

A GIFT OF FIRE THIRD EDITION - SARA BAASE

CHAPTER 3: Technology & Free Speech

Lecture 1

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Changing paradigms

❑ Regulatory paradigms

- Communications technologies differ with respect to constitutional protections
- Also with respect to government regulation

❑ The traditional three-part framework

- Print media (Newspapers, magazines)
- Broadcast media (Television, radio)
- Common carriers (Telephone, telegraph, and the postal system)

Changing paradigms

- ❑ Print media (Newspapers, magazines)
 - Has the strongest protections for free speech
- ❑ Broadcast media (Television, radio)
 - Has protections, but govt controls structure of industry + content
 - E.g. Canadian content regulations, restriction of some words
- ❑ Common carriers (Telephone, ISPs?)
 - Content not controlled and carrier not responsible for content

Changing paradigms

- ❑ Consider new technologies of the past 20 years
 - Bulletin-board systems (BBS)
 - World Wide Web
- ❑ How do these fit into the “print-broadcast-carrier” framework?
 - Not exactly print media
 - Not exactly broadcast media
 - Not exactly common carrier

Offensive Speech

Examples of such speech can include

- ☐ Political or religious speech
- ☐ Pornography
- ☐ Sexual or racial slurs
- ☐ Nazi (or White Supremacist) materials
- ☐ Libellous (false and damaging) statements
- ☐ Abortion information
- ☐ Alcohol advertisement

Censorship

- ❑ Censorship is the suppression of speech, public communication, or other information.
- ❑ This may be done on the basis that such material is considered objectionable, harmful, sensitive, or "inconvenient".
- ❑ Censorship can be conducted by governments, private institutions and other controlling bodies.
- ❑ Governments and private organizations may engage in censorship. Other groups or institutions may propose and petition for censorship.
- ❑ General censorship occurs in a variety of different media, including speech, books, music, films, and other arts, the press, radio, television, and the Internet for a variety of claimed reasons including national security, to control obscenity, pornography, and hate speech, to protect children or other vulnerable groups, to promote or restrict political or religious views, and to prevent slander and libel.

Offensive speech & censorship

- ❑ One approach used in the US
 - Limit Internet access in libraries and schools.
 - Accomplish this via “filtering software”
 - “Funding” control (any school or library receiving US federal funds must install such software on internet terminals)
- ❑ Example: Canadian company • Useful.com (Calgary)
- ❑ software does much, much more than just web filtering
- ❑ Is CIPA compliant
- ❑ Filters block sites containing child pornography, obscene material, anything deemed “harmful to minors”

Hate Speech

- ❑ Racist and hateful comments are offensive...
 - but not necessarily illegal.
- ❑ “hate speech” loosely refer to offensive discourse targeting a group or an individual based on inherent characteristics - such as
 - race,
 - religion or
 - gender - and that may threaten social peace.
- ❑ A judge has the authority to order removal of hate propaganda from a computer system available to public.

Hate Speech

- ❑ Canadian Human Rights Act
- ❑ Section 13: Applies to e-mail, web sites, and any other telecommunications activity.
- ❑ Prohibits messages likely to expose a person to hatred or contempt on any one of several categories.
 - Race
 - national or ethnic origin
 - Colour
 - Religion
 - Age
 - sexual orientation
 - marital status
 - family status
 - Disability
 - conviction for which a pardon has been granted

Challenges to Regulation

- ❑ For certain kinds of activity, a licence is required:
 - To practice law
 - To practice medicine (e.g., prescribe medication)
 - To practice engineering
 - To offer financial advice (e.g., investing in equities, futures, commodities)
- ❑ For other kinds of activity, no licence is required
 - To create downloadable, self-help legal software.
 - To publish newsletter / website about, or develop software for commodities and futures investing.

Censorship & the global net

- ❑ Internet technology has a global impact on free speech
- ❑ Can be used to avoid censorship
 - Global nature of Internet allows restrictions in one country to be circumvented by using networks in other, less restrictive countries. Such sites are usually posted in the US.
- ❑ Can be used to establish censorship
 - Global nature of Internet makes it easier for one nation to impose restrictive standards on others.
- ❑ eBay bans some items for sale (i.e., hate-group memorabilia) because of different cultural standards in different countries.

Thank You