

Technical architectures

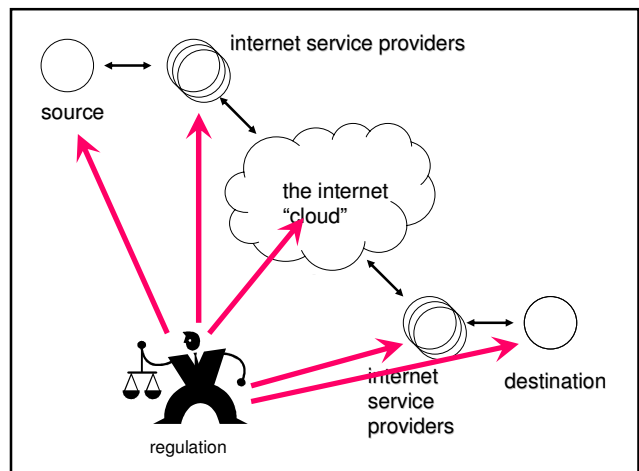
The Net increases complexity of technical systems and creates interactions with unintended consequences and technical challenges

Social/Policy architectures

The Net increases complexity of **social** systems and creates interactions with unintended consequences and **policy** challenges

Regulating speech

The Net increases complexity of **social** systems and creates interactions with unintended consequences and **policy** challenges

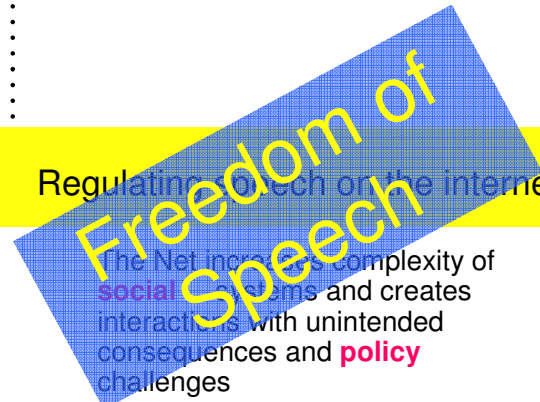


Regulating speech on the internet

The Net increases complexity of **social** systems and creates interactions with unintended consequences and **policy** challenges

Regulating speech on the internet

The Net increases complexity of **social** systems and creates interactions with unintended consequences and **policy** challenges



The First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

7

University of Michigan, 1989

Under penalty of sanctions, members of the university community may not stigmatize or victimize individuals or groups on the basis of race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age, marital status, or handicap.

8

Doe v. University of Michigan

While the Court is sympathetic to the University's obligation to ensure equal educational opportunities for all of its students, such efforts must not be at the expense of free speech.

-- US District Judge Avern Cohn, Sept. 22, 1989

9

Miller Test

Legal definition of obscenity

- Whether the work depicts/describes, in a patently offensive way, sexual conduct specifically defined by applicable state law,
- and
- Whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest,
- and
- Whether the work, taken as a whole, lacks serious scientific, literary, artistic, or political value.

US Supreme Court, *Miller v. California* (1973)

10

February, 1994

*The nastiest
place on earth*



Georgetown Law Journal, June 1995

Marketing Pornography on the Information Superhighway:
 A Survey of 917,410 Images, Descriptions, Short Stories, and Animations Downloaded 8.5 Million Times by Consumers in Over 2000 Cities in Forty Countries, Provinces and Territories Marty Rimm [4]

The market leader among "adult" BBS, Amateur Action BBS, ...

As Am... computer literate, they are discovering an unusual and exploding repertoire of pornographic imagery on computer networks [2] Every time consumers log on, their transactions assist pornographers in compiling databases of information about their buying habits and sexual tastes. The more sophisticated computer pornographers are using these databases to develop mathematical models to determine which images they should try to market aggressively. They are paying close attention to all forms of paraphalia, including... bestiality, and urophalic images, believing these markets to be among the most lucrative. They are... to advertise their products and maintaining detailed records of which...

83.5% of all images posted on the Usenet are pornographic.

In addition... had access to... the past few years, however, pornographers have... distribution channels they offer to penetrate markets throughout the world where... has been historically restricted, including China, Saudi Arabia, Malaysia and Turkey [3]

Computer pornographers are also moving from a market saturation policy to a market segmentation, or even individualized, marketing phase. Until now, most have saturated customers with tens of thousands of images, reasoning that their customers would inevitably find material that they liked. However, few customers have the

Communications Decency Act (Feb. 1996)
"Display provision"

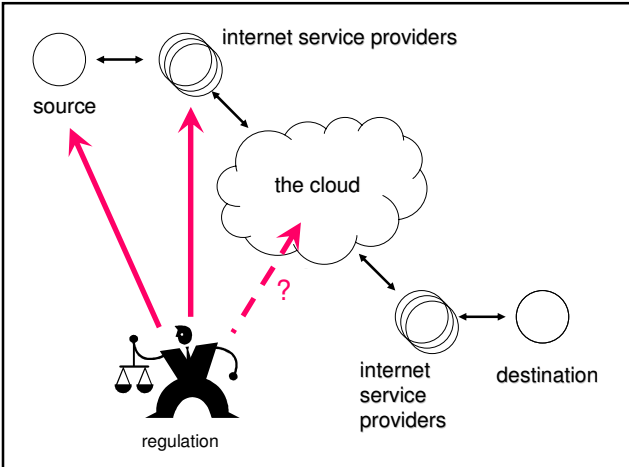
Whoever ...

