

CSE312/ISE312

Gift of Fire, Fourth edition by Sara Baase

Read: Section 3.1-3.2

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What We Will Cover

- Impact of freedom of speech principles on the Internet
- Communication Paradigms
- Controlling Speech



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."

A restriction on the power of government

Criticism of the government and distasteful ideas are generally permitted

> How do these rights compare to those in other countries?

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First Amendment Rights

- New media raise the New means of publication possibility of new forms of censorship
 - Web pages
 - Blogs (hundreds of millions today)
 - No editors or publishers
- Freedom of speech rights are often balanced with other rights (e.g., property, fair campaigns)

Do you see examples of attempts at censorship?

Is the explosion of unedited sources of news causing any problems?



Communication Paradigms

Regulating communications media

- First Amendment protection and government regulation
 - Print media (newspapers, magazines, books)
 - Broadcast (television, radio)
 - Common carriers (telephones, postal system)

Strongest protection

Do differing restrictions on each media seem logical to you?

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Communication Paradigms

Relatively immune to censorship

suits

Telecommunication Act of 1996

- Changed regulatory structure
- Removed restrictions on services that telephone companies can provide.
- No provider or user of interactive computer services shall be treated as a publisher of any information provided by another informationcontent provider.
- Title V of the Act is Communications Decency Act (CDA) outlines regulations concerning obscene material



Free Speech Guidelines

- Advocating illegal acts is legal (distinguish speech from action)
 Used by courts to determine
- Does not protect libel if legislation is constitutional
- Direct, specific threats and Inciting violence is illegal
- Allow some restrictions on advertising (e.g., cigarette ads)
- Protect anonymous speech
- "Chilling effect" laws are generally unconstitutional
- Solve speech problems by least restrictive means

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Candidates for Offensive Speech

- Political or religious speech
- Pornography
- Racial/sexual slurs
- Abortion or anti-abortion information
- Depictions of violence
- Information on how to build bombs
- Reporting of emergencies (and how the government handled them)
- Recording or distributing video acts of violence

So you think there should be limits on any of these?

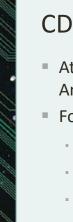


Obscenity

- Supreme Court guidelines (1973) rule that obscenity
 - Depicts a sexual act against state law,
 - Depicts these acts in a patently offensive manner that appeals to prurient interest as judged by a reasonable person using community standards, and
 - Lacks literary, artistic, social, political or scientific value
- Internet changes practicality of community standard principle What do you consider a

"community?"

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CDA

- Attempted to avoid conflict with First Amendment by focusing on children
- Found to be unconstitutional:
 - Material threatening children already illegal
 - Too vague and broad
 - Did not use the least restrictive means of accomplishing the goal of protecting children
- Court ruled that the Internet "deserves the highest protection from government intrusion"
- Filtering SW provided a less restrictive means



Children's Internet Protection Act

- CIPA
- Enacted in 2000
- Requires schools and libraries that participate in certain federal programs to install filtering software
- Upheld in court:
 - Does not violate First Amendment (does not require the use of filters, impose jail or fines)
 - Sets a condition for receipt of certain federal funds

Corresponding page number:



Filtering Software

- Blocks sites with specific words, phrases or images
- Parental control for sex and violence
- Updated frequently but may still screen out too much or too little
- Not possible to eliminate all errors

What are your experiences with filter software? Especially in libraries?



Video Games

- A California law banned sale or rental of violent video games to minors.
- In 2011, the Supreme Court of California ruled it violated the First Amendment.

Do you think there should be some form of video game censorship?

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Alternatives to Censorship

- Policies
 - Commercial services, online communities, and social networking sites develop policies to protect members.
 - Video game industry developed rating system that provides an indication for parents about the amount of sex, profanity, and violence in a game.



Controlling Speech

Discussion Question

- Why is 'least restrictive means' important?
- Do you consider the Internet an appropriate tool for young children? Why or why not?

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Child Pornography

- Includes pictures or videos of children under 18 engaged in sexually explicit conduct
- Production is illegal primarily because of abuse of children involved in production of material, not because of the impact to the viewer
- Congress extended the law against child pornography to include "virtual" child pornography
- The Supreme Court ruled the law violated the First Amendment
- The Court accepted a later law providing harsh penalties for certain categories of computergenerated and cartoon-type images



Sexting

- Sending sexually suggestive or explicit text or photos, usually by cellphone or social media
- Different view of child pornography since the issuer is typically under 18
- Can meet the definition of child pornography if subject is under 18

Should penalties for under 18 sexting be greatly reduced compared with child pornography (e.g., misdemeanor)?

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Spam

- What's the problem?
 - Loosely described as unsolicited bulk email
 - Mostly commercial advertisement
- Free speech issues
 - Spam imposes a cost on recipients (but not damage)
 - No injunction against spammers
 - Spam filters OK (does not require anyone to listen)
- Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM Act)
 - Targets commercial spam
 - Requires opt-out and bans deception
 - Criticized for not banning all spam, legitimized commercial spam