Preface

As the economic value of digital game environments grows, now easily exceeding the gross domestic product of some middle-sized countries, and as their intertwining into cultural and societal activities progresses, so the interest of policymakers, academia and the wider public intensifies. Yet, although digital games and virtual worlds have gained prominence as a topic in academic scholarship in the past few years, we are still far from a comprehensive understanding of their nature, dynamics and impact. This is a shortcoming, which is particularly distracting when translated into current law and policymaking. In fact, many of today’s regulatory interventions merely transplant models from conventional media regulation and reveal that policy- and rulemakers are at a loss when approaching these novel digital spaces.

While an invaluable and sizeable amount of knowledge on digital games and virtual worlds has already been gathered and is continuously being enriched in the fields of media, communications and cultural studies, as well as in sociology and psychology, very little of it has flowed into legal analyses. The profound understanding of the complex phenomena and processes occurring in-play, such as avatar representation, role-playing, community and reputation building, incentives and dynamics of play, individual and group creativity, has found no (or insufficient) reflection in the design of regulatory intervention. Very interestingly, this occurs precisely at a time when we are observing an expansion of regulatory efforts at national, regional and international levels that have a serious impact upon game environments and their evolution as a medium of creative play and social interaction.

This fragmentation of the debates and the increasing discipline gaps are rather unfortunate since digital games as a societal, economic and cultural phenomenon have repercussions in multiple directions and could never neatly fit the confines of a single discipline. The regulatory tools applied would need to take into account all the complex processes unfolding within these game environments – processes that may be fundamental for sustaining creativity and innovation, and for attaining a number of public interest objectives. A topic that fits precisely into this contextual matrix and that has not yet entered the academic research as related to digital games is that of cultural diversity. This is despite the fact that cultural diversity has become a policy objective of considerable weight especially since the UNESCO Convention on the
Protection and Promotion of the Diversity of Cultural Expressions, which has been in force since March 2007 and has been ratified by more than 100 states.

It is the objective of this book to remedy at least some of these drawbacks by tackling fragmentation in existing research and by contributing to a more comprehensive and fine-grained understanding of digital game environments, which is a precondition for addressing any of the pressing governance questions posed. While we have mentioned the instances of misplaced state intervention, governance is understood broadly in the present book as ranging from actual regulation over social conventions to the constraints of the code and the business models in digital games.

The second distinct objective of this publication is to introduce and explore cultural diversity as one of the key issues of emerging importance, accounting for the augmented societal and cultural value of games and their becoming an essential part of the global media landscape. Cultural diversity also offers a unique perspective on digital games and their governance, which is both new and potentially fruitful as a focal point of the discussions, since it allows linking the studies of games in various disciplines and possibly leads to a more nuanced and sophisticated level of analysis. It also allows the integration of substantive legal analyses in particular with regard to the protection and promotion of diverse cultural expressions, and the response to some discrete questions raised in this context: what do policymakers mean when they speak of cultural diversity in digital game environments? Is the cultural diversity rationale of state intervention still viable in these novel digital spaces? What are its dimensions and what are the right tools for its achievement likely to be?

To address all these questions appropriately, the book is structured in two parts. It begins with a transdisciplinary enquiry into the nature and dynamics of digital game environments, combining approaches from economics, sociology, law, media and communication studies in order to set the scene for the more specific investigation of governance issues in the second part. At the outset, Reimsbach-Kounatze and Wunsch-Vincent offer a detailed analysis of the contemporary business models and value chains in the markets for digital games and virtual worlds, the understanding of which is critical to the design of any regulatory tool, and sketch some of the emerging policy considerations. Kerr goes a step further and asks specific questions with regard to the promotion of cultural diversity taking into account the complex global political economy of digital games creation, production, distribution and consumption. Burri-Nenova takes up the topic of cultural diversity from a legal perspective and looks into the dimensions and the dynamics of user-created content in digital game environments, asking whether user creativity could potentially cater for diversity of expressions, and whether state intervention could foster the creative processes or rather harm them. With a view to further clarifying the concept and the potential limitations of cultural diversity, two contributions...
based on in-game empirical research follow. Humphreys looks specifically at the ways in which the decisions of corporate powers may determine areas of discursive freedom (and thus diversity) in massively multiplayer online games such as *World of Warcraft* and *Everquest*, while Misoch explores the case of diversity of in-game identities in *Second Life*.

The second part of the book clarifies the contours of governance in digital game environments, as well as the challenges and the limitations these pose for regulators. It begins with a theoretical introduction by Karavas of the concept of governance in online worlds and the broader discussion on the modes of state intervention in cyberspace. The chapters which follow take up some discrete questions related to state regulation of game markets: why do governments choose to subsidise game industries? Is this a legitimate intervention? What is the newly formulated role public service may play? Answers to these pressing questions are provided by Graber from the perspective of European and international economic law. The final contributions by Sahlfeld and by Steiner investigate two specific areas – the protection of minors and advertising, looking also at the impact of regulation on cultural diversity. While the protection of children has been a lasting preoccupation of policymakers and many states have felt compelled to intervene, advertising and its effects may potentially be equally important.

The present book is the outcome of the international workshop ‘Governance of Online Worlds and Cultural Diversity’ organised in September 2008 by the research centre i-call (International Communications and Art Law Lucerne) of the University of Lucerne within the framework of the eDiversity project. This project, focusing on the legal protection of cultural diversity in a digital networked environment, is a part of the Swiss National Centre of Competence in Research (NCCR): Trade Regulation funded by the Swiss National Science Foundation.

It is our hope, as editors, that the unique combination of viewpoints and methods presented here will stimulate a more comprehensive debate on the governance of digital game environments and its particular dimension of protection and promotion of cultural diversity, and reveal novel ways of approaching these complex issues in practice.\(^1\)

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1 By way of guidance to the readers, it should be noted that all websites, unless otherwise specified, were last accessed on 10 June 2009. The editors thank Susan Kaplan and Thomas Steiner for their invaluable assistance.