

"Censorship is the bastard child of technology." Robert Corn-Revere

BY JAMES HIBBERD

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FOR LEGISLATORS, THE INTERNET IS A NIGHTMARE. The communications network cannot be constrained to a jurisdiction, it isn't controlled at a central location and it gives any individual with a computer the power to reach millions.

But last spring, when the government attempted to ban "indecent" material on the Web with the Bill Clinton-backed Communications Decency Act (CDA), students and faculty at colleges across the nation began a movement to fight Internet censorship.

Some of these Internet battles may seem insignificant, such as a student fighting to keep his Web page. Others, like the ongoing rally against the CDA, are commanding the attention of the Supreme Court. But all are being closely watched by free-speech advocates, religious groups, Internet users and educators. These observers suspect that the cases being fought by students and academics may write the operating rules for the greatest communications invention since the printing press.



The price of free speech

Chris Landers never thought of himself as a First Amendment activist, but the California State U., Northridge, senior sued his school after administrators yanked his Web site off the university server. According to Landers, administrators objected to his site's endorsement of a Democratic candidate for state Senate after the candidate's Republican opponent complained. "It wasn't like I was Larry Flynt," Landers says.

In court, the university argued that Landers' site represented state funds being used for political purposes.

"It seemed absurd to limit students in what they put on their Web pages or write in their e-mail," Landers says. "It seemed contradictory to the whole concept of a university. If college is about anything, it's supposed to be about ideas."

A Los Angeles Superior Court judge agreed, saying that when the government creates a public forum, it cannot restrict the contents of the speech.

Although the vast majority of Web users, like Landers, have benign motivations, the Internet free-speech issue is complicated by individuals who use the Web as an outlet for their darker impulses. Individuals like Jake A. Baker.

In early 1995, a U. of Michigan student, Baker (real name: Abraham Jacob Alkhabaz) was arrested for sending a story through the Internet about raping and torturing a fellow classmate. But a court dismissed the prosecution's case, saying the posting did not constitute a threat, as the story didn't advance "some goal through use of intimidation."

The court may have ruled, but students are still divided over the outcome of Baker's case. Likewise in the case of U. of Kansas grad student Benjamin C. Phelps.

The grandson of a Topeka pastor, Phelps created a Web site with the address www.godhatesfags.com.

"It had a bunch of anti-gay propaganda, about every slur you can imagine, select Bible verses taken out of context and links to pictures of his group picketing funerals of people who died of AIDS," says Mike Silverman, a recent Kansas grad who wrote a letter of protest to one of Phelps' Internet service providers.

Despite his objection to Phelps' site, Silverman stresses he doesn't agree with government censorship. Silverman appreciates that his protest is protected by the First Amendment. Just like Phelps' page.

Gray areas

So far, the majority of Internet content court rulings have sided with the party invoking the First Amendment. But not all. U. of Oklahoma assistant professor of journalism Bill Loving sued OU to prevent the school from blocking about 100 sexually explicit newsgroups from its Internet server.

But a federal judge ruled against the professor.

Loving says some of the blocked newsgroups contained political discussions and that the university was instituting prior restraint on a public forum.

Despite the setback, Loving plans to appeal the decision. Why is Loving, who's currently awaiting a university decision on whether he'll receive tenure, determined to pursue the case?

"It's very simple: The university violated the First Amendment. I teach the First Amendment," Loving says. "If I don't stand up for the First Amendment in the face of this sort of action, then I'm a big hypocrite and I don't deserve to teach."

Bennett Haselton, a junior at Vanderbilt U., Tenn., would certainly agree. Most CDA antagonists say software that blocks out controversial Web sites is preferable to government censorship, but not Haselton. His organization, Peacefire, protests restrictive software (<http://www.peacefire.org/>).

Haselton argues that programs like CYBERSitter block out educational sites about women's issues, religion and safe sex, as well as the sites of free-speech advocates.

"They block material that would never be banned in this country," Haselton says.

Supreme Court justice?

Still, the most concentrated effort against Internet censorship is the ongoing attack on the CDA. Briefs filed by organizations like the Student Press Law Center and the

American Association of University Professors (A.A.U.P.) are urging the Supreme Court to throw out the law.

One of the briefs was signed by Boston U. med student Tri Dang Do, who created a Web page about sexually transmitted diseases (<http://med-www.bu.edu/people/sycamore/std/>). Targeted toward high school students, the page uses nonclinical language (the words "up the ass" instead of "anal intercourse," for instance) and includes graphic

medical photos.

"This information is necessary," he says. "Too many people have benefited from it to pull it."

Twenty-five years ago, the Court noted that a college campus is a "marketplace of ideas." In the coming months, it may be up to students and faculty to prove this is still the case.

James believes everyone has the right to free speech unless they've dated him.

** Robert Corn-Revere is a First Amendment lawyer.*

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CHRIS LANDERS, SENIOR,
CALIFORNIA STATE U.,
NORTHRIDGE

CDA Timeline

February 1996

Bill Clinton signs the Communications Decency Act (CDA) into law as part of the sweeping Telecommunications Bill. The act makes it a felony for anyone to knowingly provide "patently offensive" material to minors. Free-speech advocates declare the day "Black Thursday," and hundreds of Web pages are reversed to white type on a black background.

June 1996

A special panel of three federal judges in Philadelphia unanimously rules the CDA unconstitutional.

July 1996

The Department of Justice appeals the ruling. In a separate case, a three-judge panel in New York also rules against the CDA.

December 1996

The U.S. Supreme Court agrees to hear the CDA appeal.

January 1997

The Justice Department and family values groups file briefs supporting the CDA.

February 1997

The Citizens Internet Empowerment Coalition, the American Association of University Professors, the Student Press Law Center and many other individuals and organizations file briefs against the CDA.

March 1997

The Court hears oral arguments.

Summer 1997

A decision in the case is expected.