

# A Gift of Fire

## Chapter 3

### Freedom of Speech

FREEDOM

# What We Will Cover

- Changing Communication Paradigms
- Controlling Offensive Speech
- Censorship on the Global Net
- Anonymity

# Changing Communication Paradigms

## Regulating Communications Media:

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

# Changing Communication Paradigms

## **Telecommunication Act of 1996:**

- Changed regulatory structure and removed artificial legal divisions of service areas and restrictions on services that telephone companies can provide
- No provider or user of interactive computer service shall be treated as a publisher of any information provided by another information- content provider

# Changing Communication Paradigms

## The First Amendment:

- Written for offensive and/or controversial speech and ideas
- Restriction on the power of government, not individuals or private businesses

# Controlling Offensive Speech

## What is it? What is illegal?

- Answer depends on who you are
- Many efforts to censor the Internet with a focus on child pornography or sexually explicit material



# Controlling Offensive Speech

## What was already illegal?

- Obscenity
  - Depicts a sexual act against law
  - Depicts these acts in a patently offensive manner that appeals to prurient interest as judged by a reasonable person using community standards
  - Lacks literary, artistic, social, political or scientific value

# Controlling Offensive Speech

## Internet Censorship Laws & Alternatives:

- Communication Decency Act (CDA)
  - Federal judge stated that the Internet is the most participatory form of mass communication
  - Attempted to avoid conflict with first amendment by focusing on children
  - The Internet deserves the highest protection from government intrusion



# Controlling Offensive Speech

## Internet Censorship Laws & Alternatives:

- Communication Decency Act (CDA)
  - Found to be unconstitutional:
    - The worst material threatening children was already illegal
    - It was too vague and broad
    - It did not use the least restrictive means of accomplishing the goal of protecting children

# Controlling Offensive Speech

## Internet Censorship Laws & Alternatives:

- Child Online Protection Act of 1998 (COPA):
  - Federal crime for commercial web sites to make available to minors harmful material by FCC standards
  - Found to be unconstitutional:
    - Government did not show that COPA was necessary to protect children
    - Child Online Protection Commission concluded that less restrictive means, filtering, was superior to COPA

# Controlling Offensive Speech

## Internet Censorship Laws & Alternatives:

- Filters
  - 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 should be blocked?

# Controlling Offensive Speech

## Internet Censorship Laws & Alternatives:

- Children's Internet Protection Act of 2000 (CIPA):
  - Requires schools and libraries that participate in certain federal programs to install filtering software
  - Upheld in court:
    - Does not violate First Amendment since it does not require the use of filters, impose jail or fines
    - It sets a condition for receipt of certain federal funds

# Controlling Offensive Speech

## Spam:

- What's the problem?
  - Loosely described as unsolicited bulk email
  - Mostly commercial advertisement
  - Angers people because content and the way it's sent
- Free speech issues
  - Spam imposes a cost on others not protected by free speech
  - Spam filters do not violate free speech (free speech does not require anyone to listen)

# Censorship on the Global Net

## Global Impact of Censorship

- Global nature of the Internet protects against censorship (banned in one country, move to another)
- May impose more restrictive censorship (block everything in an attempt to block one thing)
- Yahoo and French censorship
  - Yahoo, eBay and others make decisions to comply with foreign laws for business reasons

# Censorship on the Global Net

## Censorship in Other Nations:

- Attempts to limit the flow of information on the Internet similar to earlier attempts to place limits on other communications media
- Some countries own the Internet backbone within their countries, block at the border specific sites and content
- Some countries ban all or certain types of access to the Internet

# Censorship on the Global Net

## Aiding Foreign Censors:

- Companies who do business in countries that control Internet access must comply with the local laws
- Google argued that some access is better than no access



# Anonymity

## Anonymity and the Internet:

- Anonymity protected by the constitution
- Services available to send anonymous email (Anonymizer.com)
- Anonymizing services used by individuals, businesses, law enforcement agencies, and government intelligence services

# Anonymity

## Against Anonymity:

- Fears
  - It hides crime or protects criminals
  - Glowing reviews (such as those posted on eBay or Amazon.com) may actually be from the author, publisher, seller, or their friends
- U.S. and European countries working on laws that require ISPs to maintain records of the true identity of each user and maintain records of online activity for potential use in criminal investigations