4 Grassroots Toolbox: The Internet and Political Campaigns Michael Cornfield discusses Net-based tools such as e-petitions, news-pegged appeals, and “meet-ups” that presidential campaigns are beginning to use, and he assesses the implications of Internet-based politics for our democracy.

8 Regulating Electronic Speech: When, Why, and Where? Janine Hiller and Ronnie Cohen discuss First Amendment controversies posed by the Internet. They analyze the constitutional and policy issues surrounding the efforts of Congress and the courts to protect children from obscene materials and to regulate hate speech on the Internet.

12 Conversation with Lawrence Lessig: Music, Copyright Law, and the Internet Legal scholar Lawrence Lessig discusses broad legal issues such as copyright, ownership, and fair use in the context of the music file-sharing controversy on the Internet.

14 Perspectives: Should Internet Music File-Sharing Be Legal? Legal experts from the Electronic Frontier Foundation and the National Music Publishers’ Association offer contrasting views on this Internet-based controversy.

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20 Law Review Charles F. Williams analyzes the Children’s Internet Protection Act (CIPA) and U.S. v. American Library Association (ALA), a 2003 Supreme Court decision that upholds CIPA and the use of filters by public libraries.

22 Viewpoint Judith F. Krug of the American Library Association offers the library community’s point of view in opposing CIPA and discusses the aftermath of U.S. v. ALA.

24 Learning Gateways Michelle Parrini provides teachers with a multipart lesson on policy-making and the First Amendment.

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Director’s Note

The Internet has transformed the way that we work, live, play, and communicate with one another. It has empowered Americans of all ages and walks of life to participate in an information explosion. A “library” with a vast scope of information is now available at one’s fingertips. Internet users can find cancer support groups, world travelers, and candidates seeking political offices, in addition to the commercial online world. But with opportunities, come new challenges—civic, political, and legal ones.

This issue of Insights provides a window to some of these challenges and controversies. As the 2004 elections approach, political scientist Michael Cornfield discusses the growing use of the Internet by national political campaigns. He identifies new forms and strategies generated by the Internet and how these may be used by or against special-interest groups, and he assesses their implications for maintaining a common culture and democratic participation.

Conflicts arising from the Internet often become legal controversies. Business law professors Janine Hiller and Ronnie Cohen discuss two of these—access to materials inappropriate for minors and hate speech. Congress has passed several laws designed to protect minors from obscene or other harmful materials on the Internet, and the U.S. Supreme Court has scrutinized the constitutionality of these laws, which Hiller and Cohen review. They also show how international boundaries and laws, as well as cultural differences, impact on how different nations respond to race and ethnic-based attacks online.

Public libraries are now required to install “filters” to protect children from harmful materials, as a condition of some federal financial assistance. Charles Williams reviews the Children’s Internet Protection Act and the Supreme Court’s review of this legislation in U.S. v. American Library Association in 2003. Judith Krug, Director of the ALA Office for Intellectual Freedom, offers a national perspective on this issue, and Mark West of the Naperville, Illinois, Public Library shares his library’s experiences with the use of filters.

Music on the Internet has become a source of controversy, particularly for young people who want to download and exchange free music (file-share) with one another. In an interview, law professor Lawrence Lessig discusses the responses of copyright law to this new Internet form, while attorneys from the Electronic Frontier Foundation and the National Music Publishers Association debate whether and how file-sharing can be legal.

Educational opportunities are woven throughout the issue, in the form of community-based learning experiences and classroom lessons. Be sure to read our new feature, “Notes from the Classroom,” to learn how a social studies teacher adapts some of these materials.

Mabel C. McKinney-Browning
Director, ABA Division for Public Education
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This year marks the third presidential election (and sixth U.S. national election) in which office seekers are using the Internet in their campaigns. In 1996, one year after the U.S. government turned much of the computerized communication network over to private businesses and consortia, online politics was a novelty. In 2000, as the dot-com boom collapsed, the Internet was an overhyped but marginally significant presence. The highlight of the year occurred immediately after Republican John McCain won the New Hampshire primary, when his campaign relied on money solicited and collected largely through the “Net” to stay in the race for a few more weeks.

Last year, Howard Dean astonished political sophisticates by demonstrating that one did not have to be famous (such as McCain or the first online candidate of note, Jesse Ventura) in order to raise huge amounts of campaign money from a lot of people. Dean raised $23 million in 2003 (56 percent of his total intake) in contributions of $200 or less from more than 280,000 Americans. By comparison, Gary Bauer, Alan Keyes, and Dennis Kucinich, the three other presidential candidates who raised more than half their campaign money from small donors in 1999 and 2003, garnered less than $4 million each that way. The Dean’s campaign use of the Internet was widely regarded as the force lifting his long-shot candidacy into contention; Bauer, Keyes, and Kucinich were also fiery defenders of principled positions, but Dean had an extensive online network working on his behalf. The new medium’s capacity to collect, tabulate, and distribute information quickly also helped make Dean a news star in the spring and summer of 2003. Dean’s rise in media prominence was largely powered by his online fund-raising exploits, until it reached a point where his poll standings rose, too, which symbiotically reinforced

“..."
his news presence and money-gathering totals.

Dean’s online campaigning was not the only factor propelling his ascent in the race for the Democratic presidential nomination. Skeptics of Internet campaigning argue that anti-war and anti-Bush passion drove contributions to the former Vermont governor. They note that after Dean’s campaign collapsed and John Kerry became the Democratic nominee presumptive, online dollars flowed to the new party favorite: $2.6 million the day after Super Tuesday and $27 million in the first quarter of 2004 from 245,000 donors. Those dollars might well have found their way to these campaigns by carrier pigeon if necessary. All that the Internet added, the skeptics say, was speed and convenience.

Others contend that fundamental changes in the practice of politics are underway. In this idealistic view, the Internet is transforming the basic vehicles for voluntary political action on a broad scale, also known as “grassroots politics.” If it proves correct, then political professionals and their wealthy backers will lose their grip over campaigns for office, interest group lobbying, and the construction of party platforms. The Internet will empower average citizens to combine and wield influence in their own right.

The evidence so far favors a blend of the skeptical and idealistic positions. Pioneers in online grassroots politicking—call them dot-pols—have developed a cluster of techniques to summon popular support and put it to work pressuring corporate and government decision makers. There has been no revolution. But the techniques have made the establishment take notice. The Internet provides grassroots organizers new ways to work the system.

A “Special Device”

In his 1965 book *The Logic of Collective Action*, economist Mancur Olsen put forward a thesis statement that has had the explanatory force of a mathematical axiom in American politics. Olsen argued that, absent coercion or the presence of a “special device,” individuals will not get involved in politics to achieve common or group interests. They stay away because the payoff does not seem worth the trouble. Consequently, special interests usually triumph. For want of widespread and concerted support, proponents of policies designed to benefit many people lose out to the seekers and protectors of particularized benefits (i.e., narrowly crafted tax breaks, government contracts and subsidies, regulatory exemptions and rollbacks). The generalists can’t match the specialists in money, expertise, perseverance, and personal relationships with decision makers.

Now a special device has come along with the potential to check the advantages of the special interests. The Internet extends to grassroots organizers an unprecedented capacity to put a great many people in sustained yet affordable contact with others they know and may not know. Thus far, dot-pols have come up with six Net-based tools for amalgamating citizen power so as to confront the logic of collective action:

1. **E-mail.** Cheaper than phone calls, faster than direct mail, more extensive than the largest rally, e-mail is a wonderful channel for grassroots recruitment and mobilization—and especially when dot-pols can convince significant numbers on their e-mail lists to forward a message to friends, customers, and classmates.

2. **E-petitions.** Decision makers tend to discount petitions signed and delivered via the Internet, because they think the process is so easy that it does not represent a serious level of commitment on the part of the signatories. (Those who camp out in the reception room, by contrast, are seen as more likely to withhold future support or join the other side if they don’t get what they want.) Nevertheless, clever e-petitions have attracted news media attention...
and new members to their sponsors, an interim destination on the road to a policy victory.

3. *News-pegged appeals.* This is the signature innovation of MoveOn.org, the tiny team of progressives with two million names on their e-mail list. The MoveOn network relishes its almost weekly opportunity to back advertisements and other public statements that will inject its take on current events into the mainstream media while a controversy is raging. For example, in September 2003, MoveOn sought 100,000 signatures in two days for a petition decrying Federal Communications Commission changes in media ownership rules. The petition would be held up at a news conference featuring two Senators (one Republican, one Democrat) who agreed with the position. The news-pegged appeal garnered 200,000 signatures for the e-petition. Conservativepetitions.org runs a mirror operation on the other side of the ideological spectrum.

4. *Interactive databases.* To enlist someone in a political cause usually takes three steps: point out a problem, specify what the problem means to the person, and proffer a solution that will materialize only if the person joins the cause. The Internet makes it possible for dot-pols to take a very subtle approach to the first two steps: post data and invite the person to browse it. The Environmental Working Group (www.ewg.org) maintains a Farm Subsidy Database that allows visitors to see how much their neighbors get from the government. The site inclines database viewers to agree with the advocacy group’s critique of U.S. farm subsidy policy.

5. *E-organized meetings (“MeetUps”).* Dot-pols can’t twist arms and clap shoulders. But they can use the Net to set up meetings for interpersonal persuasion. MeetUp.com, a firm facilitating the congregation of people with similar interests, gave a big boost to the Dean campaign. Using its own “social software,” the Bush campaign set up a National Party for the President Day, furnishing local organizers with downloadable paraphernalia and customizable directions to the location. Over 5,000 such house parties occurred in late April of 2004.

