

SCOUTS-L

**INTERNET ISSUES &
COMMUNICATIONS
DECENCY ACT
DEBATE**

Date: Fri, 9 Feb 1996 12:52:10 -0500
From: "Norman J. MacLeod" <gaelwolf@SSNET.COM>
Subject: Re: Telecommunications Law

Hugh -

You wrote -

> Already one message has been posted here to encourage acts of protest
> against the signing. It seems to me that those who protest must be FOR
> transmitting indecent material to minors. A Scouting forum doesn't
appear to
> be the proper place for such advocacy.

As I understand the argument, it's not so much about the idea of transmitting such materials, but rather the issue is over the very vague wording of the section in question. Wording so vague that it can be taken to say just about anything anybody would want it to. Wording that could be extended to other subject areas and lead to very real censorship in other subject areas...

It also makes service providers responsible for what their customers transmit, which is a concept that we can easily see leading to the destruction of the small service providers who cannot afford to hire people to watch over the customers. Not to mention that such oversight would be so expensive that your service providers and mine would have to significantly raise their rates.

I have no problem with the individual customer being responsible for what he or she transmits, but I do have a problem with the service provider being held equally responsible and liable for the criminal actions of others.

A lot of folks see this section as being unconstitutional, and, on the surface, it seems to me that it may be so.

With the laws already in place and the availability of software to control access to internet services from your home or business system, perhaps this section of the Telecommunications Law ought not be there. Parental responsibility and control should come into this instead of a governmental blanket, in my own personal opinion...

But then, I don't know all that much about constitutional law...

Norman

Date: Fri, 9 Feb 1996 12:54:00 +0000
From: "Jim Miller Jr." <jmillerjr@LSFCU.ORG>
Subject: Re: Telecommunications Law

J. Hugh Sullivan<sullivan@NETAM.NET> wrote:

>I have not read the full text of the bill which Clinton signed but the local
>paper states that it "outlaws transmission of indecent and other sexually
>explicit materials to minors over computer networks" and requires tv
>manufacturers to install a zap chip.

Hugh, I first suggest you read the entire bill, especially section 507. The "minors" language has been eliminated entirely by that section. The bill, as written, (and as today admitted by President Clinton) is unconstitutional. Within hours of the bill being signed, the ACLU had filed for a restraining order (ACLU et.al. v Janet Reno). The brief is at <http://www.aclu.org/court/cdacom2.html>

Folks, this is draconian Big-Brotherism at it's worst.

A fuller analysis of the provisions can be found on The Indecency Page (<http://ctr.umkc.edu/userx/bhugh/indecent.html>), but here are the main ways Section 507 goes beyond Section 502:

1. Section 507 makes it a crime to VIEW an indecent site. Section 502 had only made the person who posted the site liable; now anyone who knowingly views an indecent site is a criminal, too. It provides for up to two years of imprisonment.
2. Section 507 takes it beyond the bounds of the United States. Anyone who views a site in the U.S. or elsewhere is liable for prosecution (the code specifically mentions "import" of indecent material).
3. Section 507 dispenses with the rationale found in Section 502 that regulating these items is for the protection of children. Anyone who distributes an "obscene, lewd, lascivious, or filthy" item or "other matter of indecent character" over a computer service is culpable, even if only adults are allowed to view it.

4. Section 507 bans information about how to perform an abortion or how to find someone who performs abortions. This is odd, because abortion is, of course, completely legal in the U.S.

Orwell was apparently only off by 12 years.

**Date: Sat, 10 Feb 1996 19:22:43 -0500
From: "LaDonna L. Albert" <LHAFOXY@aol.com>
Subject: Re: Telecommunications Law**

I certainly agree with the premise that Scout forums should not have any opposition to banning sexually implicit or other pornographic or vulgar materials on-line to kids. I wonder if the council that the person who opposes the law knows of their stance on the subject!

**Date: Sat, 10 Feb 1996 13:08:36 -0600
From: "J. Hugh Sullivan" <sullivan@NETAM.NET>
Subject: Telcom Law - Act II**

First, let me compliment responders on the brief, courteous, intelligent responses I received about my original post. Our paper excluded a number of prohibitions contained in the bill so I was misled in my judgement of its' viability. My mental diapers have been changed - and for the same reason as a babies. 8-)

In a nutshell, since the bill covers (a) everyone from womb to tomb and (b) cutting your eyes while looking straight ahead as you pass the newsstand (well, almost), it should enjoy a very short life.

