflects ascriptive theory. In this paper, I will show that something very similar to the idea of strict liability can successfully be incorporated in ascriptive theory and that we may look upon this inclusion as an improvement. It is of importance to my point, however, that we should not look upon this as just a legal category that is completely outside the moral domain, but as a moral one fully integrated in that domain.

It goes without saying that I use the term IASPs for access and service providers, in order to delineate the functions of access and service providers *in abstracto*. I am fully aware of the fact that, nowadays, the organization that functions as an IASP can also act as a content provider, if only by selecting and editing information. What I will be saying about the organizations, therefore, applies to them in their role of IASPs, whatever other roles they may have.

## CONDITIONS OF RESPONSIBILITY

In this section, I will elaborate on moral responsibility as it is traditionally conceived of in the everyday moral debate as well as in ascriptive theory.

Normally, we use the notion of moral responsibility in at least two ways that should be carefully distinguished. We can use it in a primarily retrospective sense and in a primarily prospective sense. The former refers to the possibility of ascribing or attributing actions or consequences of actions to agents; the latter refers to duties and obligations that can be imposed upon agents.

For the purposes of this paper, it is important to see that the two cannot be dealt with completely separately in the sense that the first cannot be understood adequately without the second.<sup>2</sup> We only hold people morally responsible (in the retrospective sense) if they had a responsibility (in the prospective sense) to perform or not to perform the action in question at the time when they actually did or did not perform that action. To put it differently, it only makes sense to hold a person responsible, retrospectively, for action or omission X when he or she was under a relevant duty or obligation regarding X.

Of course, the presence of a retrospective responsibility is just one of the conditions for retrospective responsibility. In order to ascertain the moral responsibility of an agent in the primarily retrospective sense, one has to make sure that three conditions apply.

First, there should be a causal relationship of some kind between the agent and the action or the consequences of the action. This relationship can be direct or indirect, substantial or additional. The relationship need not be one that can be framed in terms of a sufficient condition or even of a necessary condition as long as it contributes in one way or another to the effect.

Second, the action or the consequences of the action should be performed or produced intentionally. This does not mean that the agent should have or should have had a positive desire to bring about the

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<sup>1</sup> D. Johnson, *Computer Ethics*. Prentice Hall, Upper Saddle River, N.J., 1994, p. 124-146.

<sup>2</sup> J. Feinberg, *Doing and Deserving*. Princeton U.P., Princeton N.J., 1970, p. 187-221; H.L.A. Hart *Punishment and Responsibility*. Oxford University Press, New York / Oxford, 1968, p. 211-230.

action or its consequences. The only minimal requirement is that he or she at least did not act or did not refrain from acting in a state of voluntary ignorance regarding the action or the omission and their consequences.

Although a thorough discussion about this point would go far beyond the purposes of this paper, it should be kept in mind that the things that I have said about causality and intentionality are of a rather minimalist vein. As I will show later on, it depends on the context, and the kind of action, and the kind of value that is at stake, what causal relationship and what kind and degree of intentionality should be present. Both the character of the causal relationship and the kind and intensity of the intention influence in a complicated way the degree of blame that is imposed on the actor. Whether someone is blamed for doing something wrong and how severely he is blamed depend in part on questions such as: Did he know what was going to happen? Did he consciously want that to happen? Was he negligent with regard to these things? What was his contribution to the effects involved? Was he kept in ignorance about the possible effects? The kind and degree of the causal relationship and the intentionality influence the degree of blame that can be imposed upon an actor in a very complicated way. There is no direct, straight relationship between them. The character and the magnitude of the harm or offense involved are also of importance, as are other aspects of the situation.

The third condition for responsibility leads us back to the relationship between retrospective and prospective responsibility. It should be possible to give a moral qualification of the action or its consequences. There must be some kind of moral principle or value consideration that is applicable to the action or its consequences. At the time of performing the action or producing the consequences for which an agent is held morally responsible, there must be an obligation or duty not to perform or to produce them – at least, not in the way that they have been performed or produced eventually. Would there be no such duty or obligation, then the action and its consequences would be morally indifferent. There would be no need to discover moral responsibility at all.

