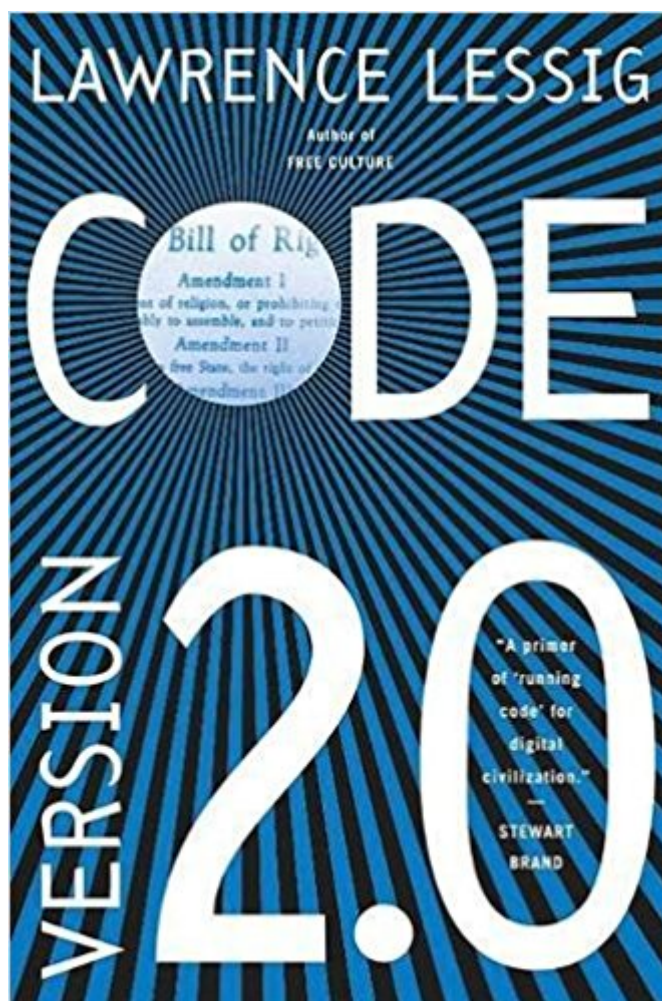


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# Code: And Other Laws Of Cyberspace, Version 2.0



## Synopsis

There's a common belief that cyberspace cannot be regulated-that it is, in its very essence, immune from the government's (or anyone else's) control. Code, first published in 2000, argues that this belief is wrong. It is not in the nature of cyberspace to be unregulable; cyberspace has no "nature." It only has code-the software and hardware that make cyberspace what it is. That code can create a place of freedom-as the original architecture of the Net did-or a place of oppressive control. Under the influence of commerce, cyberspace is becoming a highly regulable space, where behavior is much more tightly controlled than in real space. But that's not inevitable either. We can-we must-choose what kind of cyberspace we want and what freedoms we will guarantee. These choices are all about architecture: about what kind of code will govern cyberspace, and who will control it. In this realm, code is the most significant form of law, and it is up to lawyers, policymakers, and especially citizens to decide what values that code embodies. Since its original publication, this seminal book has earned the status of a minor classic. This second edition, or Version 2.0, has been prepared through the author's wiki, a web site that allows readers to edit the text, making this the first reader-edited revision of a popular book.

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## Customer Reviews

"[Lessig] is fast emerging as the nation's most original thinker in the new field of cyberspace." "A book that's sometimes as brilliant as the best teacher you ever had, sometimes as pretentious as a deconstructionists' conference." "In this remarkably clear and elegantly written book, [Lessig] takes

apart many myths about cyberspace and analyzes its underlying architecture."The "alarming and impassioned" book on how the Internet is redefining constitutional law, now reissued as the first popular book revised online by its readers."A remarkable work on the philosophy of this new medium, his latest book asks all the big questions about the role of government, commerce and the invisible hand of technology in shaping life as it is increasingly lived online."Lawrence Lessig is a James Madison of our time, crafting the lineaments of a well-tempered cyberspace. This book is a primer of 'running code' for digital civilization. Like Madison, Lessig is a model of balance, judgement, ingenuity and persuasive argument." -- Stewart Brand

Lawrence Lessig is a professor at Stanford Law School and founder of the school's Center for the Internet and Society. After clerking for Judge Richard Posner on the 7th Circuit Court of Appeals and for Justice Antonin Scalia on the U.S. Supreme Court, he served on the faculties of the University of Chicago, Yale Law School, and Harvard Law School before moving to Stanford. He represented the web site developer Eric Eldred before the Supreme Court in *Ashcroft v. Eldred*, a landmark case challenging the Sonny Bono Copyright Term Extension Act. His other books are *Free Culture* and *The Future of Ideas*. Lessig also chairs the Creative Commons project and serves on the board of the Electronic Frontier Foundation. In 2002 he was named one of Scientific American's Top 50 Visionaries. He lives in Palo Alto, California.

