

# Court and sparks

The Supreme Court moves on two hotly contested issues: freedom of cyberspeech and doctor-assisted suicide

by Bob Roehr

**T**he U.S. Supreme Court issued two major decisions on June 26 which may have a significant impact upon lesbians and gay men.

In its first decision concerning the Internet, the nine-member court ruled as unconstitutional the federal Communications Decency Act, which sought to ban "indecent" speech in cyberspace.

In the landmark 7-2 decision written by Justice John Paul Stevens, the high court ruled that the CDA places an "unacceptably heavy burden on protected speech," that "threatens to torch a large segment of the Internet community." Justice Sandra Day O'Connor, with Chief Justice William Rehnquist, concurred with the judgment while dissenting in part along more narrow lines.

Stevens, meanwhile, compared the CDA to "burning the house to roast a pig."

The effect of the decision is to treat on-line communications more like speech and print—where First Amendment rights are virtually unlimited—than radio or television, where much tighter restrictions apply.

sex and risk management for a variety of sexual practices can breathe a bit easier now," he says.

**A** unanimous Supreme Court also ruled that state governments have the right to outlaw doctor-assisted suicides. Justices also refused to create a new constitutional right for mentally competent and terminally ill patients to get medical help to commit suicide.

The high court upheld laws from New York and Washington states barring doctor-assisted suicide, marking the first time the justices have ruled on the existing bans on doctor-assisted suicide.

In addition, the court overturned two precedent-setting rulings by U.S. appeals courts in California and New York that struck down as unconstitutional the state laws that make it a crime for physicians to assist in a suicide.

Chief Justice William Rehnquist wrote the main opinions in both cases.

"Legal physician-assisted suicide could make it more difficult for the state to protect depressed or mentally ill persons or those who are suffering



The Clinton administration backed the Communications Decency Act.

"The court has verified that our basic rights of free expression apply in cyberspace and to the vast Internet community," says Aki Namioka, president of the watchdog group Computer Professionals for Social Responsibility.

American Civil Liberties Union attorney Stefan Presser led the challenge to the CDA. "Essentially the Supreme Court took an idea from the 18th century, that is, free speech, and said it has enduring quality, and will extend it into the 21st century, because government will not be allowed to censor what's on the Internet," he says.

"The U.S. Supreme Court has ensured that the Internet remains a safe haven for queer and questioning youth," adds Jess Walsh, editor and publisher of Oasis ([www.oasismag.com/](http://www.oasismag.com/)), an on-line resource for sexual minority youth. "Oasis would have been a prime target of this legislation."

Kiyoshi Kuromiya is a Philadelphia gay and AIDS activist and director of Critical Path AIDS Project ([www.critpath.org/](http://www.critpath.org/)), a leading on-line source of AIDS information. He was a principle witness in the original trial.

"The sweeping restrictions of the CDA would have knocked the cornerstone out of the First Amendment guarantee of free speech, as applied to the Internet, for the next hundred years. We as providers of information on AIDS treatment, safer

from untreated pain from suicidal impulses," he writes. "The state also has an interest in protecting the integrity and ethics of the medical profession... Finally, the state may fear that permitting assisted suicide will start it down the path to voluntary and perhaps even involuntary euthanasia."

"People with AIDS have the right to make their own medical decisions, right up until the very end," says Catherine Hanssens, an attorney with the Lambda Legal Defense and Education Fund. "Courts should not stand in the way of people using assistance from a trusted physician to end suffering when remission or real improvement is not in the cards."

Daniel Zingale, executive director of the AIDS Action Council, adds, "Essentially, the Supreme Court has ruled against empowering people with terminal diseases, including HIV disease, to exercise their fundamental right to make individual decisions about how they live with their disease, including their right to freely choose in a dignified and humane way the manner and time of their death."

President Clinton, meanwhile, hailed the court's action.

"The decision is a victory for all Americans—it prevents us from going down a very dangerous and troubling path on this difficult and often agonizing issue," he said in a media statement.

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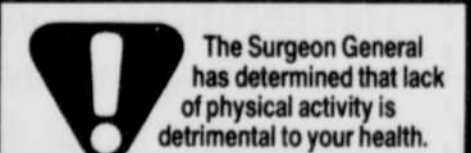
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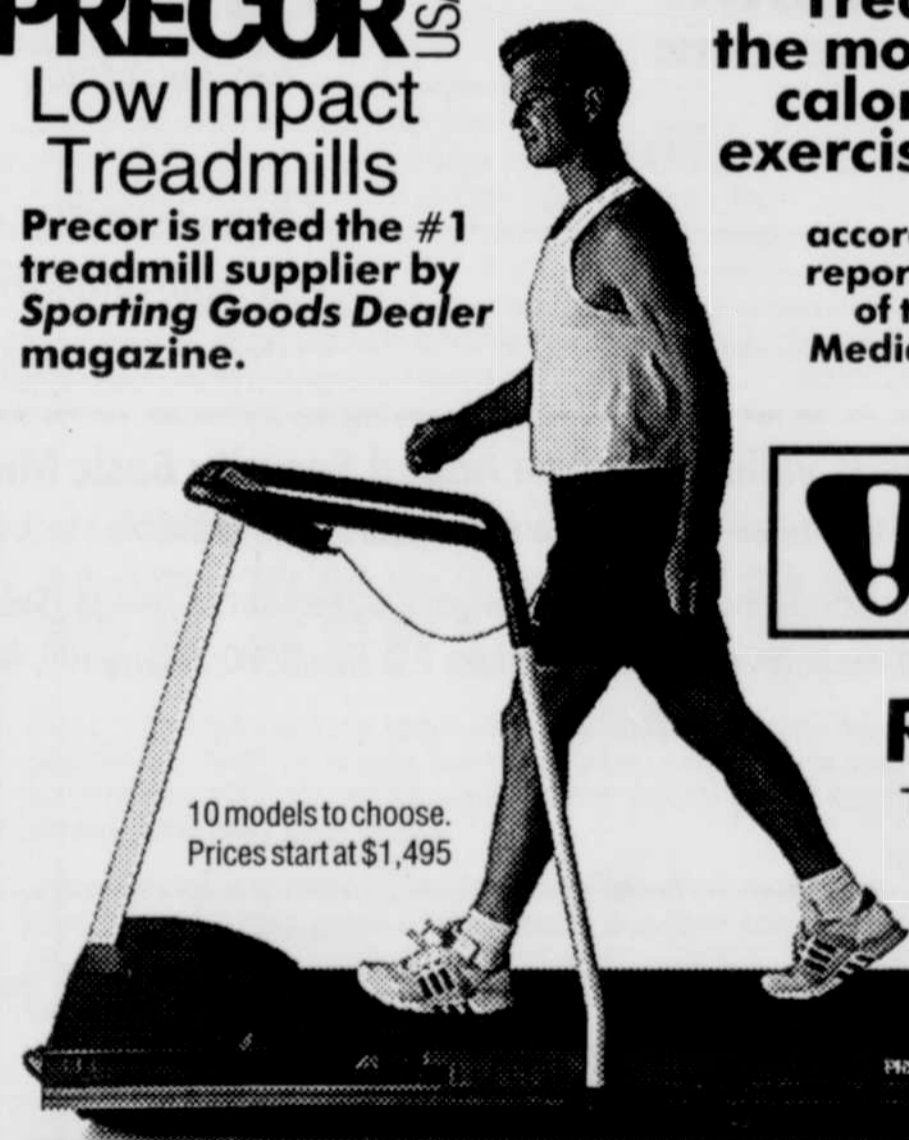
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