Reputation and Why It Matters

- Reputational information = information about an actor’s past performance that helps predict the actor’s future ability to perform/satisfy preferences

- Reputational information is crucial to the marketplace’s proper functioning
  - Reputational information = invisible hand of the invisible hand

- Types of reputational systems:

<table>
<thead>
<tr>
<th>Unmediated</th>
<th>Mediated</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Word of mouth</td>
<td>• Credit scores</td>
</tr>
<tr>
<td>• Job reference/recommendation letter</td>
<td>• Bond ratings</td>
</tr>
<tr>
<td></td>
<td>• Consumer reviews (BBB; online)</td>
</tr>
</tbody>
</table>
Selected Online Consumer Review Sites

- Amazon.com
- eBay
- Epinions.com
- Yelp
- Ripoff Report
- Angies list
- Tripadvisor
- RealSelf.com
- Glassdoor.com
- Avvo
- RateMDs.com
- Rate My Professors.com
- PunterNet

Don't Date Him Girl: Don't Date Him Until You Check Him Out First!

PlayerBlock

Santa Clara University
Selected Reputational Information Regulations

- **Defamation/Privacy**
  - First Amendment defenses such as public concern or opinion
  - Anti-SLAPP laws
  - 47 USC 230

- "**Soft**" torts (tortious interference, unfair competition, etc.). Ex: Cats & Dogs v. Yelp

- **IP Laws**
  - Trade Secret
  - **Trademark law**. Ex: Lifestyle Lift v. RealSelf
  - Copyright law. Ex: Medical Justice

- **System-specific laws.** Ex: Fair Credit Reporting Act
A Tale of Two Reputation Systems

#1: Job references
- Former employer faces defamation/tortious omission liability for giving references
- State statutes immunize “good faith” references
- Nevertheless, job reference market has collapsed
- Demand for job reference information pushed to inferior sources

#2: Online consumer product reviews
- Reviewers face defamation liability
- Review site operators protected by 47 USC 230
- Explosion of review sites and consumer reviews
Why the Difference? Hypotheses:

- **Structural difference:** online product reviews are (mostly) mediated

- **Differences in reviewers**
  - Online reviewers don’t appreciate the legal risks they face
  - Employers are good litigation targets; online reviewers aren’t

- **Differences in review consequences**
  - Single bad job reference can be life-changing
  - Employees have fewer legitimate evaluative sources
  - Job performance evaluations are inherently subjective
Some Possible Lessons

- Mediated reputation systems are more socially valuable than unmediated systems
  - Unmediated systems have high transaction costs
    - Finding reliable data sources
    - Assessing credibility
    - Policing errors
  - Mediated systems
    - Can capture and distill wisdom of the crowds
    - Can provide incentives to produce non-public information
    - Can establish the credibility of its information sources
    - Care about their own reputation (the tertiary invisible hand)
Some Possible Lessons (con’t)

- Mediated systems flourish with liability immunization such as 47 USC 230
  - Avoids lopsided databases
  - Fosters experimentation

- Common attributes of successful mediated systems (preliminary)
  - Translucent algorithms + robust anti-gaming enforcement + no pay-to-play
  - Attributed sources
  - Right of reply