(1) in interstate or foreign communications knowingly ... uses any interactive computer service to **display in a manner available to a person under 18 years of age**, any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms **patently offensive as measured by contemporary community standards**, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication; or...

Communications Decency Act (Feb. 1996)
"Display provision"

(2) **knowingly permits any telecommunications facility under such person's control** to be used for an activity prohibited by paragraph (1) ...

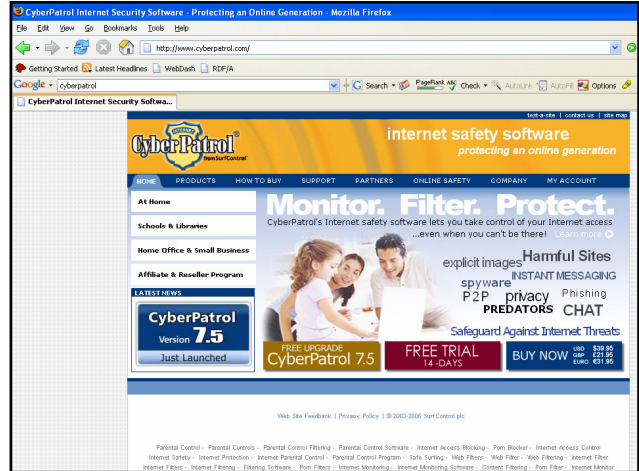
shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.



Communications Decency Act (Feb. 1996)

- Policy: It is the policy of the United States to ... remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material...

17



Communications Decency Act (Feb. 1996)

- Protection for 'Good Samaritan' Blocking and Screening of Offensive Material:

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

19

Defamation

Statement that is

1. False
2. Communicated to a 3rd party
3. Causes damage

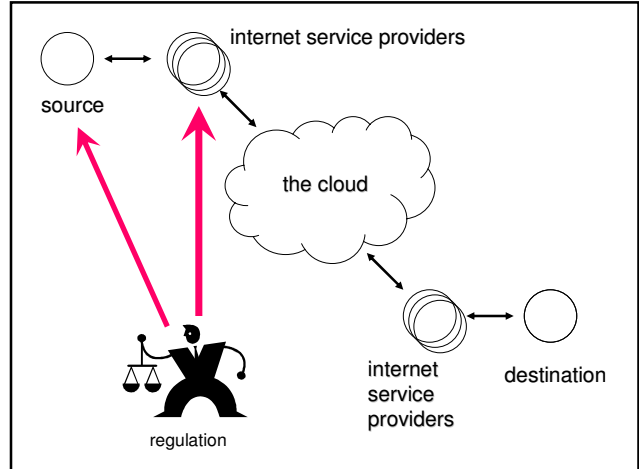
- Slander = oral
- Libel = written

20

Cubby v. CompuServe (1991)

“...CompuServe, as a news distributor, may not be held liable if it neither knew nor had reason to know of the allegedly defamatory Rumorville statements ...”

21



Stratton-Oakmont v. Prodigy (1995)

PRODIGY has uniquely arrogated to itself the role of determining what is proper for its members to post and read on its bulletin boards.

Based on the forgoing, this Court is compelled to conclude that for the purposes of plaintiffs' claims in this action, PRODIGY is a publisher rather than a distributor.

- New York State Supreme Court

23

Reno v ACLU (1997)

In order to deny minors access to potentially harmful speech, the **CDA** effectively **suppresses** a large amount of **speech that adults have a constitutional right to receive and to address to one another.**

Moreover, the "**community standards**" **criteria as applied to the Internet** means that any communication available to a nation wide audience will be judged by the standards of the community most likely to be offended by the message.

- US Supreme Court

24

ACLU v Reno (1996)

... the Internet may fairly be regarded as a never-ending worldwide conversation. The Government may not, through the CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion.

-- US District Judge Stewart Dalzell

25

April, 1995

Call Ken



The remains of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, destroyed by a terrorist truck bomb on April 19, 1995.

David Glass—AP/Wide World Photos

Communications Decency Act (Feb. 1996)

- Protection for 'Good Samaritan' Blocking and Screening of Offensive Material:

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

28

Communications Decency Act

- Enacted in 1996
- Display provision
 - Struck down by Reno v. ACLU in 1997
- Good Samaritan provision
 - Remains law: 18 USC section 230

29

Zeran v. AOL (1997)

... [the Good Samaritan provision] precludes courts from entertaining claims that would place a computer service provider in a publisher's role. Thus, **lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions -- such as deciding whether to publish, withdraw, postpone or alter content -- are barred.**

30

