

Case Study Title: The Internet and Free Speech

Article Information:

Google rejects call for data in porn probe

By John Swartz

January 20-22, 2006

News

page 1A

Porn 'tidal wave' puts parents to test

By Janet Kornblum

January 30, 2006

Life

page 10D

FBI may be checking on you, but you have no way to know

Op-Ed Piece/ opposing view by Rachel Brand and John Pistole

November 9, 2005

News - Editorial page

page 14A

Cyberstalking law opens debate on what's annoying

By Richard Willing

February 15, 2006

News

page 5A

Be wary of Internet 'governance'

By Tony Mauro

November 16, 2005

News - The Forum

page 13A

Summary Statement:

The Internet has become an icon of popular culture, contributing to our vernacular such words as blogger, emoticon, Wi-Fi, and RAM. According to the U.S. Department of Commerce, Internet usage in the home increased from 18.6 percent in 1996 to 54.6 percent in 2003. This Internet explosion and the vast array of websites it now contains are overwhelming. The Internet provides information on such diverse topics as government, music, travel, and education, as well as pornography, hate messages, and detailed instructions on how to build a bomb. The Internet can link a college student in Tennessee with a sheepherder in Australia, in real time. It has become a “technological” version of the town crier, who passed out political pamphlets during the revolution, allowing anyone with a computer to promote whatever subject he /she are passionate about, whether it concerns politics or the last movie they viewed.

With this massive communication tool looms the question of responsibility and regulation. The diverse content and availability of the Internet to minors brought tough questions about how the content should be regulated. It became obvious that new standards of regulation were needed and increasingly those questions of who or what should be regulated are being fought in the courts. At the forefront of this battle, are the First Amendment and its guarantee of freedom of speech. In 1996, congress enacted the Communication Decency Act, which prohibits the transmission of indecent and patently offensive materials over the Internet. The ACLU immediately challenged the act because of the vague wording. What exactly constituted “indecent” or “offensive” material? In June 1997, the Supreme Court stated in *ACLU vs. Reno* “free speech on the Internet is entitled to full First Amendment protection.” The justices ruled that the CDA prohibited this right. Another controversial topic the Internet has spawned is the use of filtering software that blocks “undesirable” content. The installation of the filtering software by parents to protect their minor children in their home is not the issue, but the use of these products as required by the Children’s Internet Protection Act passed in 2000 by congress does raise First Amendment concerns. Laws dealing with cyber stalking and libel have also made their way through the courts with each one tied to the First Amendment. Post 9/11, a new issue in cyber space surfaced - the threat to national security. This issue is being debated not only in the United States but abroad as well.

The Internet has become such an integral part of everyday modern life. The uncontrolled growth of the Internet is creating increasing concerns over content and how best to regulate it. Commerce, education, and the media rely more and more on the Internet to pass on information to consumers making it more than a passing popular culture fad.

Discussion Questions:

1. Some people have argued that bloggers are journalist. Should Internet content on a blog be subject to the same protections and regulations as print media? If yes, why?
2. Should the opinions a person expresses in private e-mails be protected by First Amendment rights? Explain your reasoning.
3. The Children's Internet Protection Act of 2000, required public schools and public libraries to install "technology protection measures" in order to receive federal funds for internet hook-ups. Should the government be allowed to force the use of filtering devices on public institutions? How do you think content should be regulated in these public settings?
4. In light of the new concerns for National Security, do the police or federal government have the right to ask internet service providers to turn over personal information on subscribers without the subscriber's knowledge or consent? Explain your yes or no answer.
5. What role does free speech play in regards to religion? Should political cartoons about religions and /or religious leaders be censored on the internet, in the newspaper or on television? If yes, how? If no, why not?

Future Implications:

The future implications of regulating the Internet in a post 9/11 world may be staggering to America. Because of national security, the government is trying to enact legislation that many people feel treads on the fundamental right to freedom of speech. Privacy and illegal search and seizure issues are becoming more prevalent. The people of the United States must deal with the national security issue while finding a way to maintain their constitutional rights.

Many countries already censor Internet content. Australia enacted legislation in 2000 making Internet service providers criminally liable for the content of the sites that their subscribers can access. Russia has ordered all ISPs to channel messages through security forces for monitoring. Great Britain's Regulation of Investigatory Powers Act gives police broad access to e-mail and other online communications. Will the United States try to follow their examples? The big question for the future of the Internet is whether it will continue to grow and thrive unmolested with all the "good" and "indecent" material intact or become an over-regulated monster, just another passing fad.

Additional Resources:

1. Cyberpower: The Culture and Politics of Cyberspace and the Internet
Tim Jordan
2. Censorship on the Internet
Wendy Herumin
3. Cyberrights: Defending Free Speech in the Digital Age
Mike Godwin
4. "The Supreme Court's Approach to the First Amendment in Cyberspace: Free Speech as Technology's Hand-Maiden." Mark Kende. Constitutional Commentary Vol.14 1977.
5. A Nation Online: Entering the Broadband Age. U.S. Department of Commerce: Sept. 2004
Economic and Statistic Administration
National Telecommunication and Information Administration
5. www.firstamendmentcenter.org
6. www.aclu.org