Disclaimer!
Traditionally:

Today's standards:
Access to Information: Youth and Pornography
Topics

- Controversies that led up to the act
- Social and psychological issues and effects of Internet pornography
- The Act itself (CDA, not what you’re thinking about…)
- Life and law after CDA
Controversies that led up to the act
The Internet → The Abundance of Porn...

- Fast
- Seemingly limitless
- Widespread
- Cheap
- Anonymous
- P2P interactions
- Multimeda
Technologies Allowing the Sharing of Inappropriate Material

- Web sites
- Email
- Instant Messaging
- Usenet (a bulletin board system, precursor to the internet forum)
- Peer to Peer (P2P) sharing (examples: bittorrent, kazaa)
- Mobile Devices

New technologies = Inappropriate material pushed onto children through the internet
Adult Traffic Marketing Techniques

- Email
- Prominent ads on search engines (Google ads)
- Domain names based on common misspellings of non-sexual Web site addresses
- Using expired domain names that had many visitors
- Advertising/Exit traffic from other sites
- Mailing list subscription
- Print media/TV/radio advertising
- Advertise with cooperating partners
The Adult Entertainment Industry

- Generated $3.5 billion in 2000
- Generated $5 billion in 2001
- $14.7 Billion in revenues annually
- 400,000 pay to access sites
- 10,000 firms in the adult entertainment industry
- 20 to 30% of traffic is children (under the age of 18)
Social and psychological issues
Problems with studying the influence of pornography

- Analyses rely on statistics or case studies
- Statistics are easily misrepresented and do not imply causation
- Children are difficult to get accurate information from
- Cultural prejudices guide certain types of research
- Lack of empirical definitions for pornography
Examples of statistical data

Sexual violence in Playboy and Penthouse magazines
- One study showed an increase from 1% to 5% throughout the 1970's
- Another showed that pictures and cartoons were extremely rare and decreasing over 30 years

X-rated videos
- One study – 51% of all videos depict rape of women
- Another showed far less and decreasing amounts
- Women perpetrators of violence in 65%, 49% and 42% in magazines, internet, and video, respectively
Erotica, degrading pornography, violent pornography

- Problematic -
  - Individual interpretations of depictions by researchers, with large statistical variations
  - Unknown spontaneous perception of content
  - Inability to distinguish antecedents and consequences
“Industry of Misogyny”

- Label pushed by anti-porn feminists, religious institution of monogamy
- Does not take into account gay porn, solo porn, women-produced porn, etc.
- Does not distinguish effects of different types of pornography
- Attempts to further the belief that the porn industry is run by organized crime rings

"It's a far different criticism to note that porn is sexist. So are all commercial media. That's like tasting several glasses of salt water and insisting only one of them is salty. The [only] difference with porn is that it is people making love, and we live in a world that cannot tolerate that image."

-Susie Bright, Sexwise
Social attitudes/personality traits

- Bogaert 1993
  - No evidence of correlation between sexual and social attitudes and preference for violent pornographic videos
- Barak 1999
  - No association of men's social desirability, sensation seeking, attitudes toward women, rape myth acceptance, hypermasculinity, erotophobia/philia with pornography use
- Men with egalitarian attitudes toward women are most likely to seek explicit sexual materials
Exposure to pornography does not alter perceptions
Men exhibiting hostile masculinity, promiscuity and high pornography use reported history of sexual aggression toward women
Enforced exposure studies do not accurately simulate porn-watching habits and synergistic effects of antecedents
1986 Study

**Fig. 8**

Bar chart showing attitudinal changes in acceptance of various pre- and extramarital sex scenarios after exposure treatment.

- Control vs. Exposure
- Acceptance of pre- and extramarital sex
- Acceptance of nonexclusive sexual intimacy
- Acceptance of myth of health risks from sexual repression
- Acceptance of women's sexual servitude

(One week after exposure treatment)
"There have been drops in crime, drops in teen pregnancy, increases in the number of kids who say they're virgins, declines in various kinds of victimization and less running away. You have to hold that image on one hand as you're confronting all of the things that are happening online." - sociologist David Finkelhor, PhD, director of the University of New Hampshire's (UNH) Crimes Against Children Research Center
Cultural conflicts

- Hypersexualized media mixed with conservative social expectations
- 1st Amendment free speech vs. “family values”
  - Parental vs. governmental regulation
- Abstinence-only vs. comprehensive sex ed
- Church/State conflicts
- Variety of professional opinion

"We have to tailor the messages to reflect our understanding that for many people, sex is not a bad thing or a thing that is ridden with guilt, but as a more positive and less negative experience, for some of these young people, than other things in their lives.” - Lydia A. Shrier
The Act
The Exon-Communications Decency Act stands for the simple premise that it is wrong to provide pornography to children just as it is wrong to do it on a street corner or anywhere else.

-Senator Jim Exon (D-Nebraska)
• Violated free speech
• Vague term “indecency”
• Too narrow
• Unnecessary control
• Already Present Safeguards

“Plaintiffs have established a reasonable probability of eventual success in the litigation by demonstrating that §§ 223(a)(1)(B) and 223(a)(2) of the CDA [HN5] are unconstitutional on their face to the extent that they reach indecency. Sections 223(d)(1) and 223(d)(2) of the CDA are unconstitutional on their face. Accordingly, plaintiffs have shown irreparable injury, no party has any interest in the enforcement of an unconstitutional law, and therefore the public interest will be served by granting the preliminary injunction. The motions for preliminary injunction will therefore be granted.”