Code 2.0 SummaryThe Internet is a medium through which the individual is provided with both extreme freedom and complete control. As Lessig suggests in *Code 2.0*, this dichotomy presents a delicate balance towards the abilities and uses of the hardware and software of the digital age. By comparing the inner workings of the regulation of cyberspace to the Constitution, Lessig establishes a dialogue that addresses the idea that a new form of regulation is to be created in order to maintain control over cyberspace. He defines code as the basic governing structure upon which the Internet is founded and ascertains that "code is a regulator in cyberspace because it defines the terms upon which cyberspace is offered" (6). Lessig uses this definition throughout his argument to support the idea that, in its ability to do and create anything within the virtual space, it is able to establish complete control over the Internet. He presents the potential for the regulation of this code and, furthermore, the regulation of cyberspace as a whole. Through stories and examples of this paradox in action, he shows the many ways in which code can be used to control situations that initially break the possibilities in the real world. He poses the question, "We will see that cyberspace does not guarantee its own freedom but instead carries an extraordinary potential for

control. And then we will ask: How should we respond? (5). He establishes that cyberspace can be regulated through four underlying factors: architecture, norms, law, and market. These broad categories encompass that framework that Lessig suggests is the infrastructure that allows the possibility of bring order and regulation to a tool that can make virtually anything possible. The Internet is a world that defies that nature and limitations of the real world through the ability to code and create a system that, at least in cyberspace, can allow anything to be possible. In his story about "Second Life", Lessig describes a program in which people can establish and embody an alternate identity (6). Through coding their profile, the program allows them to do whatever it is they wish to do, which is not limited to things that are impossible to accomplish in the real world. Second Life is the perfect example of how cyberspace can be perfectly controlled in its perfect freedom. By establishing the code, the creator is constructing a virtual space that has endless possibilities, but the code itself is an establishment of law and management towards this supposedly limitless system. The four factors of regulation that he describes, architecture, norms, law and market, are one of the strongest points to his argument (7). He clearly establishes the techniques and constraints by which this boundless world can be managed and behavior can be regulated. Architecture describes the physical and tangible structure that allows or does not allow things to be possible. If an object is not physical available or able to do something, than the architecture directs that it cannot be done. Norms are the expectations that are established through the majority's adherence to them in order to coerce a particular action or behavior. Law addresses the set of rules that governs the situation and the consequences that occur if they are broken. There are certain laws in place; such as being allowed to smoke in a particular area and those laws are enforced by punishment if they are not followed. Market is the persuasion to behave in a particular manner through offers that make it more appealing to take one action over another. Lowering the price of an item or making a deal is persuading the buyer into purchasing what the store wants them to purchase, thus regulating their decision. Each of these modes of regulation has their strengths and weaknesses depending on the situation, but their universality is what makes them especially useful in the context of regulating cyberspace. Lessig establishes a strong idea that the modern virtual world has opened up many seemingly impossible situations that, without proper regulation, can go awry. While it is difficult to imagine keeping such a powerful and virtually limitless source under control, Lessig discusses the idea that it is indeed possible. There is a consistent parallel to the real world within his argument of regulation that suggests that the methods can be adapted to the needs of the virtual world. Where laws of crime and punishment are established in real life, the government can step in a create those for the Internet and where architecture is

concerned, what is physically impossible in the real world can similarly be restricted through code. As the title suggests, his pervasive point of his argument is that code is the key to the regulation of cyberspace with the fact that it is the foundation that controls it. The individuals who know how to create code have free range to essentially control cyberspace. Lessig implies in many different ways that, in order to regulate that virtual world, these individuals need to be regulated and prevented from running rampant with the power to control cyberspace. With the continuous juxtaposition of the approaches that need to be taken to regulate the physical world and virtual world, Lessig brings forth the idea that cyberspace is an extension of the real world that can be regulated under the same concepts. He states that "The problems with that cyberspace reveals are not problems with cyberspace. They are real-space problems that cyberspace shows us we must now resolve-or maybe reconsider" (16). In this revelation, he suggests that cyberspace creates infinite possibilities for those who participate in it and it in itself is not the center of potential problems. Rather it is who controls and regulates it and how that is accomplished that poses the real threat to society. The real world systems that have been established set the example for the regulation of this world of infinite possibilities. Though it was a bit scattered, I enjoyed his argument and the relevant insight that Lessig provides regarding the rapidly increasing presence of "cyberspace".