The connection between prospective responsibility and retrospective responsibility is not only a motivational one; understanding the prospective responsibility involved also focuses our attention on the relevant aspects of a situation when we are deciding whether the first and the second condition of retrospective responsibility have been satisfied. In order to know exactly where to look and find out if the first two conditions are adequately met, it is necessary to know what principle or value consideration is at issue. For an answer to the question what kind of moral responsibility – in the sense of duty or obligation – an agent has in a given situation, one should first of all give careful consideration to all circumstances. Second, one should try to articulate the moral principles or values that call into question these circumstances from a moral point of view. Establishing prospective responsibility in this way enables us to know on what part of the whole machinery of the action and its consequences and from what perspective we have to focus. Doing so in turn enables us to determine the presence of causality relationships and intentionality, and to decide whether these conditions have been met *sufficiently or in the degree required*. Naturally, this impact of prospective responsibility on the determination of retrospective responsibility is closely tied to the role of the character and dimension of the harm or offense involved in determining the character and degree of the aspects of intentionality and causality.

The connection between retrospective and prospective responsibility lies mainly in the need of including some idea of prospective responsibility in the idea of retrospective responsibility. In order to understand fully what retrospective responsibility is, and in order to be able to find out correctly whether someone is responsible in specific situations, we need to have some idea of the types of prospective responsibility that may apply. The converse relationship is not so strong. It makes perfect sense to attribute prospective responsibility to persons without knowing whether these are capable of fulfilling the first and the second condition of retrospective responsibility. If, eventually, it turns out that they do not fulfil these conditions sufficiently or to the required degree, they are said to be excused. We would not say that the normative principle invoked does not apply. If one is seriously investigating prospective responsibility, one should, of course, sooner or later verify whether the agent is able to bear this responsibility; in other words, whether the agent meets the first two conditions that should be fulfilled for being morally responsible in the retrospective sense. Should the agent not meet these criteria, then the aforementioned duties and obligations might still apply, though perhaps not as duties or obligations of this specific agent, but of other agents. It might even be one of those tragic cases in which a duty or obligation applies without there being anyone who, in this specific situation, is able to fulfil it, so that everyone is excused.

Now, all that I have said so far about the conditions of responsibility and the interdependence of retrospective and prospective responsibilities reflects in large part some fundamental tenets of current ascriptive theory and of broadly shared and deeply held moral convictions, “gut-feelings,” of people on a more concrete level. This also applies to what I have said about the dependence of the first two conditions on the third one, and about the one-sided relationship between retrospective and prospective responsibilities. I will return to them shortly. I will end this section by dedicating a few words to our reasons for attributing retrospective responsibility. Why are we interested in doing so? Why should we care to be accurate when we attribute responsibilities?

Answers to these questions can again be divided into consequentialist ones and Kantian ones. Oddly enough, when asked to give answers to these questions, most people will come up with consequentialist considerations. Consequentialist reasons for an accurate attribution of retrospective responsibility seem to be more natural than Kantian ones. Consequentialist reasons have, of course, to do with the clear effects of accurate attribution of retrospective responsibility. Here, one may think of prevention through deterrence or learning. Or one may think of retribution and revenge that may satisfy the preferences or needs of people who have been victims of others’ wrongdoings. Kantian reasons are much more complicated. They are about taking persons seriously as individual moral agents. They have to do with respect for the identity and the integrity of the agent, which is rather paradoxically expressed by establishing his responsibility and blaming him for his wrongdoing and lack of integrity. They are also closely connected to concerns about the fairness of judging people and fairness in the distribution of blame and praise. In the section on responsibility and guilt, I will return to these reasons for correctly attributing moral responsibilities. But first, we must have a closer look at the nature of IASPs. Attributing responsibilities to IASPs formed the starting point for the investigation.

