

Censorship of the Internet: The First Amendment Lost in Cyberspace

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Computer technology is changing faster than the laws governing it, raising the question of whether laws formulated to address conflicts arising in the "real world" are applicable to conflicts in "cyberspace." This question is particularly relevant to the debate over sexually explicit material on the Internet. This article argues that because the Supreme Court's current approach to the obscenity is not transferable to cyberspace, a different legal framework is necessary for dealing with "cybersmut."

Largely unheard of just a few years ago, the now popular terms "Internet" and "cyberspace" refer to that "decentralized, globally networked, computer-sustained, computer-accessed, and computer-generated multidimensional, artificial, or 'virtual' reality in which 'netizens' anywhere on the planet can send and receive information almost instantly simply by 'uploading' and 'downloading' text, pictures, sounds, and video" (Schlachter, 1993, 89). Unlike traditional modes of communication, computer networks provide speed, anonymity, ease of access, and the potential to reach an immense audience to any speaker, no matter how obscure or controversial, on any topic imaginable, making the Internet, in the words of one federal judge, "a unique and wholly new medium of worldwide human communication" (*American Civil Liberties Union v. Reno*, 1996, 844). In fact, Americans now spend as much time "surfing the Net" as they do watching rented videotapes (Lewis, 1995, D5). It is no wonder that the American Library Association has called the Internet "the most important thing that has happened to communications since the printing press" (Lewis, 1996, D2).

Clearly, we are witnessing a remarkable transformation in the communication process, but where is the "information superhighway" taking us? Some see the Internet as promising a new dawn in human communication and productivity (see Gates, 1993). They emphasize not only the boundless capacity of the Internet for the unbridled transfer and receipt of information, but also its distinctively interactive character, which allows ideas to grow and evolve. Others fear that the Internet is an overhyped threat to human values (see Stoll, 1995). Erik Barnouw, a media historian skeptical of the euphoria surrounding the Internet, warns that "the lesson of history is that every new medium provides new opportunities for selling as well as for education, for monopolists as well as for democracy, and for abuse as well as for benefit" (Lohr, 1996, E1). More

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