


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

Corresponding page number: 133



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 means of publication
 - 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)
 - New media raise the possibility of new forms of censorship
 - Do you see examples of attempts at censorship?
 - Is the explosion of unedited sources of news causing any problems?

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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

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 information-content provider.
- Title V of the Act is Communications Decency Act (CDA) outlines regulations concerning obscene material

Relatively immune to censorship suits

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Free Speech Guidelines

- Advocating illegal acts is legal (distinguish speech from action) Used by courts to determine if legislation is constitutional
- Does not protect libel
- 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?

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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

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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

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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?

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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.

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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 computer-generated and cartoon-type images

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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

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