#### CONDITIONS OF RETROSPECTIVE RESPONSIBILITY

It is often held that IASPs cannot be held responsible for the morally negative aspects and consequences of the information provided by content providers because they cannot control or check on all the information that is made accessible through their services.<sup>3</sup> I think that this inability of IASPs is, to a large extent, just a technical, and perhaps even more, a financial or economic matter. For this reason, it should be taken seriously, but, perhaps, not as seriously as it is often done in the debate on the responsibilities of Internet providers. On principle and often in fact, the providers are able to become aware of possibly harmful or offensive information

“Ought implies can,” is the traditional axiom held by most moral philosophers. This well-known *mantra* should not keep us from understanding that sometimes things are the other way around: when can implies ought. Here, the sheer ability and opportunity to act in order to avoid or prevent harm, danger, and offense from taking place put an obligation on an agent. This is the case when harm, danger or offense would be considerable while the appropriate action would not present significant risks, costs, or burdens to the agent, whether a natural person or an organization.<sup>4</sup> The absence of other agents with the same kind of abilities and opportunities can make the duty to act even weightier.

With regard to potentially harmful or offensive information, e.g., racist phraseology, false incriminations, sale of illegal drugs, plagiarism, etc., the moral responsibilities not to harm and not to offend regard in the first place the content providers. These are the authors or those who publish the material on the net. However, given the fact that the content providers do not take their responsibilities seriously, the only ones who can prevent the materials from becoming available or accessible are the IASPs. At least they are the only ones who can *try* to do so, and who may succeed in doing so *to a certain extent*. It goes without saying that this has complicated, important technical and financial aspects. Nevertheless, the fact that IASPs have that possibility cannot be denied.

In the absence of other agents with the same abilities and opportunities, IASPs have weighty duties to prevent harm and offense that may be the effects of publishing materials on the net. The question how the

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<sup>3</sup> That they *should* not be held responsible because there are conflicting values at stake, such as information-related freedoms, privacy of content providers, etc., is an interesting and, to my mind, in large part defensible point of view. Unfortunately, I cannot deal with it within the confines of this paper.

<sup>4</sup> T.L. Beauchamp and J.F. Childress, *Principles of Biomedical Ethics*. 4th ed. Oxford University Press, Oxford, 1994, p. 266; W. Frankena, *Ethics*. 2nd ed. Prentice Hall, Englewood Cliffs, N.J., 1973, pp. 45-48.

providers should fulfil their responsibilities exactly cannot be answered here. Instead, I will elaborate somewhat on the urgency of the providers taking their responsibilities seriously.

IASPs are similar to the providers of the traditional mass media. Just like radio, television, or, for that matter, a cable network, the Internet offers opportunities to distribute textual information, images, or sound recordings on an enormous scale. There is little disagreement about the view that the freedom of the more traditional mass media like radio and television to provide information and services should be restricted by certain limiting conditions regarding harmfulness and offensiveness. Many of these traditional media do not produce, themselves, the information and services they transmit or make accessible. In this respect, IASPs do not differ from them. Nevertheless, the traditional mass media are not free to broadcast or distribute whatever textual information, sounds, or pictures. They are, for obvious reasons, bound by minimum moral standards concerning the prevention and avoidance of harm and offense. There is no reason at all to think that these standards should not also apply to IASPs.

The similarities between the traditional providers, such as radio and television, and the new providers of the Internet are just one reason to think that they are under a similar moral regime. There is another, and perhaps more important, reason to think that moral restrictions apply to Internet providers. Lack of barriers and easy accessibility of textual information, pictures, and sounds is one of the intriguing characteristics of the Internet. It is relatively easy to disseminate information through the Internet. Publishers, broadcasting companies, printing offices, production houses can all be left aside. In principle, whatever one likes to publish can be put on the Internet straight from the home, all by oneself. Conversely, it is also very easy to gain access to this information. The recipients need not go to a bookshop, buy their copy of a book or a magazine; they need not wait until the information they want or need is shown on television or broadcast on the radio. They can pick it up at the time they desire, in the way and the circumstances they desire. In short, they are not, or at least much less, hindered by barriers that were formerly present when people tried to get information and materials through media like newspapers, magazines, books, (propaganda) leaflets, radio, and television. The fact that such barriers are fading away may, in a certain respect, be considered a good thing. In a sense, easy accessibility advances the equality of opportunities in our societies, where information becomes one of the most important assets and means to obtain welfare and well-being. Nevertheless, it is rather naive to think that all information is useful to the purposes of welfare and well-being. Victims of racist rhetoric, of hatred campaigns or just of the many stupid, undocumented mythological stories on the Internet about diseases such as AIDS or cancer, may testify: not all information is valuable. There is no value in information that is not a work of art, lacks truth, or compromises fundamental moral principles (without compensating this by exhibiting amusing, artistic, scientific, or technical qualities). Before the Internet came into existence, offensive and harmful information was far more difficult to attain. You had to go to a bookshop. You had to await the mailing of the local aberrant political denomination. Or you could switch on your radio or television, fold open your tabloid, and wait for silly information. Now, silliness, bigotry, and sheer hate are just some mouse clicks away from you, to take in when, where, and for as long as you like.