- District Judges Sloviter, Buckwalter, and Dalzell
Controversy surrounding the Reno decision

<table>
<thead>
<tr>
<th>Supportive of Reno v. ACLU</th>
<th>Against Reno v. ACLU decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Media/ Media Law</td>
<td>• Parents and other constituents</td>
</tr>
<tr>
<td>• Cyberspace users</td>
<td>• Some Senators and Representatives (Representative Frank Fitzgerald, Senator Dan Coats)</td>
</tr>
<tr>
<td></td>
<td>• Radio and television</td>
</tr>
</tbody>
</table>
Life and law after the CDA
§ 230 of CDA

of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

`(2) CIVIL LIABILITY— No provider or user of an interactive computer service shall be held liable on account of—

`(A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

`(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

`(d) EFFECT ON OTHER LAWS—

`(1) NO EFFECT ON CRIMINAL LAW— Nothing in this section shall be construed to impair the enforcement of section 223 of this

from CDA’s literature: http://www.fcc.gov/Reports/tcom1996.txt
**Court Cases**

  - eBay's immunity was **upheld** for claims based on forged autograph sports items purchased on the auction site.

  - Immunity **upheld** against claims of fraud and money laundering. Google was not responsible for misleading advertising created by third parties who bought space on Google's pages. The court found the creative pleading of money laundering did not cause the case to fall into the crime exception to Section 230 immunity.

  - The court **upheld** immunity against state claims of negligence based on "chat room marketing" of obscene photographs of minor by a third party.

- *Doe v. MySpace*, 528 F.3d 413 (5th Cir. 2008).[15]
  - The court **upheld** immunity for a social networking site from negligence and gross negligence liability for failing to institute safety measures to protect minors and failure to institute policies relating to age verification. The Does' daughter had lied about her age and communicated over MySpace with a man who later sexually assaulted her. In the court's view, the Does' allegations, were "merely another way of claiming that MySpace was liable for publishing the communications."
“John Seigenthaler Sr. was the assistant to Attorney General Robert Kennedy in the early 1960s. For a short time, he was thought to have been directly involved in the Kennedy assassinations of both John, and his brother, Bobby. Nothing was ever proven.


He started one of the country's largest public relations firms shortly thereafter.”

December 5, 2005 - Appeared on CNN and criticizes Wikipedia and congress for passing §230

“When I explained that it was speech protected by section 230 of the CDA and that these defamers were hiding behind veils of anonymity and virtually untraceable IP numbers there was astonishment.”

-John Seigenthaler, April 13, 2007
• 22 year old Boston med student
• Arranged meeting with a masseuse, robbed, beat, and killed her
• Suffolk County District Attorney Daniel Conley said authorities searching Markoff's home in Quincy found a semiautomatic weapon, restraints and duct tape — evidence he called "critical, powerful."

http://www.msnbc.msn.com/id/30314735/
THE RELIGIOUS RIGHT AND INTERNET CENSORSHIP

by Jonathan Wallace jw@bwav.net

This article first appeared in the May issue of Freedom Writer, a publication of the Institute for First Amendment Studies.

A trial taking place in Philadelphia now will determine the constitutionality of the Communications Decency Act (CDA), a federal law passed last fall which criminalizes the online ‘depiction or description’ of sexual acts and organs. By its terms, the CDA permits regulation of electronic text far beyond what is permissible for books and magazines under the First Amendment. In the back of the courtroom, representatives of the religious right, such as ex-prosecutor Bruce Taylor of the National Law Center for Children and Families, are monitoring each day of the trial with intense interest.

Why are they there? Not only is the CDA an extension of the religious right’s campaign to dictate moral standards in traditional media, the CDA itself is a creature of the religious right, which had a hand in sculpting it, lining up politicians to support it, and then supplying them with the ammunition they needed to get it passed.

Soon after the Republicans released their Contract with America, the Christian Coalition responded with its Contract with the American Family; item 10 called for strict regulation of the Internet to protect minors against sexual material. Bruce Taylor responded to the Christian Coalition’s call. Taylor prosecuted more than sixty obscenity cases during his tenure with the Department of Justice, before leaving to become Executive Director of the National Law Center for Children and Families. Working behind the scenes advising Nebraska Senator James J. Exon, a conservative Democrat who had made the issue of Internet indecency his own, Taylor helped draft the CDA, first introduced by Exon during 1994. The bill expired that year but succeeded in becoming law in 1995, after the election of a Republican majority with ties to the religious right.

On June 12, 1995, the Senate initiated debate on the CDA with a prayer by the Senate chaplain, Dr. Lloyd John Ogilvie: "Almighty God, Lord of all life, we praise You for the advancements in computerized communications that we enjoy in our time. Sadly, however, there are those who are littering this information superhighway with obscene, indecent, and destructive pornography." Senator Patrick Leahy of Vermont, foremost adversary of the CDA, later commented that the Chaplain should "allow us to debate these issues and determine how they come out and maybe pray for our guidance, but allow us to debate them. He may find that he has enough other duties, such as composing a prayer each morning for us, to keep him busy."

The entire Senate debate, spearheaded by Senator Exon and Republicans Dan Coats and Charles Grassley, was informed by the sensibilities of the religious right. The Senators read letters from the Christian Coalition and from Bruce Taylor into the record. More significantly, they flaunted statistics from the notorious Marty