6. *Network intelligence.* Good ideas will collect in the electronic suggestion box when a campaign convinces its support network that it really listens. The Dean campaign’s idea to have supporters send handwritten letters to prospective voters in Iowa and New Hampshire originated that way; to the network’s delight, as manifest in comments posted on Dean campaign Web sites, 115,632 had been sent as of January 1, 2004. Online town meetings and “rate-the-message” contests can also be founts of network intelligence, although their main purposes are to boost campaign morale, visibility, and credibility.

Outfitted with these tools, dot-pols face slowly but steadily improving odds for campaign success. They are sharpening their skills by perusing feedback data and watching each other. They are experimenting with new tools, most notably the online diary in reverse known as a “blog,” which has become part of the commentary mix, but not yet

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**FOR DISCUSSION**

*Why has fund raising for political candidates become so successful on the Internet? Is the fund-raising success of Presidential candidate Howard Dean likely to become the norm or serve as an exception?*

*Will the Internet enhance or diminish the influence of special-interest groups? Why? How?*

*Is campaigning on the Internet an effective way to reach young people or other groups in our society that historically have had low voter turnout?*
part of campaigning. And they solicit involvement from an online citizenry that is expanding in both population and technical sophistication. By the end of the 2000 election, 8 percent of Internet users (nearly seven million Americans) had visited a candidate’s Web site at least once. By the end of 2003, before the first vote had been cast, 8 percent (now representing eleven million Americans) had already visited a presidential Web site. Given these trends, more success stories in online grassroots politicking seem inevitable. Is that a good thing?

**Issues for Democracy**

One concern for democracy is whether the Internet contributes to social fragmentation. At a time of rampant market segmentation and sharp partisan division, in a country long devoted to individual freedom and consumer choice, some worry that the Internet encourages the typical user to see only what he or she wants to see, to be sent only what the sum of one’s recorded habits and purchases suggest, and to converse only with those who share one’s tastes. The architecture of the Internet certainly permits such politically homogenizing and isolating behavior. But it is nearly as easy for a user to find a different point of view as a similar one. Furthermore, the media giants who process the bulk of online social traffic frequently engage in cross-promotional campaigns designed to get as many people as possible to focus on the same hit product. This puts unsought information before the eyes of many Net users, including news—which is, for better and worse, a product in the eyes of most media executives.

The effects of online advertising and marketing on civic life pose a second concern. Ads can constitute a seventh tool in the dot-pol’s box, in as much as they widen the circle of campaign awareness from which support can be drawn. But online ads, like all ads, drive up the cost of campaigning. To the extent they become crucial in online politics, the special interests will maintain their advantage.

The ultimate concern is the tension between control and chaos—a primal theme in technological thought, accentuated in the context of online politics. On the one hand, it is the grassroots network as a whole that will identify and spread the best campaign messages. On the other hand, individuals in that network will have conflicting and sometimes damaging ideas as to which message is the best, and they cannot be prevented from publicizing their preferences. Late in 2003, MoveOn.org staged a contest to create and select the best thirty-second television spot for a campaign against President Bush. “Child’s Play,” the winning ad, was an excellent message (it may be viewed at www.moveon.org). But two of the contest submissions compared Bush to Hitler, and MoveOn.org could not remove and repudiate them well enough to avoid damage to their campaign.

So is Internet politicking worth the risk? Yes. The Internet gives ordinary citizens a better chance at being heard than such control-heavy media as television and books. Indeed, it allows them to circulate videos and book-length computer files. This is a good thing—to a point. In order to keep the seesaw from going too far toward chaos, we should encourage dot-pols to find ways of balancing maximum participation with minimum standards of civility and strategic good sense.

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**For Further Reading**


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**For Research and Watching the Campaign**

Daily digest of campaign news, “The Note,” at www.abcnews.com

Breaking news and a directory to news and commentary, “The Drudge Report,” at www.drudgereport.com

Survey reports and data from the Pew Internet & American Life Project at www.pewinternet.org

“The Weekly Politicker,” news about online politics at www.politicsonline.com
Regulating Electronic Speech: When, Why, and Where?

Obscenity and hate speech abound on the Internet.

by Janine Hiller and Ronnie Cohen

The Internet is a vast new medium replete with all kinds of images and information, some of which are widely regarded as not suitable for minors or children. This article explores both the new laws passed by Congress and the constitutional constraints imposed by the courts in regulating speech on the Internet.

Early in the history of the Internet, the United States Supreme Court described the new communication medium as “the most participatory form of mass speech yet developed.” That broad categorization of the Internet, in Reno v. A.C.L.U., set the stage for the protection of electronic speech under the First Amendment of the United States Constitution, which states, “Congress shall make no law ... abridging the freedom of speech ...”

Since that time courts, legislators, parents, consumers, and businesses have struggled to find the balance between the protection of free speech and the protection of children and property rights and between the policy of supporting the free flow of information and the policy of promoting a safe and beneficial online environment. These struggles involve values and policies that increasingly come into conflict as Internet activities expand without regard to national boundaries and often without regard to cultural differences.

To understand the nature of the constitutional protection of speech, one must first appreciate that speech can take many forms. The spoken and written word, artistic media, and even expressive action such as burning a flag as a political protest have all been held to be protected speech. Electronic speech encompasses traditional forms of speech in the display of words or images on a computer, and it also includes newer forms of “speech” such as Internet addresses, or domain names, and “code,” the machine-readable language of software programs. Electronic speech expands traditional forms of speech in a particularly significant respect: one person’s speech on a Web site or bulletin board can instantaneously be accessed by millions of users across the globe, thereby raising international legal and policy conflicts. In the following sections, we consider two areas where the

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nature and protection of speech on the Internet are controversial—(1) limiting the access by children to inappropriate material on the Internet, and (2) limiting or prohibiting undesirable speech, such as hate speech.

**Protecting Children from Inappropriate Speech**

Anyone who has innocently entered a search into a search engine for “free pictures,” instead of “clipart,” will know that there is an abundance of pornographic and adult material easily available on the Web. Even “popup” ads have been known to surprise users by portraying titillating and explicit pictures. The first legislative attempt to regulate the Internet was the Communications Decency Act (CDA) of 1996, a federal law criminalizing the transmission or display of obscene, indecent, or patently offensive material to minors by means of the Internet. First Amendment case law [see, e.g., *Roth v. United States*, 1957; *Miller v. California*, 1973; *Pope v. Illinois*, 1987] has established that “obscene” material, as defined by the courts, is a kind of speech without educational or artistic value and, therefore, is not protected by the Constitution. This provision of the CDA is still in effect today. However, Congress sought to protect children from a broader range of inappropriate material with this law.

In *Reno v. A.C.L.U.*, the 1997 case that challenged the constitutionality of the CDA, the U.S. Supreme Court declared that the banning of indecent material on the Internet to minors was unconstitutional because the law was both too vague and too broad. The law was too vague because *indecent* could mean different things to different people; for example, a parent providing explicit material to a child on birth control via e-mail might be found guilty of providing indecent material if it was received in a community that had strict interpretations of indecency. The law was too broad because there was no technical means to effectively determine whether a user was a child or an adult, thereby requiring that adults’ access be limited to what was appropriate for children in order to avoid liability under the law. Although recognizing the valid attempt to protect children, the Court declared that the CDA illegally limited free expression, a constitutionally protected right in our democratic society.

Following the Supreme Court’s decision declaring portions of the CDA unconstitutional, the U.S. Congress made a second attempt to protect children from inappropriate materials. The Child Online Protection Act (COPA), passed in 1998, was similar to the CDA, but limited its reach to commercial entities, and narrowed its scope to materials harmful to minors. Commercial speech can be regulated more easily than other forms of expressive speech, and material that is harmful to minors is more specific than indecent materials. Not surprisingly, COPA was challenged in court soon after its passage, and six years later the issues are still unsettled. The lower court (*A.C.L.U. v. Reno*, 3d Cir., 2000) held that the law was too vague because it is impossible to identify a community standard to determine what is harmful to minors when dealing with the Internet since the Internet recognizes no community boundaries. The U.S. Supreme Court disagreed in *Ashcroft v. A.C.L.U.* (2002), however, stating that a court could determine community standards, and sent the case back to the lower court for a further hearing. While recognizing the compelling goal of protecting children, the lower court once again held COPA unconstitutional because it was still too broad to preserve free speech rights. In June of 2004, the U.S. Supreme Court again sent the case back to the lower court, this time suggesting COPA was unconstitutional (See sidebar on page 27).

Why is the attempt to protect children so difficult and fraught with conflicting court decisions? The Internet is an incredible communication medium, as the Supreme Court recognized in its first review of the effort to protect children. It facilitates the communication of ideas to, and among, a wide audience and therefore promotes discussion and the free flow of information, important goals of a free and democratic nation. Within this context of free expression, it is difficult to find the appropriate limitations on speech in order to protect children from access to material that adults have a constitutional right to see.
Regulation of Hate Speech on the Internet

The United States
The use of Web pages and chat rooms to encourage and spread hatred of certain groups increased dramatically in the 1990s, from only one site in the early part of the decade to more than 1,400 sites by the year 2000. The majority of these sites are housed in the United States. One reason why hate sites have migrated to this country is that speech that is commonly referred to as “hate speech” is protected by the First Amendment. The policy of protecting speech as a fundamental right, however offensive, prejudiced, or reprehensible, is a strong one in the United States. When speech incites action against a person, posing a “clear and present danger,” however, it is not protected. At what point does protected speech generally advocating hatred and violence cross the line to unprotected speech of inciting specific illegal acts?