## RESPONSIBILITY AND GUILT

The main argument for attributing responsibilities to IASPs, as put forward in the previous section, seems to be primarily forward-looking, future oriented. It is focused on the IASPs' capabilities to prevent harm and offense. Backward-looking ideas about guilt or taking individuals seriously as moral actors and about assigning praise and blame correctly do not seem to play such an important role. This, however, is not completely true. The three elements that must be present for assigning moral responsibility can also be present in the case of IASPs. We can see this once we accept the idea that ability and opportunity can sometimes create obligation and agree that the complementary contribution of IASPs is of causal relevance to the offensive or harmful effects of publishing certain items on the Internet.

There are obvious difficulties with assigning such backward-looking responsibilities. I think, however, that these can be overcome.

First, there is an objection to the attribution of both prospective and retrospective moral responsibilities. This has to do with the fact that IASPs are, for the greater part, private organizations that have to make profits in a context of commercial competition; this could be considered an obstacle to attributing moral responsibilities to them. It is sometimes believed that organizations such as business corporations have no moral responsibilities. Milton Friedman is often cited to explain that business organizations, or rather

their managers, have no special competence or expertise concerning social and moral matters. According to Friedman, if they were to have these responsibilities, then these responsibilities might easily conflict with their obligations to make profits for the stockholders.<sup>5</sup>

As to this first objection, Friedman did not claim that managers of private organizations, such as business corporations, have no moral responsibilities at all. He held that business is bound by moral norms of minimal decency, meaning that they should avoid and prevent harm. Friedman only wanted to exclude responsibilities or duties of positive beneficence (e.g., funding education and health care for the worst-off in the region of the firm, etc.). Friedman had a *moral* reason for not attributing duties of positive beneficence to business. He thought that such activities should be democratically controlled and not decided upon by private persons. According to him, the latter could easily feel tempted to use the enormous power of their corporations for their own, subjective purposes.

But does the argument hold when applied to providers, who often do not produce the product of information, but are just intermediaries? I do not think so. Little specific competence or expertise is in fact needed to observe where textual information, images, or sound could be harmful or offensive. Obviously, not every possibility of harm or offense can be understood beforehand. And, of course, harmfulness and offensiveness are matters of degree. This, however, does not mean that clear cases of harm and offense cannot be discovered and need not be tackled. From the difficult and vague cases, we need not at all conclude that every effort to reveal harm and offense and to block further possibilities of harming and offending is useless. Finally, one might consider the fact that IASPs are organizations with the aim to make profits as one more reason to ascribe moral responsibilities. The fact that they can make profits by contributing to the fact that certain people in society are put at the risk of being harmed or offended is just one more reason to hold them responsible.

Second, the collectivity of actors may be considered a problem that is in the way of attributing retrospective moral responsibilities of this kind to IASPs. An IASP is an organization, not a person. Many actors, Internet users, or consumers as well as content providers and the organizations of IASPs are involved in the process of diffusing information on the Internet. IASPs can only function as providers because they are, as it were, elements in a series connection. The functioning of other providers, in other words, is essential to their own performance. Finally, an IASP accommodates in its systems the information of an enormous number of content providers, among whom are content providers who have subscriptions to other IASPs. Because of all these reasons, attributing responsibility to IASPs cannot be done in the same relatively straightforward sense as attributing responsibility to individual persons.

