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Articles

FILTH, FILTERING, AND THE FIRST AMENDMENT: RUMINATIONS ON PUBLIC LIBRARIES' USE OF INTERNET FILTERING SOFTWARE

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Traditionally, whenever the government has sought to regulate speech, analysis of its action focused on conventional issues, such as the type of forum involved, whether the government acted in a regulatory or a proprietary role, and whether the regulation could be defined as a prior restraint. With the advent of the Internet and the opportunity for the widespread dissemination of viewpoints, however, new issues have arisen. This Article focuses on the complex questions public libraries face when filtering material, usually of a sexually explicit nature, from the public using filtering software. This Article contends that public libraries require a unique analysis because they represent the government by facilitating access to speech. With this in mind, this Article discusses several arguments for and against the use of filtering software, and concludes that public libraries should be able to employ such tools, but, at the same time, meet certain requirements in their implementation.

IS ISP-BOUND TRAFFIC LOCAL OR INTERSTATE?

By Thomas W. Bonnett239

The shape of communications policy has been influenced by the jurisdictional tension between federal and state agencies and by the interplay between rival telecommunication providers. From the outset, the publicly switched telephone network ("PSTN") was monopolistic and dually regulated by federal and state agencies. In recent years, facilitated by the Telecommunications Act of 1996, vast competition in the local exchange market has developed between incumbent carriers and competitive carriers. This Article provides an overview of this competition and analyzes the dual regulation of the PSTN. In addition, this Article discusses the dispute between incumbents and competitive carriers as to whether calls to Internet service providers should be deemed local or interstate, and provides a summary of the differing views of this dilemma. This Article concludes by contending that, although Internet access is essentially interstate in nature, state commissions can best define the shape that communications policy should take in the digital age.

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TAKING ACCOUNT OF THE WORLD AS IT WILL BE: THE SHIFTING COURSE OF U.S. ENCRYPTION POLICY

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Encryption, understood on a basic level as the process of scrambling information to disguise its content, has been a topic of intense debate over the past decade because of Internet growth and well-founded concerns about online security. The encryption debate centers on striking an appropriate balance between national security concerns and the potential prosperity of the high-tech industry. The Clinton Administration played an important role in relaxing U.S. encryption policy. This Note argues that the dramatic shift in encryption policy resulted from a recognition of how the world will be in the digital age, and that strong, unregulated encryption technology is vital to the continued growth of the Internet and related industries. This Note also encourages public awareness and understanding of encryption legislation, to ensure that policymakers address the very real privacy and security concerns presented by the explosion of e-commerce and Internet use.

CONNECTING THE WORLD: THE DEVELOPMENT OF THE GLOBAL INFORMATION INFRASTRUCTURE

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The International Telecommunication Union, a United Nations organization, has led the charge in developing a truly global economy through its efforts to develop the Global Information Infrastructure ("GII"). The GII would result in universal access to telecommunications and information technology and basic communications services. This Note explains the roles of the agencies involved in the development of the GII and the forces driving its development. It also discusses regulatory issues affecting the implementation and feasibility of the GII. Ultimately, this Note sketches the optimal environment for the evolution of the GII.

Comment

PROTECTING PRIVACY AND ENABLING PHARMACEUTICAL SALES ON THE INTERNET: A COMPARATIVE ANALYSIS OF THE UNITED STATES AND CANADA

By Nicole A. Rothstein343

The Internet raises enhanced and unique concerns regarding informational health privacy and Internet pharmacy sales. As technology advances and the Internet changes the way people obtain medical services and products, protecting consumers and their informational health data in online pharmaceutical transactions is paramount. This Comment charts and compares the existing legal frameworks in the United States and Canada relative to informational health privacy. Following this discussion, each legal framework comes into sharp focus with regard to Internet pharmacy sales. Ultimately, this Comment concludes that based on the highly sensitive nature of personal medical information, a baseline privacy standard should be adopted at the federal level to provide consumers with meaningful protection and redress. To realize the benefits of online pharmaceutical transactions, there should be national standards for licensure, as well as continued tough enforcement of laws targeting rogue Web site operators, enabling this valuable medium to flourish.

Book Review

IN SEARCH OF CONGRESSIONAL INTENT

THE COMMUNICATIONS ACT: A LEGISLATIVE HISTORY OF THE MAJOR AMENDMENTS, 1934-1996

By William Malone375

The Communications Act: A Legislative History of the Major Amendments 1934-1996, a second volume of the important literary legacy of the Golden Jubilee Commission on Telecommunications, has recently appeared beside the well-thumbed copy of its sister volume, *A Legislative History of the Communications Act of 1934*, in the library of every diligent communications lawyer. In this Review, William Malone discusses both the content and the format of this legislative history, as well as the continuing relevance of each volume.