A crime that targets a victim because of race, religion, gender, national origin, or sexual orientation can also violate federal or state hate-crime legislation. E-mail threats have been held to violate hate crime statutes, for example. However, a statement of opinion would not violate any statute if it does not incite action. Consider, for example, the question of whether an American Coalition of Life Activists Web site was protected by the First Amendment when it posted the pictures of doctors who performed abortions in a “most wanted” format, with pictures crossed out when the individual doctors were ultimately murdered.

After a series of cases and appeals, the 9th Circuit Court of Appeals (Planned Parenthood v. American Coalition of Life Activists, 2002) ruled that the context of the entire Web site constituted a threat of harm to the physicians, and, thus, was not protected speech.

International Law
Although the constitutional traditions in the United States protect speech unless there is an actual threat of harm to someone, many other countries around the world allow restrictions on speech in order to promote competing national policies. For example, in Germany, it is illegal to incite racism or hatred in any medium, including the Internet. However, many groups that are outlawed in Germany have relocated to Web servers and remailer sites in other countries, notably the United States. In response, Germany has sought to close down Web sites and hold ISPs liable across national borders.

A continuing dispute between French and United States’ groups, and the respective court decisions, illustrates the conflicting values of free speech and the prohibition of racism. At issue is whether Web sites must meet the laws of all countries in which they can be accessed. A French law bans the display or sale of merchandise that incites racism. A French anti-Semitism group sued, in French court, the Yahoo! auction site based in the United States, because Yahoo! advertised Nazi memorabilia and artifacts for sale. A French judge ordered Yahoo! to implement technological procedures within three months to block French Web surfers from accessing these auction sites. At the end of the three months, the court imposed a daily fine of about $13,000.

For Discussion

Does the First Amendment protect all speech? If not, what kinds of speech have been identified by the courts as exceptions?

Congress has passed several laws seeking to restrict children’s access to offensive or harmful materials. On what grounds have the courts curbed these efforts of Congress?

How and why do France and Germany, among other European nations, treat hate speech differently from the United States?
until access was blocked. Yahoo! brought a suit in federal court in California (Yahoo!, Inc. v. La Ligue Contre Le Racisme et L’Antisemitisme, 2001), asking the court to declare that the decision was unenforceable because it violated the U. S. policy of free speech. That court held that the French court decision could not be enforced because it violated the First Amendment. Angered by this U.S. decision, another French group sued the president of Yahoo! personally for “justifying crimes against humanity.” The French court is scheduled to hear this case in October 2004.

The Yahoo! case is a stark illustration of the international nature of the Internet, as well as how the strongly embedded value of free speech in the United States may not be similarly valued above other competing societal interests around the world. As the Internet continues to expand, and international boundaries continue to blur, it is likely that these disputes will continue to arise.

In addition, many countries actively censor speech on the Internet. In Australia, the Broadcasting Services Amendment (Online Services) Act of 1999 extends a rating system, such as the one for films, to Internet content. Content that is sexually explicit, violent, or otherwise offensive may be ordered removed, or ultimately blocked, from the Web by the agency charged with implementing the new law. The Chinese government adopted the Internet Practice Code that requires Web site operators to block content that is deemed socially or politically harmful. Prohibited content under the Code ranges from pornography to gambling to political commentary viewed as threatening by the governing Communist Party. China’s first human rights Web site has been shut down and its operator arrested. The Wall Street Journal Web site was also banned in China under this code. In China, Web site operators must be licensed, and in order to obtain a license, they must submit a plan for the site and agree to censor and report illegal content.

Conclusion
Throughout American constitutional history, the right of the people to be free of government restrictions on speech has evolved to meet changing forms of expression. Likewise, the right of free speech has been challenged by changing societal and governmental interests in limiting speech. The easily accessible adult material on the Internet and the policy of protecting children from seeing harmful material conflict with the policy of open access to information and the free speech rights of adults.

The Internet also brings new challenges because of its international nature and the ability of a single user to disseminate information more widely than ever before—around the world and without regard to physical borders. The lack of physical boundaries means that the closely held values of nations will conflict, as illustrated by the conflict between the free speech rights of United States’ citizens and the fight against anti-Semitism in France and hate speech restrictions in other countries. The evolution of First Amendment rights will undoubtedly continue in American jurisprudence and be the subject of much international debate as well.

Explore the Web

www.firstamendmentcenter.org/speech/internet/index.aspx
The First Amendment Center is a program of the Freedom Forum and is affiliated with the Vanderbilt University Institute for Public Policy Studies; it has a special section on the Internet and the First Amendment.

www.adl.org/issue_education/parents_guide_hate_net.asp
The Anti-Defamation League site has a guide for parents regarding hate sites on the Internet and links to reports about hate speech and the Internet.

www.epic.org
The Electronic Privacy Information Center has information about free speech as it relates to privacy.

www.cdt.org/
The Center for Democracy and Technology has many good resources about electronic speech and is a very good source for documents about the Yahoo! case.

www.wired.com/news/politics/
Wired.com is a news source, written in an understandable and interesting manner, about many Internet subjects, including free speech rights; it has much current news about speech issues.
Q: Have you heard “The Grey Album”? What do you think of it?

[Editor’s Note: The Grey Album is a remix and distribution of Jay-Z’s The Black Album and the Beatles’ White Album]

Lessig: Well, I’m a lawyer so I don’t know anything about the quality or the taste … I find it amazing that it generated the level of protest that it generated. … Five years ago, I don’t think there would have been the ability to build an online protest movement around copyright, but this is what they did.

It’s one thing to defend fair use in an ordinary case, but this was a pretty blatant taking without any permission of other people’s work and remixing it. And the idea that that would have generated the political response that it did—I think it’s bad news for the record companies.

My organization, Creative Commons, has this license that [Brazilian musician and activist] Gilberto Gil has pushed us to create, which is called a mash license. A mash license says, “You’re allowed to take my content, you’re allowed to sample my content for creative purposes, even for commercial purposes you can sample my content—you can do all that without hiring a lawyer or talking to me ever. What you’re not allowed to do is take a verbatim copy of my content and distribute that.”

So when Gil got us to do that license, he wanted to release … his content under that license. Warner Brothers Records [Gil’s label] said, “Absolutely not.”
He said, “Why? What possible reason would there be? This would inspire a great new burst of creativity around my work.” But the labels are still stuck in this mentality of, “We’ve got to control absolutely everything.”

Q: But isn’t the central issue compensation?

Lessig: Well, I’m a strong believer in copyright. And in my view copyright is the right of the author to control what happens to his or her work. That means if Gilberto Gil says, “I want my work to be available for other people to build on top of even without paying me,” he should be allowed to do that. There shouldn’t be a record company that says to him, “No, we’re not going to let you do that.” I wouldn’t favor forcing artists to turn over their work, but I would favor allowing artists to be much more creative about the ways they distribute their work.

Q: But how are bands supposed to get paid when content is given away?

Lessig: I go between thinking the major record labels were just stupid and thinking they were extremely smart … The extremely smart is they realized that they had distribution in the box … The Internet was going to destroy that ability to control distribution. So they really needed to fight this new technology if they were going to preserve their old business model.

Now the point is, their old business model wasn’t better for the artists and it wasn’t better for consumers, it was better for big record companies. When people talk about alternatives [to that model], serious people are not talking about alternatives that make artists worse off and they’re not talking about alternatives that would make consumers worse off, they’re talking about

alternatives that might make five companies worse off.

Q: What are the alternatives that serious people are talking about?

Lessig: The closest alternative to the existing system are things like iTunes or the new [legal] Napster. And, of course, iTunes is better than where we were before because it’s cheaper and it’s a really nice interface. But the problem with that model is that these are technologies that require digital rights management (DRM) built into them … Some people then talk about another alternative, which is basically the way radio stations pay for music that they play regularly on the radio.

Q: Does the average consumer understand that the legislation that will govern all these new technologies is being created right now?

Lessig: We have produced a generation of criminals and the response of the recording industry or Jack Valenti [head of MPAA, the Motion Picture Association of America] is “Let’s just increase the penalties to teach them not to be criminals,” and my response is “… Let’s find a way to make it so that they’re not criminals, mainly by changing the law.”

This set of laws was written for a totally different time, for a totally different technology, and every time in the past, when technology has changed, the law has updated to take account for new technology—until the Internet. Now the Internet comes along and they reinforce the old method of distribution and old business model because they’re extraordinarily powerful lobbyists.

Q: And the parental reaction to these RIAA lawsuits seems to be, “OK, you’re grounded, but you don’t deserve to go to jail or be fined $5,000.”

Lessig: In my [new] book … Free Culture, I tell the story of one of these kids, one of the four [college] students sued by the Recording Industry Association of America (RIAA). Jesse Jordan, who’s at Rensselaer Polytechnic Institute, built a search engine kind of like a Google device, that sat on the RPI network and scoured the RPI network for all files in the public directories. The program put together a list of a million files; three-quarters of those files had nothing to do with music. He was not selling access, he was not making any money, he was just tinkering with technology …

The RIAA came in and said he was guilty of willful copyright infringement, they filed a lawsuit against him which claimed damages of between $10 million and $15 million. [The RIAA then offered to settle for $12,000.] So he’s faced with this your-money-or-your-life option, and what does he do?
In 1999, two 19-year-olds, Sean Parker and Shawn Fanning, met each other via the Internet and promptly turned the digital music industry, along with copyright law, upside down. They created Napster—the first service of its kind, which enabled users to make a direct connection to each other—a “peer-to-peer” connection—and exchange digital music files. With 80 million registered users at its peak and a system that at times had more than 3 million active users, it is unsurprising that in December 1999, the Recording Industry Association of America (RIAA) filed suit against Napster (then only claiming 200,000 users), alleging copyright violations. So began the legal battle and the rush to create and apply existing copyright law to a completely new medium (for resources on the current state of the law, see the sidebar box on page 17).