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<sup>5</sup> M. Friedman, "The Social Responsibility of Business Is to Increase Its Profits," *The New York Times Magazine*, September 13, 1970.

The second objection does not hold. Although attributing responsibilities to collectivities may be complicated, it is not necessarily practically and conceptually impossible. Over the last decades, various studies have been published in which a whole range of arguments has been given for attributing responsibilities to collectivities. Some of these are based on ingenious interpretations of organizations and decision-making procedures in organizations and their resemblance to persons.<sup>6</sup> Others start from consequentialist arguments about the didactic, deterring, or preventive effects of such attributions.<sup>7</sup> In addition, it should be observed that attributing blame and praise to collectivities such as private organizations, as a matter of fact, is something that happens all the time. People think and talk in terms of attributing responsibilities to organizations and they establish single-issue organizations in order to motivate other organizations to take their responsibilities seriously. The law establishes responsibilities and liabilities of organizations. Therefore, one should rather wonder, why in certain regions in the field of moral philosophy, the idea of collective responsibility has still not been accepted. The underlying reason for this might be a Kantian bias combined with methodic individualism, like the one that seems to be characteristic of the Kantian moral outlook mentioned in the first objection. Seen from the angle of the traditional idea of directly guilt-related responsibility, it is indeed difficult to understand exactly what it means to hold a collectivity responsible, where this responsibility cannot in any clear way be distributed among the individual members of the collectivity. Nevertheless, attributing such responsibilities just seems to *work*. Organizations learn from it and change their behavior on the basis thereof. Perhaps, then, it should just simply be admitted that the responsibilities attributed to collectivities, because of their basic function, differ partially from the ones attributed to individuals.

Finally, and most importantly, we come to the objection that to my mind is the most appealing: the apparent irreconcilability of the Kantian and consequentialist moral outlook. Attributing retrospective moral responsibility to IASPs is primarily inspired by reasoning of a rather consequentialist kind. Doing so is, in a way, instrumentalist, and may therefore be intuitively felt to be unfair. The categories of blame and guilt are used for purposes that do not relate to the identity and (the lack or restoration of) the integrity of the acting party. This does not seem to do justice to the requirement of respect that we think we ought to pay to the individual persons involved, even by blaming or punishing him or her ... at least if our morality is of a Kantian vein.

It looks as if this objection is at least in part a question of fundamental outlook, of basic ideological orientation. Nevertheless, it can be argued that attributing responsibilities to IASPs is in large part reconcilable with Kantianism.

Although attributing responsibilities to IASPs is something, that is at face value more familiar to consequentialist stances in morality, it is nevertheless closely tied to the ways in which responsibility is traditionally attributed to individuals. Important in this respect is that the idea of a causal relationship – albeit a secondary or additional one – is not completely abandoned, as is the case in certain respects with the legal idea of strict liability. For the assignment of strict liability, the existence of a causal relationship between (the actions of) an agent and the accomplishment of a certain risk need not be substantiated. Strict liability sees more to the practicalities of compensating or preventing losses that result from certain risks for *all* the parties involved than to the character and identity of the acting party. In the case of attributing responsibilities to IASPs, considerations like these are of importance, but the causality aspect is not overlooked. This is so because the requirement of the causal relationship guarantees that it is exactly those who contributed to harm or offense on whom the responsibilities are imposed and who are thereby stimulated to learn from experience and to prevent harm and offense in the future. In this way, even attributing this kind of responsibility pertains to the identity and integrity of the agent. Although, therefore, the consequences of prevention, learning, and deterrence are undoubtedly preponderant among the reasons for attributing responsibilities to IASPs, doing so may have some intuitive appeal to Kantians in so far as it indirectly sees to the identity and integrity of the acting organization.