Finally, I haven't changed my mind about the need to prevent porno material from being delivered into the hands of children and I can't accept that act as being an acceptable part of free speech. I have no regard for parasites who feast on freedom but refuse to pay the price - responsibility.

Hugh

**Date: Sat, 10 Feb 1996 20:54:32 -0800
From: Mike Montoya <mmm@IMS.MARIPOSA.CA.US>
Subject: Re: Telecommunications Law**

At 07:22 PM 2/10/96 -0500, LaDonna L. Albert wrote:

>I certainly agree with the premise that Scout forums should not have any
>opposition to banning sexually implicit or other pornographic or vulgar
>materials on-line to kids. I wonder if the council that the person who
>opposes the law knows of their stance on the subject!
>

First, if I am the person that LaDonna L. Albert is referring to in the above post, let me say that in no way shape or form did I mention anything

having to do with making indecent materials available to minors via the internet. My post consisted of only the following statement:

>No, this is a First Amendment issue, by this law, we at Iron Mountain Systems are required to monitor our user's email traffic and turn in anyone

that uses language that MAY be offensive to someone. Our fine for NOT noing

this is up to \$250,000. We refuse to do this. By the way, under the wording of this law, you could go to jail for quoting portions of the Bible in your e-mail.

>

Let me state for the record that I do not condone minors accessing any site deemed offensive by the laws of our land. Since all the laws that we need in this area are already in place, and it is the responsibility of THE PARENTS of these children to monitor what they are doing, (which can be done

with software available to everyone), I feel that this is yet another government legislative intrusion into an area where no further legislation is necessary. How would you like it if all your snail mail is read by someone whose job it is to see if you have written anything that may be offensive to someone. This is the issue that my post addressed.

I live in the United States of America, the Greatest Nation ever to have existed on this Earth, and the reason for this is the FREEDOM that it's citizens have enjoyed in the past, the ones given us in the Bill of Rights. When the government acts to try to take away the rights that the Law of The

Land gave to me, I tend to oppose it, no matter whether the issue is gun control, or e-mail censorship. It doesn't matter whether I actually own guns (I do) or use an occasional expletive in an e-mail message (I do)(Are

you watching, Big Brother?). I oppose the government legislating against my right to Freedom of Speech.

Just think, if our founding fathers were alive right now, they'd probably all be in jail due to acts of the government of the Republic that they created.

What scares me the most is what is illustrated by LaDonna L. Albert's post: How the propaganda machine of those in power can make the general public believe that anyone opposed to this bill must want to distribute pornographic materials to children.

Feel free to call my council and turn me in.
Yosemite Area Council
(209) 523-5694

Oh, by the way, if I am not the one you were referring to, LaDonna, I quote Rosanna Rosannadanna: "Never mind."

Mike Montoya.

Date: Sat, 10 Feb 1996 23:56:17 -0900
From: RW Skelton <wvhsrws@NORTHSTAR.K12.AK.US>
Subject: Re: Telcom Law - Act II

On Sat, 10 Feb 1996, J. Hugh Sullivan wrote:

- > In a nutshell, since the bill covers (a) everyone from womb to tomb and
- > (b) cutting your eyes while looking straight ahead as you pass the
- > newsstand (well, almost), it should enjoy a very short life.
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- > Finally, I haven't changed my mind about the need to prevent porno
- material
- > from being delivered into the hands of children and I can't accept that act
- > as being an acceptable part of free speech. I have no regard for parasites
- > who feast on freedom but refuse to pay the price - responsibility.

That is the whole problem with the bill-responsibility. Let's say you are a University and doing a controversial study, the government gets upset and BAM! you are cut off from the net, or your funding is cut

(the US Government can be a nasty machine at times). Consider this: under the bill, the individual is not held responsible, rather, the Internet Service Providers are! Totally ridiculous, it would be like the holding your phone company responsible for prank calls! While the individual is somewhat responsible, the very fact that the ISP is held responsible is why there is such opposition. There is NO WAY on earth to screen/read all from the smallest organizations of say a local isp of 500 subscribers to the medium size isp's with customer bases of 10,000 to the estimated 2 million subscribers of America On Line to screen and read mail, that is ridiculous! To check and load all graphics and follow all links is equally insane! See the problem? I hope so.

Sorry to have replied in two messages instead of one, I dunno, just frustrated about that bill....