In the midst of the legal battles, new software such as Morpheus and KaZaa appeared, designed to fill the void left by the enjoined Napster, leading the RIAA to file lawsuits against private citizens downloading music. At the same time the gap between the recording industry and the cutting edge of technology is being bridged by services such as iTunes, which allows users to pay 99 cents per song downloaded. A bankrupt Napster was sold by Parker and Fanning to Roxio Inc., a U.S.-based software company that reopened Napster in October 2003 as a subscription service with the backing of the recording industry. By May 2004, Napster had launched its downloading services in the United Kingdom.

Representatives from EFF and the NMPA offer different points of view about music on the Internet.

Should Internet Music File-Sharing be Legal?
Legalizing File-Sharing Can Save the Music Industry
by Jason Schultz

More than 60 million Americans use file-sharing software to listen to music online. Despite some 2,500 lawsuits by the Recording Industry Association of America (RIAA), the number of file-sharers continues to climb. The problem with this, of course, isn’t that people love music or use the Internet to find it. In fact, music fans love the file-sharing networks for liberating them from the corporate confines of commercial radio and the hours they might otherwise spend searching CD racks for lost tracks. But file-sharing does present a serious problem: when people file-share, the artists who make the music don’t get paid.

Suing music fans and calling them thieves, however, doesn’t solve this problem. In fact, none of the RIAA’s lawsuits has put a single penny into the pockets of artists. Instead, we need to find a way to pay artists and rights-holders and make music file-sharing legal. This may sound revolutionary or difficult, but it’s not. The truth is, we’ve already been using a system for decades that pays artists whose songs are being played for “free” to the public—it’s called broadcast radio. We simply need to implement a similar system for file-sharing systems.

Almost all American music publishers and songwriters belong to “collecting societies,” such as BMI, SESAC, or ASCAP. Every year, radio stations around the country pay these societies a fee for blanket permission to play music over the air. In return, the radio stations can play any song they want, whenever they want, without restriction. The fees are collected and divvied up based on a “sampling” that measures which songs are played most often. The more popular the song, the more money the rights-holder receives. Artists get paid, radio stations get to play the songs they want, and fans get music for free. Everyone wins.

File-sharing payments could work the same way. Artists and copyright holders could form their own file-sharing collecting societies and pool their copyrights. The societies could then license file-sharers to play music for a flat-fee, say five dollars per month. With upwards of 60 million users, that’s over $3 billion in new annual revenues. This pot of gold would be divided up based upon the popularity of songs on the file-sharing networks and Nielsen-like surveys of online music fans.

Unlike lawsuits, this system pays artists. And rather than investing in futile efforts to stop file-sharing, artists would have every incentive to encourage it. The more people share and listen, the more money the artist makes. Sending a song you like to a friend is no longer “stealing” from artists but, instead, supporting them.

Music fans also win. Much like paying a flat fee for phone service or cable, paying five dollars per month for unlimited “all you can eat” access to the world’s most complete music library is a pretty good deal. And in many ways, the music will still be free—as in freedom. File-sharers will be free from fear of lawsuits, free from the RIAA’s invasions of their privacy, free from technological and quality restrictions, and perhaps most importantly free from guilt for not compensating artists.

The file-sharing dilemma is here, and we must deal with it. We must find a way to compensate artists without criminalizing millions of Americans who have done nothing more than embrace a new and better technology. A system of collective licensing gives us that option with fair results to artists and music fans alike.

Jason Schultz is a staff attorney specializing in intellectual property and reverse engineering at the Electronic Frontier Foundation (EFF), an organization that seeks to defend the right to think, speak, and share ideas, thoughts, and needs using new technologies.
The Engine of Free Expression
by Charles J. Sanders

After more than a decade of public discussion concerning the importance of protecting intellectual property on the Internet, it is disconcerting that opportunists continue to cloak specious arguments in favor of the unlicensed dissemination of music (the ever-popular “free lunch” concept) in the lofty rhetoric of speech freedom.

Unlicensed uploading and downloading of copyrighted music, simply put, is neither fair nor legal. To the contrary, these are unlawful acts that damage the careers of creators and, by extension, threaten the perpetuation of culture itself. And they make it that much more difficult for licensed, independent Internet music services to survive and prosper. Courts have ruled that electronically “sharing” music without the permission of the copyright owner—even for so-called personal use—is theft, not protected speech.

As Americans, we can all agree that the free dissemination of factual information on the Internet represents a great step forward toward our national goal of nurturing a robust marketplace of ideas. The framers of the Constitution, however, recognized that the differences are not subtle between “facts and ideas” that may never be subject to protection as intellectual property, and the “expression of such ideas,” which must be protected in order to foster creativity. As the United States Supreme Court has ruled, far from being anathema to speech rights, strong copyright protections are the very “engine of free expression.”

Thus, free and open discussion on the Internet and elsewhere about art, music, politics, and other subjects of common interest must be encouraged through inviolable legal protections. Similarly, however, in order to safeguard creativity and expression, legal protections must be extended to creators and copyright owners to permit them the choice of whether or not to make their works freely available to the public under certain conditions, which many do. (In practice, for example, nearly all music creators allow 30-second sound clips of their work to be used as “samplers” for Internet consumers.) Ours is a system that has worked well for over two centuries, producing the world’s most open political society, while at the same time fostering America’s role as the most popular international source of music and culture.

Moreover, by ensuring that creators are fairly compensated for the use of their works, strong copyright laws actually encourage the broadest possible participation of citizens in the creative process. One need not subscribe to Dr. Johnson’s claim that “no man but a blockhead writes for free” to recognize that compensation for the use of copyrighted works enables those whose works the public deems of value to continue creating, while encouraging newcomers with something to say to join in. The national and global culture is enormously enriched by such a system, which rewards the most gifted creators and allows them to devote themselves full time to their art. Great works engender increased public discussion and the creation of new art, to the benefit of all.

Without adequate copyright protections and enforcement, on the other hand, the fruits of human creativity are severely diminished. Uncompensated creators are afforded neither the time, the resources, nor the other necessary incentives to create. After a while, the deep well of great new works simply runs dry. The breakdown of the copyright system in post-Soviet Russia, a nation with a rich history of creative accomplishment, is instructive on this issue. Just as the strictures of totalitarianism were being removed from the lives of Russian creators, the traditions of copyright protection and enforcement were abandoned. The result has been the utter dissipation of Russia’s creative community. Some creators have fled to the West; others have been forced to abandon their craft. The output of creative works has nearly ceased, a sad result for a great culture.

In sum, though the unlicensed taking of songs from the Internet for “personal use” may seem like a harmless act of instant gratification to many cybercitizens, when perpetrated on a massive scale it will—and in many cases already has—literally destroy the ability of songwriters and musicians to continue their careers and creativity. Now that Internet services are readily available to provide consumers with electronic access to the music they want, there is no reason for any honest Internet user to feel justified in taking what does not belong to him or her. To do so is to favor anarchy over the democratic values we are charged as citizens with protecting and encouraging, quite literally placing “free speech” at risk in favor of “free lunch.”

Charles J. Sanders is counsel and senior vice-president of legal and international affairs for the National Music Publishers’ Association, the principal trade group representing American songwriters and music publishers. He is also a voting member of the National Recording Academy (NARAS), a platinum award-winning record producer, and co-founder of the James Madison Project, a pro bono legal resource for FOIA plaintiffs seeking information from the U.S. Government.
State of the Law: Music File-Sharing on the Internet

On July 26, 2000, the U.S. District Court for the Northern District of California issued a preliminary injunction to prevent Napster from “engaging in, or facilitating others in copying, downloading, uploading, transmitting, or distributing plaintiffs’ copyrighted musical compositions and sound recordings … without express permission of the rights owners.” This decision initially turned the digital music world upside down.

On February 12, 2001, the 9th Circuit of the U.S. Court of Appeals upheld the lower court decision in A & M Records v. Napster but sent the case back to the lower court to craft a new, somewhat less broad injunction against Napster. The 9th Circuit held that Napster should not have to bear the entire burden of ensuring that no downloading, uploading, or copying of A & M Records appears on the Napster system. But the court did say that Napster “bears the burden of policing the system within the limits of the system.” This case was not reviewed by the U.S. Supreme Court. As a result of the court decisions and injunctions, Napster shut down its free services and was eventually sold to a software company.

In response to the current state of the law, much has changed in digital music practices in the past several years, particularly in the United States. Portable MP3 players can now be found in more than 7 million U.S. homes, a 50 percent increase from one year ago; estimates indicate that more than 20 million homes will have them by 2007 (easily outdistancing the growth in CD players). These digital music players are increasing in popularity, partly because downloading music can now be done legally for a “small” charge (about $1 per song). The largest legal downloading service, Apple Computer Inc.’s “iTunes Music Store”—which accounts for about 70 percent of all legal music downloads—has sold more than 1 million songs since its launch in 2003 (other services with different rates and subscription plans include Wal-Mart Music Downloads, Real’s Rhapsody, Sony Connect, and Napster). More than 600,000 people legally downloaded songs in March 2004, a large increase from just a few months before.