Second, as I have explained extensively in the section on conditions of responsibility, even in the traditional views on retrospective responsibility there is a close relationship between retrospective and

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<sup>6</sup> P.A. French, P.A., *Collective and Corporate Responsibility*. Columbia U.P., New York, 1984; L. May and S. Hoffman, *Collective Responsibility: Five Decades of Debate in Theoretical and Applied Ethics*, Rowman and Littlefield, Savage Md., 1991

<sup>7</sup> A.H. Goldman, *The Moral Foundations of Professional Ethics*. Rowman and Littlefield, Totowa, N.J., 1980

prospective responsibility. This relationship comes clearly to light in the dependence of the causality and intentionality conditions on the character and the dimension of the harm or offense involved. The significance of the consequences of an action for the requirements regarding the causal relationship and the intentionality, to my mind, at least hints at the functionality of the attribution of retrospective moral responsibility for the ways in which we deal with harm and offense. Put differently, the future-oriented, instrumental approach of moral responsibility, which we might associate with consequentialism, is not at all strange to the traditional idea of retrospective responsibility.

Third, as I already mentioned at the end of the section on conditions of responsibility, when asked for reasons for attributing retrospective moral responsibility, most people will come up with consequentialist considerations. The strange thing is that the highly Kantian idea of retrospective moral responsibility, at least in what seems to be a kind of common-sense approach, is embedded in a motivational structure of a highly consequentialist nature. I consider this to be one more reason to assume that the Kantianism of the traditional views and the consequentialism of the views that I have put forward here are ultimately compatible.

## CONCLUDING REMARKS

If IASPs have responsibilities relating to information produced by others but accessible through their services, then these responsibilities are different from the responsibilities that are traditionally attributed to individual persons. They are, however, not completely different. Basic to the traditional idea of responsibility – at least when taken as retrospective responsibility – is the assignment of guilt, which is something that has to do with the identity and the character of an actor. When moral responsibilities regarding negative aspects of information that are accessible through their services, are attributed to IASPs, the primary concern is not so much with guilt but with preventing or compensating for these negative consequences. This, however, is not to say that the question of guilt is completely put aside. I have argued that, whereas this idea may, as such, suit people with a consequentialist moral outlook very well, it may at first and in some respects be difficult to accept for Kantians. The idea does not completely abandon the requirements of a causal relationship and intentionality and, therefore, is not completely alienated from a guilt-centered conception of responsibility.

One may ask whether this whole argument about responsibilities that are better adjusted to consequentialism than to Kantianism and responsibilities that better fit with Kantianism than with consequentialism is not a rather inner-philosophical debate of relatively little importance to everyday life. Is it not a philosophical maneuver aiming at the solution of a problem caused by philosophical idiosyncrasies? Without wanting to be immodest, I do not think so. I think that it is important to update our philosophical conceptual frameworks and vocabularies – and by doing so also our concrete moral concepts and words – frequently in order to adapt them to the new circumstances of our ever-developing societies. Doing so supplies us with conceptual instruments with which we are better fitted to approach contemporary social problems. Reconsidering moral responsibility and introducing a category of responsibility that is oriented toward results and consequences seems all but redundant in an age that witnesses an exponential growth of technologies, the rise of enormous transboundary organizations, and a gradually declining influence of individuals.

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## References

Beauchamp, T.L. and Childress, J.F., *Principles of Biomedical Ethics*. 4th ed. Oxford University Press, Oxford, 1994.

Feinberg, J., *Doing and Deserving*. Princeton U.P., Princeton N.J., 1970

Frankena, W., *Ethics*. 2nd ed. Prentice Hall, Englewood Cliffs, N.J., 1973

French, P.A., *Collective and Corporate Responsibility*. Columbia U.P., New York, 1984

Friedman, M., "The Social Responsibility of Business Is to Increase Its Profits", *The New York Times Magazine*, September 13, 1970.

Goldman, A.H., *The Moral Foundations of Professional Ethics*. Rowman and Littlefield, Totowa, N.J., 1980.

Hart, H.L.A., *Punishment and Responsibility*. Oxford University Press, New York / Oxford, 1968.

Johnson, D., *Computer Ethics*. Prentice Hall, Upper Saddle River, N.J., 1994

May, L. and S. Hoffman, *Collective Responsibility: Five Decades of Debate in Theoretical and Applied Ethics*. Rowman and Littlefield, Savage Md., 1991.

## Biography

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