Rhett Skelton

Date: Sun, 11 Feb 1996 02:14:31 -0700
From: CHUCK BRAMLET <chuckb@aztec.asu.edu>
Subject: Re: Telecommunications Bill

On the issue of the Telecommunications Bill:

I am of the opinion that the bill was hastily drafted and rammed thru congress by one particular group. I do believe that it is not "Constitutional" as currently worded. As has also been mentioned, there are other issues at work, here.

Before anyone starts pointing any fingers at which group, let me say that this bill would not have passed without the support of both parties.

It is my belief that if this bill is affirmed by the (U.S.) courts, it will be the end of Scouts-L or any other Internet discussion group or service that crosses U.S. boundaries. As was pointed out, the ISP becomes criminally liable if one of it's customers views banned material. E.G., if Joe FBIagent signs on to "Local BBS", and connects to a WEB page in Holland and views some child porn (which I understand is legal there), then Local BBS has committed a crime for which their equipment can be confiscated, and the operators may go to prison.

Additionally, material posted to the "USENet News Groups" is transmitted from one subscribing computer to another around the world. If that CP

posted in Holland, destined to be viewed by a subscriber in Japan, passes thru Local BBS, they have committed a crime because it has passed thru.

Rather than risk the consequences of the enforcement of this law, I believe that _most_, if not all, Internet sites in the U.S. will simply disconnect. The FBI has been shown to be quite un-subtle and heavy-handed in attempts to enforce other types of laws on computer crime. What is to stop them from using this law to "make an example" of someone? Also, it is my understanding that this law _also_ makes an Internet _support_ discussion group on [the "A" word] illegal.

It would be very hard to e-mail from ASU to Lieden (or anywhere else) if the Internet link is broken.

What's the old saying? "The road to Hell is paved with good intentions."?

Trying to enforce U.S. law beyond the bounds of the U.S. can also have _serious_ consequences, none of them pleasant to contemplate.

Just my "quarter"'s worth.
YiS,

Chuck Bramlet, ASM Troop 323
Thunderbird District, Grand Canyon Council, Phoenix, Az.
Date: Sun, 11 Feb 1996 07:14:21 -0500
From: "Larry Tomlinson, Sr." <ltmlins@MNSINC.COM>
Subject: Re: Telcom Law - Act II

At 01:08 PM 2/10/96 -0600, Hugh wrote:

>
>Finally, I haven't changed my mind about the need to prevent porno material
>from being delivered into the hands of children and I can't accept that act
>as being an acceptable part of free speech. I have no regard for parasites
>who feast on freedom but refuse to pay the price - responsibility.

>
>Hugh

>

>

To this I say AMEN!!

YiS

A Scout is Reverent--Make it a Godly day and week.

"The Constitution may not be perfect, but it is a whole lot better than what the government is using today."

Larry Tomlinson, Sr.

Date: Sun, 11 Feb 1996 07:50:11 -0700
From: Ted Burton <tedbrtn@CYBERHIGHWAY.NET>
Subject: Re: Telecommunications Law

At 23:48 2.10.1996, RW Skelton wrote:

>>

> VERY OBVIOUSLY, it seems that people still just don't get it!
>What the problem is principle-they tacked it on to the big bill for tv
>over phones, cable companies providing telephone and vice versa-
>congress
>and Bill sneaked that one (or tried to) behind our backs.

Rhett, whoa. What follows is a quote from Apple NetUsers:

"President's don't decide Constitutionality. See R. Nixon.

" [this one was]The

Congress, with Clinton having a reasonable alibi for no veto in the fact that putting off deregulation in a floundering economy and a technologically relentlessly advancing world is just plain dumb.

Failure to fulfill his Constitutional requirement to implement acts of The Congress is actionable in the courts and is nominally an impeachable offense. I say this realizing that any offense is in fact impeachable, real or imagine, if you have the votes. But this one just might have legs, at least legs enough for hearings. Enough legs for public support. To the average guy, this is an argument over perverts picking up kids and their dirty pictures. Know what I mean Verne? The President can also be sued to enforce the law as can all the agencies under him, by anyone, not just the Congress. Ever hear of equal protection? Malfeasance?

Dereliction? Due diligence? They would be challenged, almost immediately is my guess.

The question of law that matters here is whether "obscene" is vague in the context of this legislation and/or applicable to ISP's, whose legal status as publisher vs. conduit would have to be defined. Either finding would make the law unconstitutional. The wise course, something Clinton rarely takes he did take here. Let The ACLU sue on these narrow obscenity/applicability issues and let the Supreme Court decide. They'll get an expedited hearing and the whole thing will be settled in a few months, maybe weeks. Meanwhile the communications competitive battle will move ahead.