Nevertheless, legal struggles over free music file-sharing continue around the globe, demonstrating the complex interplay between the Internet and national boundaries (see also, the discussion about hate speech on the Internet and national laws, pp. 10–11). The International Federation of the Phonographic Industry has sued uploading services [people who offer copyrighted songs for sharing online] and other PC users in Germany, Italy, Denmark, and Canada on the basis of copyright infringement. In April 2004, a Canadian judge ruled that file-sharing was legal, a decision that is likely to be appealed by the Canadian Recording Industry Association.

Sources: The UCLA Online Institute for Cyberspace Law and Policy
(www.gseis.ucla.edu/iclp/napster.htm); U.S.A. Today, April 1, 2004; Chicago Tribune, July 24, 2004.

Editor

Resources

Books


Web Sites
Electronic Frontier Foundation
www.eff.org

National Music Publishers Association
www.nmpa.org

Recording Industry Association of America
www.riaa.com
The Mikva Challenge: Students and Democracy

by Brian Brady

With our nation and democracy being challenged, schools are placing increased emphasis on teaching citizenship. However, quality civics education is more than teaching the three branches of government and the Bill of Rights. The actions of regular citizens are what give the democratic process energy and purpose.

The Mikva Challenge was founded to assist teachers in their efforts to engage students in hands-on civics lessons. The nonpartisan organization was launched six years ago in honor of former White House Counsel, Congressman, and Appellate Judge Abner Mikva and his wife, Zoe, a lifelong activist. The organization is built on the premise that young people learn democracy best by practicing it, as reflected in the unofficial staff motto of “democracy is a verb.”

When John Kerry won the New Hampshire Primary, 58 Chicago high school students were present to witness the event. Students had spent five long days in New Hampshire campaigning for the presidential candidate of their choice. They attended campaign strategy workshops at St. Anselm College in Manchester and were exposed to the political and media circus of a New Hampshire primary. Every student had an opportunity to meet his or her candidate, and all the students met John Kerry who actually stayed on the same floor of the hotel as many of them. For Alberto Trujillo of Chicago’s West Side, the trip was also a chance to experience a new environment. “I never used to pay attention to politics before, but now I love it,” he said. “I also like that I don’t have to watch my back out here.”

Besides the trip to New Hampshire, Mikva Challenge involved over 150 students in the U.S. Senate primary campaign in Illinois. Students asked candidates questions at a student-run candidates’ forum televised on public television, and students chose to volunteer for one of the ten Republican or Democratic campaigns. Many students experienced the joy of election victory, while other students felt the sting of their first political defeat. The losses did not dampen their enthusiasm, however. Carneil Griffin of Steinmetz High School worked passionately for Howard Dean’s candidacy, but when Dean was out of the race, Griffin quickly switched his focus to Illinois U.S. Senate candidate Barack Obama. “Losing with Dean only made me more passionate in my work for Obama,” said Griffin.

The Mikva Challenge attempts to make government real for students by connecting them to elected officials in the community and in classroom settings. Over the past two years, Mikva Challenge has expanded the scope of its programs to include public policy advocacy. More than eighty civic action projects have been created during this time by students who wish to make a difference at the school, community, state,
or federal level. Students at King College Prep recently won second place at the Student Voices Civics Fair for their work lobbying state and local officials to provide housing for tenants recently displaced by the demolition of the Robert Taylor Homes. Students at Austin High School took on a more local concern by successfully lobbying their principal and local school council to change the school’s uniform policy and open up more slots in the school’s vocational education programs for students. Other schools helped remodel homeless shelters, introduced recycling ordinances in city council, and set up meetings with their police commander to talk about reducing youth violence.

Public policy advocacy efforts of Mikva Challenge are driven by a belief that students are experts on youth-related topics, such as education and youth violence. Recently, a group of students challenged the Chicago Tribune editorial board on what they perceived to be an unfair question concerning drug felonies on the Free Application for Federal Student Aid (FAFSA) form. The Tribune eventually ran an editorial endorsing the students’ opinion. In April, students went to Springfield, Illinois, to advocate for changes to the school funding formula to reduce reliance on property taxes. They held a press conference in the state capitol and lobbied more than a dozen legislators as well as the Governor’s office.

Another Mikva program that directly connects students to the electoral process is the Active Citizen Project. Since 2000, Mikva Challenge has recruited and trained over 700 high school seniors to work in polling places on election day as election judges. Students have been praised by the Board of Elections for their energy and competence, and there is strong evidence that these students have been very influential in bringing out family and friends to vote.

The Mikva Challenge aims its civic education programs at both the minds and the hearts of students. Our goal is to stir their passions and get them to believe in a candidate or an issue. Mikva Challenge believes high school students are ready to experience the ups and downs of American politics, and our organization opens up pathways for Chicago students to become actors—not just spectators—in American democracy.

Michael Altman is a social studies teacher at Steinmetz Academic Centre (www.steinmetzac.com), a public high school in Chicago, Illinois.

Brian Brady is executive director of the Mikva Challenge (www.mikvachallenge.org), a Chicago-based organization founded in 1997 to encourage young people to learn civics through actively participating in the democratic process.
Signed into law by President Clinton in 2000, the Children’s Internet Protection Act (CIPA) requires that public libraries accepting federal funds to facilitate Internet access must install “filtering” software to block pornographic images. On June 23, 2003, a divided Supreme Court upheld this requirement in United States v. American Library Association.

The case was born when a group of libraries, library patrons, and library associations including the American Library Association (ALA) sued in federal district court to block CIPA’s filtering requirements [for the ALA’s perspective on this case and its aftermath, see “Viewpoint” on page 22]. These plaintiffs argued that the law induced public libraries to violate the First Amendment and therefore exceeded Congress’s power “to provide for the ... General Welfare of the United States” under the Constitution’s Spending Clause (Article I, Section 8, Clause 1).

A chief complaint was that filtering technology is not sophisticated enough to block pornographic sites without also blocking many nonpornographic sites. While the law permits patrons to ask a librarian to unblock a specific Web site and allows adults to demand that the filter be turned off altogether, the library community contended that patrons would find these remedies burdensome, potentially embarrassing, and impractical. The United States Government defended the law by arguing that it is perfectly appropriate for Congress to specify the purposes for which its Internet funding may be used.

The federal district court ruled in favor of the library plaintiffs and declared CIPA unconstitutional [see American Library Association et al. v. United States; and Multnomah County Public Library et al. v. United States, 201 F. Supp. 2d 401 (ED Pa. 2002)]. The court reasoned that while providing Internet access, libraries were creating a designated “public forum.” Under First Amendment doctrine, content-based restrictions on access to public forums trigger “strict scrutiny”—a form of constitutional analysis that requires courts to strike down challenged restrictions, unless the government can show they are a “narrowly tailored” means of furthering a “compelling” governmental interest. Here, the district court found that the government did have a compelling interest “in preventing the dissemination of obscenity, child pornography, or in the case of minors, material that is harmful to minors,” and perhaps even in protecting library patrons and staff “from unwilling exposure to sexually explicit speech that, although not obscene, is patently offensive.” The problem, the court concluded, was that requiring libraries to install Internet filters was not a “narrowly tailored” solution: filters set to block pornography also restrict “many thousands of Web pages that are clearly not harmful to minors, and many thousands more pages that while possibly harmful to minors, are neither obscene nor child pornography.”

The district court suggested, alternatively, that it would be constitutional for libraries to tell their patrons that Internet terminals may not be used to access pornography. This policy would be enforceable because violations could be detected both through direct observation and by reviewing Internet use logs. Similarly, the court suggested that libraries could protect their patrons from being unwillingly exposed to offensive materials by placing unfiltered Internet terminals “outside of patrons’ sight-lines and areas of heavy traffic” or by using privacy screens or recessed monitors.

The district court also agreed with the library associations’ argument that the CIPA provision permitting libraries to disable the filtering software upon an adult patron’s request was not enough to make the law narrowly tailored. Patrons would be deterred from asking for permission to obtain access to speech...
What is “E-Rate”?  

The Universal Service Program for Schools and Libraries—known more simply as “E-rate”—is a federal program that provides discounts to all K–12 schools (public and private) and public libraries for Internet access and connections. Schools receive most of the discounts, which may range from 20 percent to 90 percent depending upon the income levels of the students and their eligibility for the National School Lunch Program.

Since the program’s inception in 1998, more than 12 billion dollars have been allocated to the states for distribution to schools and libraries that choose to apply. Nationally, E-rate has helped provide nearly universal Internet access in schools and public libraries in urban and rural areas of the country.

E-rate has experienced some recent scrutiny, however. In June, 2004, a U.S. House of Representatives committee—the Energy and Commerce Committee’s Oversight and Investigations Subcommittee, began hearings on “waste, fraud and abuse concerns” in the E-rate program.

“that is constitutionally protected, yet sensitive in nature,” and anonymous requests to disable the filtering software could not be processed immediately. The court therefore determined that “any public library that complies with CIPA’s conditions will necessarily violate the First Amendment.”

The United States asked the Supreme Court to review the district court’s ruling. The Court heard oral arguments in the case in March 2003; in June, the nine justices issued five separate opinions. Six justices voted to uphold the law, but they could not agree on the rationale for doing so. The actual decision to reverse the district court was therefore announced in a “plurality opinion”—an opinion that announces the court’s decision, despite failing to persuade a five-justice majority to sign the opinion’s reasoning. In this case the plurality opinion was authored by Chief Justice Rehnquist and joined by Justices O’Connor, Scalia, and Thomas. Justices Kennedy and Breyer filed their own separate opinions—“concurring” in the plurality’s judgment but not its reasoning. Justice Stevens filed a dissenting opinion, as did Justice Souter in an opinion joined by Justice Ginsburg.

