

PowerPoint® Slides to Accompany

***A Gift of Fire: Social, Legal, and
Ethical Issues for Computers and the
Internet***

(2nd Edition)

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A Gift of Fire

Freedom of Speech In Cyberspace

Changing Communications Paradigms

Offensive Speech and Censorship in Cyberspace

Anonymity

Spam

Ensuring Valuable and Diverse Content

Changing Communications Paradigms

Regulatory Paradigms

Communication technologies differ with respect to their degree of First Amendment protection and government regulation.

Print Media:

- Strongest First Amendment protection.

Broadcast Media:

- Less First Amendment protection than print media.

Common Carrier:

- Content not controlled and the carrier is not responsible for content.

Changing Communications Paradigms

Regulatory Paradigms (cont'd)

Internet, BBSs, commercial online services, and the WWW:

- Not exactly print media.
- Not exactly broadcast media.
- Not exactly common carrier.

Q: Who controls the distribution of news, information, and opinion at the online service you use? at the Web sites you frequent?

Changing Communications Paradigms

The First Amendment

Protects Citizens From Government

- Prohibits restriction of speech, press, peaceful assembly, and religion.

Subsequent Interpretations Address:

- Offensive and/or controversial speech and ideas,
- Spoken and written words,
- Pictures, art, and other forms of expression and opinion, and
- Commercial speech (e.g. advertising).

Q: Should all speech be constitutionally protected?

Offensive Speech and Censorship in Cyberspace

Speech Might Include:

- Political or religious speech.
- Pornography.
- Sexual or racial slurs.
- Nazi materials.
- Libelous statements.
- Abortion information.
- Alcohol ads.

Q: Identify other forms of speech found in cyberspace that some consider offensive.

Offensive Speech and Censorship in Cyberspace

Miller v. California

Material is considered obscene if all three parts are met:

1. It depicts sexual (or excretory) acts whose depiction is specifically prohibited by state law, and
2. It depicts these acts in a patently offensive manner, appealing to the prurient interest as judged by a reasonable person using community standards, and
3. It has no serious literary, artistic, social, political, or scientific value.

Q: Historically, how have local “community standards” affected censorship of speech in cyberspace?

Offensive Speech and Censorship in Cyberspace

Material Inappropriate for Children

Technology Changes the Context

- On the Web, children have access to the same 'adult' text, images, videos, etc. as adults.
- Online proprietors don't know the customer is not an adult.

Protecting Children

Regardless of the medium:

- It is illegal to create, possess or distribute child pornography.
- It is illegal to lure children into sexual activity.

Q: How should children be protected from access in cyberspace to adult material?

Offensive Speech and Censorship in Cyberspace

Censorship Laws

Communications Decency Act (CDA, 1996)

- Publicity and public pressure lead Congress to pass this act.
- Anyone who made available to anyone under 18 any communication that is obscene or indecent would be subject to a \$100,000 fine and two years in prison.
- In 1997, the CDA was ruled unconstitutional because it was too vague and too broad in protecting children online and because less restrictive means are available.

Q: Should content on the Internet have as much First Amendment protection as printed material?

Offensive Speech and Censorship in Cyberspace

Censorship Laws (cont'd)

Child Online Protection Act (COPA, 1998)

- Commercial Web sites that make available to minors materials “harmful to minors”, as judged by community standards would be subject to a \$50,000 fine and six months in jail.
- In 2000 and 2003, COPA was ruled unconstitutional by a federal court.

Q: How are children protected from “harmful” material outside of Cyberspace?

Offensive Speech and Censorship in Cyberspace

Censorship Laws (cont'd)

Children's Internet Protection Act (CIPA)

- Any school or library receiving federal Internet funds must install filtering software on all Internet terminals.
- Filters must block sites containing child pornography, obscene material, and any material deemed “harmful to minors.”
- A federal appeals court ruled a major part of CIPA unconstitutional in 2002 but the Supreme Court upheld the law in 2003.

Q: How does CIPA affect adults accessing online material at a public library that uses filtering software?

Offensive Speech and Censorship in Cyberspace

Limiting Internet Access in Libraries and Schools

Filtering Software

- Benefit: prevent access to inappropriate material on the Internet by screening words or phrases, blocking sites according to rating system, or disallowing access to specific sites in a list.
- Problems: can be ineffective—kids get around the filters; the words, phrases, rating systems, etc. are subjective; “banned” keywords can be overly restrictive for adult users and for legitimate use by minors.

Q: What has been your experience with filtering software?

Offensive Speech and Censorship in Cyberspace

Challenging Old Regulatory Paradigms and Special Interests

License required:

- To practice law.
- To publish traditional newsletters about commodities and futures investing (prior to 2000).

No license required:

- To create downloadable, self-help legal software.
- To publish newsletters about, developing software for, and operating Web sites concerning commodities and futures investing (since 2000).

Q: Is online advertising of wine free speech or disregard for the regulatory rights of state governments?

Offensive Speech and Censorship in Cyberspace

Censorship On the Global Net

Global Impact

- Avoiding censorship: the global nature of the Net allows restrictions (or barriers) in one country to be circumvented by using networks in other, less restrictive countries.
- Creating censorship: the global nature of the Net makes it easier for one nation to impose restrictive standards on others.

Q: Why are online gambling sites established offshore?

Anonymity

Common Sense and the Internet

- Early publications by some of our Founding Fathers were published under pseudonyms.
- Today, there are publications on the Net that are posted anonymously.

Q: What are the drawbacks of anonymous Web postings?

Anonymity

Is Anonymity Protected?

Conflicts between political freedom of speech and campaign regulations:

- Anonymity protects against retaliation and embarrassment.
- Anonymity violates rules established by the Federal Elections Commission (FEC)

Q: Should anonymous political speech on the Web be regulated?

Anonymity

Anonymity vs. Community

Supporters of anonymity:

- Say it is necessary to protect privacy and free speech.

Opponents of anonymity:

- Believe it is anti-social and allows criminals to hide from law enforcement.

Q: How is the practice of anonymity online similar/dissimilar to strong encryption?

Spam

What Is the Problem?

Unsolicited, mass e-mail:

- is cheap to senders but may impose costs on the recipient's time and/or the recipient's online account.
- may contain objectionable content (political, commercial ads, solicitations for funds, pornography, etc.).
- may contain a disguised return address.
- may pass through filters.
- invades privacy.
- creates a financial and managerial burden on ISPs.

Q: How do you handle spam?

Spam

Cases and Free Speech Issues

AOL v. Cyber Promotions

- AOL and other service providers have successfully sued spammers because of the cost burden imposed.

Disgruntled Intel Employee

- Initially, a court ruled that non-commercial spam to Intel employees at their Intel e-mail accounts was a form of trespass.
- The CA Supreme Court ruled that it was not.

Q: Is the forwarding of pre-written observations or opinions from human-rights groups spam or expressions of free speech? (Or both?)

Spam

Solutions

- Technology: filters that screen out spam.
- Market Pressure: services that list spammers.
- Business Policy: at the discretion of the recipient, all e-mail would be charged a microfee.
- Law: create restrictions that are consistent with the First Amendment.
- Vigilantism: punish spammers by hacking into their phone or computer systems.

Q: Which solution above, or others, do you support?

Ensuring Valuable and Diverse Content

Points to Consider:

- Is there a balance between commercial and educational information on the Web?
- Should diverse content on the Web be subsidized with taxes?
- Should valuable content on the Web be regulated?
- Do we need to ensure the existence of sites containing civic information?
- Are more sites that promote the arts and culture needed?

Q: How do we ensure valuable and diverse content in traditional forms of media?