After the ruling, if it goes the wrong way, you go after YOUR congressional reps this fall.

Clinton's issue of a non-enforcement Executive Order would more than likely wind up with a stay of ALL the provisions of The Bill while a plethora of legal issues were settled. He cannot selectively enforce provisions of the law without opening a huge can of litigation. All the companies in the game would freeze in place waiting for clarification of the whole law. They might even pile on with challenges to provisions they individually don't care for. The courts would almost certainly stay the entire law while they decide what provisions are constitutional.

I'd like to see some competition in in-state phone service, internet access, cable and long distance sometime before I start pushing up dandelions.

Frankly I think the obscenity will be tossed out even with the bent of this court on the grounds of applicability. In any case the shortest route to a division in the government was taken. A straight line on the specific disagreement right to the courts.

It's the best you get in the US."

**Rhett, when the Independence types got done with your right of free speech,
Heaven help you.**

Ted

who is netAddressed as: tedbrtn@cyberhighway.net

"Indeed, it would not be an exaggeration to describe the history of the computer industry for the past decade as a massive effort to keep up with Apple."

-Byte, December 1994

**Date: Sun, 11 Feb 1996 10:59:50 +0000
From: Jim Gibson <nefesh@zeus.jersey.net>
Subject: Re: Telcom Law - Act II**

**> Finally, I haven't changed my mind about the need to prevent porno material
> from being delivered into the hands of children and I can't accept that act
> as being an acceptable part of free speech. I have no regard for parasites
> who feast on freedom but refuse to pay the price - responsibility.**

What about the responsibility of parents to protect their kids from such materials as well? Yes, there are slimeballs out there who should have various tortures performed on them, but I think its more effective to supervise the kids than to possibly infringe on their "rights." Just because people speed, we shouldn't outlaw driving just teach our kids to look both ways.

Jim

**Date: Sun, 11 Feb 1996 21:16:57 -0500
From: Don White <mrinsure@KA.NET>
Subject: Re: Telcom Law - Act II**

At 01:08 PM 2/10/96 -0600, Hugh wrote:

**>
>Finally, I haven't changed my mind about the need to prevent porno material
>from being delivered into the hands of children and I can't accept that act
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To this I say AMEN!!

YiS

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"The Constitution may not be perfect, but it is a whole lot better than what the government is using today."

Larry Tomlinson, Sr.

Date: Mon, 12 Feb 1996 07:45:35 -0600
From: Jon Eidson <eidson@UNIX4.IS.TCU.EDU>
Subject: Re: Telecommunications Law

Folks ...

The discussion of the pros/cons of the Telecommunication Law are not within the scouts-l venue. Please let keep topics related to scouting.

YiS, Jon Eidson, Listowner Scouts-L

Jon Eidson (J.Eidson@tcu.edu) Information Services
Senior Systems Programmer Texas Christian University

Date: Mon, 12 Feb 1996 07:54:40 -0600
From: "J. Hugh Sullivan" <sullivan@NETAM.NET>
Subject: Telcom Law - Act III

A deeper look at the referenced bill tells me that it was (1) passed to appease certain groups of people and (2) deliberately written so as to be declared unconstitutional - at least in part. To agree to (2) is to admit that Congress is not without some intelligence, which may be impossible for many of you to swallow. 8-)

However, my purpose in continuing this discussion is to offer another opinion on "Constitutionality". IMO the Constitution was predicated on the belief that the vast majority of people acted responsibly, so, freedom was essentially unrestricted. The framers were correct for their time.

The passage of time has proved that the concept was not eternal; the thousands of laws that have been passed to control irresponsibility attest

to that observation. Actually the only reason for ANY law is an attempt to control those who abuse the guarantees of freedom. Isn't it remarkable that

God accomplished the same thing with only 10 Rules?

Writing a law, except for defining obscene which is in the eye of the beholder, would be elementary; passing such a law would probably occur immediately after the discovery of perpetual motion (which is not my wife in a shopping mall). 8-)

I, therefore, absolutely reject the argument of those who would overturn this, or any law, solely on the basis that it is a restriction of freedom under the Constitution. In this instance, certainly, there are more intelligent reasons to do so.

If you disagree, at least thank me for being reasonably brief. 8-)

Hugh