The Plurality Opinion

In announcing the Court’s decision to uphold CIPA, Justice Rehnquist explained that two federal programs aid public libraries that provide Internet access. One, the “E-rate program,” enables libraries (and schools) to buy Internet access at a discount (See sidebar). Another, the Library Services and Technology Act (LSTA) program, gives financial grants to help state library agencies pay for computer network and telecommunication technology. These are substantial aid programs. In 2001–02, libraries received $58.5 million in discounts under the E-rate program, and Congress appropriated $149 million in LSTA grants in FY 2002.

CIPA does not require any library to accept federal financial assistance for providing Internet access, and the law’s filter provisions apply only to libraries that do accept those aid dollars. Libraries, therefore, may decline to install any Internet filters and forego financial assistance from the E-rate or LSTA programs, or they may install the filters and accept the federal dollars. Under Supreme Court precedents, however, conditioning restrictions on the voluntary acceptance of federal aid is not enough to ensure that the restrictions are constitutional. The chief justice explained that although Congress has “wide latitude to attach conditions to the receipt of federal assistance to further its policy objectives,” it still may not “induce the recipient to engage in activities that would themselves be unconstitutional.”

Rehnquist concluded, however, that Congress did not commit that constitutional error in this case.

First, Rehnquist said that the public libraries’ role in society is to “facilitate learning and cultural enrichment,” which requires library staff to have broad discretion in making collection decisions based on content. Rehnquist noted that most libraries already exclude pornography from their print collections and that these decisions have never been subjected to heightened judicial scrutiny. He concluded that it would make little sense to treat libraries’ judgments to block online pornography any differently. In the plurality’s view, the tendency of filtering software to inadvertently “overblock” nonpornographic sites is no constitutional impediment; when an adult patron encounters a blocked site, he or she need only ask a librarian to unblock it or disable the filter entirely.

Finally, Justice Rehnquist noted that the CIPA does not “penalize” libraries that choose not to install filtering software, or deny them the right to provide their patrons with unfiltered Internet access. Rather, “it simply reflects Congress’s decision not to subsidize their doing so; to the extent that libraries wish to offer unfiltered access, they are free to do so without federal assistance.”

continued on page 27
When the Internet began to appear in libraries in the early 1990s, it offered library users the ability to access information as never before, without unnecessary limitations based on tight library budgets, limited shelf space, and finite staff resources. From the beginning, librarians did develop policies and procedures for the fair and equitable provision of Internet access and respond to any problems.

Unfortunately, some individuals were uncomfortable with the information explosion and complained bitterly about the kinds of sexually explicit sites available on the Internet. They were especially concerned about the possibility of children accessing these sites. When the complaints became loud enough, Congress passed the Communications Decency Act (CDA) in 1996. A year later, the CDA was declared unconstitutional by a unanimous U.S. Supreme Court. In 1998, Congress passed the Child Online Protection Act (COPA); this legislation was recently struck down by the Supreme Court.

In December of 2000—in the closing days of the Clinton administration, the Children’s Internet Protection Act (CIPA) was passed by Congress. The American Library Association fought this bill at every step along the way for three reasons:

1. Libraries are community based institutions, but CIPA took control of local libraries out of the hands of the local community and placed it in Washington, D.C.

2. The mandated solution to the alleged problem—filters, had been proven to be ineffective. Filters are both under-inclusive and over-inclusive; while they do eliminate a substantial number of the sex sites and the crime/hate sites, they also eliminate up to 30 percent of valuable, useful, and legal information. In the ALA’s opinion, filters are not appropriate devices to use in libraries.

3. The ALA was very concerned that this law would exacerbate the “digital divide,” or the gap in access to information technology, because the federal funding affected by CIPA is determined by the income level of the population served.

In this light, the 6-3 decision handed down by the U.S. Supreme Court in United States v. American Library Association on June 23, 2003, was not only a huge disappointment but in many respects also a setback for public libraries in the United States.

Current figures indicate that up to 15 million people depend on public libraries for access to the Internet. They neither own a computer nor have the wherewithal to anticipate being able to purchase one. It is indeed true that based on the Solicitor General’s argument before the Supreme Court, every adult now has the right to go to any librarian and request that the filter be turned off. Unfortunately, given the complex configuration of computers in public libraries, the ability to turn a filter off at the computer level—and to do so both quickly and easily—is usually impossible.

Evidence shows that the CIPA decision is particularly impacting the traditionally disenfranchised—the poor, immigrants, and the elderly. And, just as feared, libraries in wealthy communities have the resources to turn down e-rate and Library Services and Technology Act (LSTA) funding. The poor communities that depend upon federal funds to provide Internet access are also the ones with the greatest number of individuals within their service community who can access the Internet only through their local public library.

Those most directly affected by U.S. v. A.L.A. are young people under the age of 17. This decision cripples librarians’ ability to serve the information needs of this group. Near-adults, those minors between the ages of 13 and 16 have come to libraries to secure information that they want and need—information on maturation, health, sexuality, and a wide variety of subjects about which they are curious or need due to personal circumstances. Once again, young persons, especially those who are impoverished and without access to a computer outside of their public library, are bearing the greatest burden of the Court’s decision. Under CIPA, they are restricted to materials...
suitable for 5-year-olds until their 17th birthday, denied the opportunity to use the Internet responsibly under the guidance of their parents and their local librarian.

While there are many points that librarians question in the Court’s plurality opinion, the most distressing is the view that “traditional library practices” validate CIPA’s imposition of mandatory filtering. Relying on a library science textbook from 1930, Justice Rehnquist wrote that it is the library’s job to select and provide materials of “requisite and appropriate quality.” In effect, Justice Rehnquist justifies the CIPA’s mandatory filtering by arguing that the librarians’ traditional role is to be the moral and intellectual judge for a community, denying patrons access to certain information or books if the material is not of “requisite and appropriate quality.” Fortunately for library users, librarians rejected the notion that they are the moral guardian for their communities’ reading immediately after that 1930 textbook was published. Since that time, libraries and librarians have taken a position in opposition to censorship of any kind in the library. We believe, further, that in order to fulfill our public responsibility, we must provide information and ideas across the spectrum of social and political thought, giving users the ability choose what they want to read, view, or listen to, whether or not all library users—or even the general public—agree with all of the materials the library acquires.

I predict that the library profession is not finished with the Children’s Internet Protection Act. CIPA precludes the profession from fulfilling its mission—to provide free and open access to information across the spectrum of ideas for all members of our communities, and the profession will continue to work toward overturning it.

Judith F. Krug (jkrug@ala.org) is director of the Office for Intellectual Freedom of the American Library Association.

How One Library Uses Filters

Insights interviewed Mark West, deputy director of the Naperville (Illinois) Public Library, located in a suburban community of 130,000 people about 30 miles southwest of Chicago.

Editor: When and where did your library install filters?

Mark West: The Naperville Public Library installed filters on workstations in the children’s departments when public Internet access was first offered in 1996. The use of filters was designed to provide parents with the option of directing their children to filtered workstations should they so desire. Children are not limited to filtered workstations, once they have parental consent to access the Internet.

Editor: Were federal funding programs like E-rate or LSTA grants a factor in the library’s decision?

Mark West: No. In fact, the Naperville Public Library’s Board of Trustees voted two years ago to reject the filtering of all workstations, even though this action would disqualify the library from some federal grant money.

Editor: Do the filters work in the children’s section?

Mark West: Filters are, at best, blunt instruments. They fail to stop some undesirable material while sometimes blocking access to legitimate sites. However, there have been few complaints from our young patrons over their inability to access materials on the Internet. Most children do not use the Internet access workstations but, instead, spend their time on computers offering educational software and games.

Editor: What community feedback have you received on filters?

Mark West: There has been little public comment on the use of filters and none at the time of the Library Board’s decision to forego funding in favor of unfiltered access. A recent incident where a patron was accused of public indecency while viewing pornography on a workstation in a computer lab resulted in some discussion of filters, but the library has received only four comments on the subject, all encouraging the use of filters.

Editor: Do you have any final thoughts?

Mark West: Our library encourages parents to monitor their children’s use of the Internet. It is the parent, not government in the form of the public library, who should regulate the types of materials that are viewed by a child.
Lesson Overview

This teaching strategy extends students’ understanding of lawmaking, the First Amendment, and school policy-making. Students will engage in mock planning, research, and evaluation activities designed to help a school become compliant with the Children’s Internet Protection Act (CIPA). Go to www.insightsmagazine.org for a listing of relevant standards addressed by this issue of Insights.

Objectives

As a result of the lesson, students will:

- Understand how federal laws are implemented at the local level.
- Learn the parameters of the Child Internet Protection Act.
- Refine their knowledge of the First Amendment and categories of speech.
- Gain a critical understanding of how Internet safety measures work, including advantages and disadvantages.
- Learn how school policies are created in the context of Internet use.

Target Group: Secondary students

Time Needed: 2–3 classes over several weeks

Materials Needed: Student Handout (go to www.insightsmagazine.org). For lesson extension and/or advanced classes, provide each student with a copy of the “Law Review” department article (pp. 20–21, 27), which analyzes CIPA and the Supreme Court’s review of its constitutionality.

Procedures

Part I

1. Assign students in small groups to research CIPA, focusing on the sections of the law that apply to public schools. Ask students to determine the need that the law addresses and what schools are required to do in order to be eligible for federal funds. Other questions to consider include

   - From what types of material must young people be protected under the Act?
   - How are schools to decide if additional materials may be inappropriate for minors?
   - Which issues must be included in a school’s Internet safety policy?
   - How might failure to comply with the law affect a school?