The book is intelligently and well written, and a must read for those who have a serious interest in the future of our civilization. One of the fascinating things about the book, that was recently written, is that the future problems the book foresees are already passe. Internet privacy is now an illusion. Any email or message in cyberspace can appear the next day on the front page of the New York Times. Lessig would like to control the misuse of cyberspace, but his suggestions are merely theoretical and because of the chaotic state of conflicting tribes and governments, these methods have no teeth. As is so often the case, it may take a catastrophe, like breaking the code of Code: And Other Laws of Cyberspace, Version 2.0 of an encrypted lethal message between nations, to generate international regulation of cyberspace.

While the book is, at its foundation, quite sound in the ideas it brings to the table (sometimes scarily so) I think that the author's desire to lean heavily on anecdotes and stories to make his point is heavy handed, though effective. If you are a person who wants to be politically or socially active this book is a good jumping off point. Mr. Lessig, if you read this I approve of your 'lead by example' mentality. Quite a few of the people I spoke with were yelling and screaming about how you were all

for government regulation (and you just might be, but I don't really get that out of the book) without paying the slightest attention to the fact that you've been a member of the CC organization for quite some time.

Although *Code and Other Laws of Cyberspace* was a laborious read to me several years ago, it still deserves your attention today. It is basically a legal treatise that feels like a college course. It even has small print! Lessig's thoughts go far beyond scholarly; it is a magnificent work. And even though its content is extremely important, you may not be very enthusiastic about picking it up at first. In it he has posed several questions of constitutional law and its relevance in cyberspace, vividly described the dark blending of government regulation and control with our growing world of electronic commerce. But Lessig's words are much more poetic: "We build liberty...by setting society upon a certain constitution...an architecture...that structures and constrains social and legal power, to the end of protecting fundamental values - principles and ideals that reach beyond the compromises of ordinary politics.... There is no reason to believe that the grounding for liberty in cyberspace will simply emerge." He examines how the relationships of the technology, which he also refers to as 'architecture' or 'code', along with social norms, markets and laws regulate people's behavior and explains how each of these limit individuals' actions. These forces work directly or in combinations where improvements in technology can dramatically alter the constraints on people's conduct. The competition for control continues today under the banner of 'network neutrality' where Congress is being asked by business to decide about who will control the Internet. Network neutrality would return to communications law and regulation the concept of non-discrimination that was always, until recently, part of communications law since the original 1934 Communications Act [and was partially repealed for high speed services]. Not only does big business want to control the Internet, with recent interpretations of net neutrality they are trying to improve their grip on copyright issues and control who is allowed to innovate in this country. In some cases they have already hijacked the legal system and are misusing our enforcement systems to control dissent. Historically, AT&T was the telecommunications industry of this country and the 'Big Three' networks controlled the airways until new technologies and innovative regulatory policies broke the hold that these corporations had held onto for so long. Markets, services and competition grew exponentially and the new giants have struggled fiercely since to regain that power that the Bell System once held. With SBC's purchase of what used to be AT&T Longlines, the cycle has come full circle. As Lessig pointed out, the obvious point that many might miss is that when government steps aside, it's not as if private entities have no interests or have no agendas that they pursue. We can't leave the market

to regulate the Internet of the future. Our constitutional values check and limit what the markets do also. If you think that no government involvement is the more appropriate path to take, consider Lessig's warning: "Unless we interrogate the architecture of cyberspace as we interrogate the code of Congress, the relevance of our constitutional tradition will fade and the importance of our commitment to our fundamental values ... will also fade." Lessig's seminal work will continue to provide the foundation for the evolution of cyberspace law for years to come. My original summary of this book can be found on his website. Bob Magnant is the author of *The Last Transition...* - the ultimate Internet adventure, a fact-based novel.

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