2. After groups share their research, discuss the key requirements of CIPA, writing them on the board. Students should understand that in order to receive federal funds for Internet services, schools must

   (a) install “technology protection measures” to limit student access to visual materials harmful to minors, obscene materials, and child pornography.
   (b) determine locally whether particular Internet materials not covered under the Act are inappropriate for students.
   (c) develop Internet safety policies.
   (d) hold a public hearing about the safety policy.

Michelle Parrini is an editor and program manager for the ABA Division for Public Education.
3. Review the U.S. Supreme Court cases on pornography and obscenity (see sidebar). Ask students to identify which legal precedents may have been considered in the development of CIPA and how the precedents are reflected in particular sections of the Act. Explain that congressional committees conduct research in areas of case law and the U.S. Code, when new legislation is being developed. Discuss the strengths and weaknesses of allowing local communities to decide whether Internet materials not covered under CIPA may be “inappropriate” for students to access at school. Do students believe individual communities should be able to determine what is inappropriate? Why?

**Part II**

1. Brainstorm ways that students use the Internet in schools. Students should understand that Internet policies typically specify that student use of the Internet at school must serve educational purposes.

2. Assign small groups to investigate and then develop an Internet safety protection measure. Be sure that a variety of measures are researched. Review the materials that need to be restricted if schools wish to comply with CIPA. Groups should prepare oral and written reports describing how their measure works, which of the CIPA-restricted materials it will block, and its advantages and disadvantages.

3. After the oral reports are delivered, distribute the written reports to all students. Ask students to review and discuss the reports in their small groups. Each group should choose an option for your school. Groups should prepare a recommendation to present to the class, including a rationale—i.e., an explanation of how their recommendation will best enable the school to comply with CIPA and also meet the educational needs of students. Students who are not presenting should role-play school board and community members by asking questions.

4. During reports, list and take a vote on the recommended options and their key features. Ask students to play the role of school board members charged with ensuring compliance with CIPA and meeting the educational needs of students at your school. Which option do they believe will best meet both criteria?

5. Analyze the vote results. Discuss what makes the most commonly mentioned features of the recommendations desirable. Ask students if they believe that one of the measures alone will ensure that students are not exposed to the materials CIPA seeks to restrict. If not, what additional options might a school board consider using?

**Part III**

1. Brainstorm the common elements and characteristics of a good, written public policy, regardless of its purpose. Students need to consider clarity, rules, procedures, and provision to give adequate notice about the policy to those who will be affected by it.

2. Ask the small groups to craft a section of a school district Internet safety policy. Review the components required under CIPA. Groups should first investigate the legal issues applicable to their section. Policy and procedures for each section should reflect applicable legal issues and the dual charges of a school board to ensure compliance with CIPA and meet the educational needs of students (see Student Handout on Web).

3. After sections are merged into one document, review the entire policy with the class. Ask students to compose an introductory section that explains the rationale of the policy.

4. Compare the Internet safety policy created by your students with your school district’s policy or that of a neighboring district. How are they similar? How are they different?

5. Conclude the lesson by asking students to consider broad questions about the First Amendment, the Internet, and the goals of schools.

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**U.S. Supreme Court Cases**

In *Ginsberg v. New York*, 390 U.S. 629 (1968), the Court held that a statute prohibiting the distribution of sexually explicit materials to minors was constitutional, and that minors have more restricted rights to make decisions about what they read than adults. In *Miller v. California*, 413 U.S. 15 (1973), the Court held that obscenity was not protected by the First Amendment. The Court established a test with the following three criteria to determine if a work was obscene: (1) the average person, applying contemporary community standards (determined locally) would find that the work, taken as a whole, appeals to prurient interests; (2) the work depicts or describes, in a patently offensive way, sexual conduct specifically defined to be offensive and “hard core” by the applicable state law; and (3) the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. In *New York v. Ferber*, 438 U.S. 747 (1982), the Court upheld a New York statute banning child pornography, holding that preventing the sexual exploitation of minors was a compelling “government objective of surpassing importance.”
Since the fall of 1999, the American Bar Association Division for Public Education has annually sponsored a National Online Youth Summit, a law and public policy-focused program with two overarching goals: to help students develop (1) their skills in civil dialogue and inquiry, and (2) their understanding of a current legal and public policy issue. Originally, the summit functioned as a frame for my law and ethics unit on civil liberties. Over the past five years, it has evolved into the superstructure for the entire law and ethics course. Model bills written by two groups of my students during the spring of 2003 typify the uniquely rich, integrated character of an online youth summit experience, illustrating what led one student to observe, “This was like a social studies lab, Mrs. King. The summit gave us a chance to do something real with all of the principles we studied.”

The 2003 Summit set out a First Amendment-related question: “Should youth access to the Internet be restricted?” To gain a general understanding of First Amendment history and principles, my class used information provided in the summit’s “Teachers Guide” and analyzed excerpts from relevant Supreme Court cases accessed from a Cornell University Web site (www.law.cornell.edu). In-class and online writing and discussions about Ray Bradbury’s Fahrenheit 451 sharpened student’s understanding of the implications of censorship. A lesson, “When May Speech be Limited?” (written by the Freedom Forum Online and included in the summit materials), along with research, analysis, and discussion of legal challenges to Internet censorship legislation, such as the Communications Decency Act (CDA) and the Child Online Protection Act (COPA), enabled students to recognize the difficulties inherent in balancing the needs of society with the constitutional rights of the individual. Visits to government Web sites and a mock legislative hearing facilitated by a Maine legislator exposed students to the form of a legislative document and to the legislative process. A field trip to hear oral arguments made before the Maine Supreme Judicial Court afforded students the opportunity to see and hear the process by which challenges to the constitutionality of a government action are made in an appellate court.

All of these activities inspired five of my law and ethics students to choose the drafting of model legislation as their required, final summit project. The bills gave their respective authors a chance to address their real frustration with “Bess,” the Internet filter used by our school district’s Internet service provider. The legislation synthesized all of the summits components: It incorporated First Amendment principles, recognized mistakes made by Congress in the CDA and COPA, cited First Amendment cases such as Miller, and attempted to balance the school district’s interest in protecting students with the students’ interest in free expression. Additionally, the students’ choice to write legislation opened discussion of public policy considerations, such as a law’s enforceability.

All of my students grew from their participation in the summit. But perhaps the strongest evidence of the summit’s value came from Ann-Karin, an exchange student from Norway, who wrote: “The summit has changed the way I think about the American legal system and inspired me to study my own government more closely when I get home. I can’t think of a better way for a person from another country to learn about American law and democracy.” All of the students in the participating schools have been equally lucky. I look forward to future summits.

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The Concurrences

Justice Kennedy wrote separately to say that his vote to uphold the law was premised on the apparent fact that “on the request of an adult user, a librarian will unblock filtered material or disable the Internet software filter without significant delay.”

Justice Breyer also concurred in a separate opinion. He agreed with the plurality that it was inappropriate to apply the tough, “strict scrutiny” standard of review used by the district court to analyze the filter requirements, but neither did he think the lenient “rational basis” standard was appropriate. Instead, he called for the adoption of a mid-level, “heightened” but not “strict” scrutiny, whereby such regulations would be analyzed in terms of “whether the harm to speech-related interests is disproportionate in light of both the justifications and the potential alternatives.” Applying that test, Breyer concluded that given the “comparatively small burden” that the Act imposes upon library patrons, “any speech-related harm that the Act may cause is not disproportionate when considered in relation to the Act’s legitimate objectives.”

The Dissents

Justice Stevens viewed CIPA “as a blunt nationwide restraint on adult access to an enormous amount of valuable” and often constitutionally protected speech. He therefore concluded that the Court should not permit federal funds to be used to enforce “this kind of broad restriction of First Amendment rights.” He also argued that, although CIPA is aimed at blocking pornographic images, current Internet filters can only screen for “key words” or phrases. Thus, in addition to “overblocking” nonpornographic sites, filtering software inevitably “underblocks” actual pornography, thereby providing parents “with a false sense of security.”

Justice Souter dissented in an opinion joined by Justice Ginsburg. Souter noted that he would have joined the plurality if the only First Amendment interests raised in this case were those of children rather than those of adults, and if he could agree with the justices who contended that “an adult library patron could obtain an unblocked terminal simply for the asking.” Unfortunately, he said, the CIPA provisions cannot actually be construed to say that “a library must unblock upon adult request.” In Souter’s view, the statute says only that a library “may” unblock, not that it must. Secondly, there is an additional (and uncertain) restriction in CIPA that allows unblocking only for a “bona fide research or other lawful purposes.”

The Children’s Online Protection Act (COPA)

In 2000, Congress passed and President Clinton signed into law the Children’s Online Protection Act (COPA). Unlike the CIPA legislation discussed in Law Review, COPA focused on trying to eliminate certain categories of offensive material from the Internet. Thus, COPA bans operators of commercial Web sites from posting sexually explicit material that can be viewed by children under the age of 17, requiring operators to use age verification systems and imposing criminal penalties for violations.

But COPA has been challenged in the courts almost as soon as it was passed. In Ashcroft v. ACLU decided on June 29, 2004, the U.S. Supreme Court (by a 5-4 vote) upheld a lower court order that had blocked the implementation of COPA. The Court said that this legislation was “likely” to be an unconstitutional infringement on free speech. The Court recommended that parents, rather than lawmakers, take the lead in trying to protect children from such materials on the Internet by installing filters, a position consistent with the Court’s holding in U.S. v. ALA (2003) in which the Court upheld the use of filters in public libraries.

Ashcroft v. ACLU reflects both a Supreme Court and a nation deeply divided about how best to balance the values of free speech and the protection of children.

For more information on Ashcroft v. ACLU, including a link to the decision, visit www.findlaw.com.

Conclusion

Prior to CIPA, many parents objected not only to the fact that libraries’ federally subsidized Internet terminals were making hardcore pornography available to their children but also to the prospect that these terminals could enable adults to view such material in proximity to their children. Libraries, on the other hand, were equally determined to defend their patrons’ right to conduct efficient and full Web searches. Whether the resulting compromise legislation upheld by the Court in this case will withstand the test of time may depend on whether filtering technology continues to improve and whether library patrons are able to have erroneously blocked sites unblocked in a timely manner.
First Vote was created to fulfill the promise of the 26th Amendment (extending the vote to 18-year-olds) and to combat low voter turnout among youth. Close Up’s vision for the program is to ensure that every high school student graduates with a diploma in one hand and a voter registration card in the other. The program began in the Miami/Dade School District, where social studies supervisor Paul Hansen inaugurated an effort at classroom-based registration for age-eligible seniors. First Vote is now offered, free of charge, to all high school teachers throughout the country who are committed to incorporating the program into their curriculum. According to Sara Emhof, First Vote coordinator, “Most participating teachers are social studies teachers; however, we do get a number of requests from teachers of other disciplines. All teachers, not just social studies teachers, are invested in preparing students for participation in the political process.” The First Vote curriculum consists of a 14-minute video titled “First Vote: Now More Than Ever” and an educator’s guide with discussion questions, teacher-generated lesson plans, and information about registration and voting procedures.

The First Vote program is unique in that it combines civic education with voter education and is designed to be used every school year with every high school senior. Students not only learn about the registration and voting process but are also encouraged to consider the role voting plays in a democracy. The First Vote video reviews our nation’s historic struggles for voting rights. Using women’s suffrage, the civil rights movement, and the lowering of the voting age as examples, the program reminds students that many people were denied the right to vote. The video also incorporates September 11, 2001, as a defining moment in the history of our democracy. High school students from the School for Public Service and Leadership in New York City offer their thoughts on voting and citizenship after experiencing an attack on our country and its values. The video concludes with information on how students can prepare to enter the political process, including registering to vote, finding the polling place, and learning how to be an informed voter. According to Jeffery Buszta, a government teacher from North High School in Minneapolis, “First Vote is very effective in encouraging students to think about the voting process.”

Perhaps what is most powerful about the First Vote program is the discussion that follows the video. Students discuss their views on civic participation in the aftermath of September 11. Lorenzo Chourinard, a teacher at Riverton High School in Riverton, Wyoming, observes, “First Vote is a natural supplement to any current issues or government curriculum. First Vote prompts a great discussion about voting. After watching the video, a number of students want to visit Washington, D.C., themselves to learn more about the American form of government firsthand.” First Vote has even motivated some students to start their own voter registration drive. Students at Ursuline Academy in New Orleans saw First Vote as a great way to educate students about the voting process. These students are currently working to implement First Vote in other schools.

After years of low youth voter turnout, these powerful discussions are a key in motivating students to become better informed and cast their ballot on election day. A young person who votes the first time that he or she is eligible is likely to make voting a life-long habit. The Close Up Foundation understands the value of teachers in preparing students for active participation. By pro-

Chuck Tampio is the vice president of programs at the Close Up Foundation and the director of First Vote. He has served on the American Bar Association Special Committee on Youth Education for Citizenship and currently serves on the steering committee for the Carnegie Foundation Civic Mission of Schools Project.
viding First Vote, Close Up is making a strong effort to ensure that every high school student graduates as a registered and educated voter.

Tim Davis, formerly of American Express, says, “The reason American Express is proud to sponsor First Vote is that it is a program that takes young people seriously.” To learn more about First Vote, contact Sara Emhof at 1(888)706-3300 or sign up online at www.closeup.org/firstvote.htm.

First Vote in Action

Students were standing outside my office expressing their anger at the verdict of the Amadou Diallo case. A heated conversation ensued, and we began to discuss the options available to teenagers who wished to express their disagreements or displeasure with the system. As a viable option, I proposed the voting booth as a place where one could send a clear message to policy-makers. I heard the teenagers say, “I can’t vote. I’m too young.” Another student said, “My vote doesn’t count.”

Thanks to the guidance and assistance of First Vote, the conversation is different now. First Vote generates an enthusiasm for the opportunity to vote for the first time. Those not quite old enough to vote learn of other ways to make their voices heard—such as joining a political movement, supporting their local politician, mobilizing local constituents, and registering others to vote. They know how important it is to stand up and be counted.

Soon after this event, our entire school endured the terror of 9/11, first-hand. As history-makers that we’ve all become, we have vowed to continue to express our values of citizenship and freedom by using the power of the vote.


Close Up Activities

Since 1971, the Close Up Foundation, the county’s largest nonprofit, nonpartisan civic education organization, has used Washington, D.C., as its classroom to provide students and educators an exciting, interactive lesson on civic participation and government. Participants walk the halls of Congress, discuss critical issues facing the nation, and learn about our nation’s history through study visits of historical monuments. Close Up offers special programs for newly immigrated students, middle school students, and senior citizens, as well as a number of special focus programs. Additionally, Close Up has become part of thousands of classrooms through its award-winning publications, videos, and national television program, Close Up on C-SPAN. For further information, contact Close Up at 1.800.CLOSEUP or visit www.closeup.org.

Youth Voting Rates

Youth voter turnout has declined since 1972, according to a recent study by the Center for Information & Research on Civic Learning & Engagement (CIRCLE). In the 2000 Presidential election, only 37 percent of 18- to 24-year-olds voted, compared with 52 percent in 1972, the first election after the passage of the 26th Amendment. Indeed, 18- to 24-year-olds now vote at rates fully 30 percentage points lower than people 25 or older. In midterm elections, the voting rate for 18- to 24-year-olds has fallen below 20 percent.

The decline in voting has been particularly sharp for young men (18- to 24-year-old women are now slightly more likely to vote) and for white youth (African-American youth now vote at the same level as whites). Education is also an important factor: young people attending college are much more likely to vote than those not in college.

Why are voting rates so low for 18- to 24-year-olds? Studies from CIRCLE point to a low trust in government and a low sense of political efficacy, attitudes that are concentrated in youth not attending college. Registration systems may also play a role: in the few states allowing election-day registration, young people vote at much higher rates. Finally, the lowest voting rates are concentrated among 18- to 21-year-olds. Thus, programs like Close Up’s First Vote that target 18-year-olds are vitally important.

For more information on youth voting, visit www.civicyouth.org.

Editor
What any rational person would do, he turned over all his money … They don’t go suing Google or Yahoo, they pick the weakest people to set a precedent.

Q: And innovation itself is stifled in this atmosphere.

Lessig: Our tradition forever, especially in music, or even outside music, has been that creators have been able to build upon the culture around them and that came before them. All of Disney’s great work is built upon stuff that was in the public domain.

But what we’ve done under the law is eliminate the possibility of the public domain. Copyrights don’t expire anymore. The average copyright term when Disney produced his work was 30 years. The average term now is 100 years.

Q: What about the concept of fair use?

Lessig: One of the reasons this is a problem is because we really didn’t depend on fair use in the past, for the reasons you said. When you bought a book, and you read the book, that was not a “fair use” of the book—that use just wasn’t regulated by copyright law because copyright law regulates copies. And when you read a book, you don’t make a copy.

But when you do the same things on the Internet, all of these things are now regulated by copyright law because everything you do on the Internet produces a copy. So people say, “Now we have to invoke fair use to protect people’s rights.” But the point is, fair use never protected their rights in the past—you didn’t need to protect those rights, because it was unregulated behavior …

Q: Do you agree that if someone makes a movie, an album, whatever, they should just put it out there?

Lessig: The whole point about music is that people want to listen to the same song again and again and again. And they want to listen to more of your songs. So getting your stuff out there is not cannibalizing your market. It’s a way of building your market. That’s what the musicians are increasingly seeing, and that’s why you’re seeing so much more stuff being made available freely.

But it doesn’t follow that the same will be true for all forms of content. Most movies are not films that people want to see 30 times. So I understand why the MPAA is really worried if that their first-run movies get out there and people watch them for free, the movie companies are not going to be able to pay for them. I think you need to think about that problem differently.

Q: So should content be free?

Lessig: I think artists should be allowed to decide what the rules are under which their content is made available in a good copyright system. Sometimes that means their content is made available under compulsory license, which means that they get paid but not a price that they set, sometimes they’ll give it away. Sometimes their copyright expires, at least that’s what was supposed to happen. And copyrights that expire go into the public domain.
Here are some of the features you will find at the Web site for Insights on Law & Society at www.insightsmagazine.org.

To access this issue’s features online:
username: winter04
password: fringe

Use teaching activities focusing on political campaigns and Web sites, voter turnout, and regulating electronic speech, which complement the feature articles.

Read the U.S. Supreme Court opinions in United States v. American Library Association, Ashcroft v. A.C.L.U., and related cases.

Visit and use the many resources from the 2003 National Online Youth Summit Web site, “Access Denied: Should Youth Access to the Internet Be Restricted?”

Download a free copy (pdf file) of the ABA’s Teaching Resource Bulletin Update on the Internet and the First Amendment.

Ask your students to read and answer questions about short Web articles on music file-sharing.

Find some of the best lessons online that complement the topics for this issue.

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