

ADULT INDUSTRY UPDATE

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As largely predicted by legal scholars and the adult industry, U.S. District Judge J. Lowell Reed, Jr. blocked the latest anti-cyber porn law called the Child Online Protection Act (COPA), by issuing a preliminary injunction on February 1, 1999. The law attempted to require any web site presenting sexually oriented materials to verify the age of any person accessing the site by way of a credit card or age verification service (AVS). While the ruling may be bad news for businesses such as Adult Check ®, who would have profited from the verification requirement, the decision is hailed by the ACLU and web site operators as a victory for the First Amendment and for the free flow of information on the web. In his decision, Judge Reed wrote “Perhaps we do the minors of this country harm if First Amendment protections, which they will with age inherit fully, are chipped away in the name of their protection.” If the law had not been blocked, it would likely have required a credit card to access information regarding breast cancer and even abortion. Certainly *Adult Stars Magazine* might no longer be legally accessible without a credit card or AVS. The Court’s injunction is effective until the case is tried. Alternatively, the Government may choose to appeal the Order directly to the United States Supreme Court as is allowed in this type of constitutional case.

Perhaps anticipating this ruling against the COPA, Senator John McCain and Senator Ernest Hollings have already introduced the Children’s Internet Protection Act, S. 97 (CIPA) which would require that blocking and filtering software be used by any school or library receiving E-rate discounts. The bill requires that libraries use a filtering system on one or more of their computers so that at least one computer would be “appropriate for minors’ use”. This new proposal goes to show that the Government will not stop its censorship efforts until it comes up with a constitutional law. After all, it took Congress seven attempts to finally come up with a valid FCC decency law regulating broadcast radio and television.

At the other end of the spectrum is a federal appeals court ruling which upholds the Child Pornography Protection Act of 1996. This law drastically changes the definition of what constitutes “child pornography” and severely punishes the distribution of any images of persons who “appear to be” a minor, even if the performer is over the age of 18. Similarly, the law punishes as child pornography any depiction which tends to appeal to an interest in sexual activities of minors. In other words, films or web pages which contain actresses who are all of legal age, but who appear to be minors are now considered to be child pornography. More disturbingly, works which have titles such as “Highschool Girls” will now ostensibly fall under this new definition of child pornography. The lower court ruled that the law was unconstitutionally vague and discriminated against young-looking adults. The First Circuit Court of Appeals in Portland, Maine overturned the lower court’ ruling and declared the law to be constitutional. This manifestly unfair law is also being challenged by the Free Speech Coalition in the Ninth Circuit Court of Appeals located in California, however no decision has been rendered by that Court. If ultimately upheld by the U.S. Supreme Court, this law could radically change the look of many films and web sites, and put young-looking adult performers out of work.

These diametrically opposed court decisions, along with the high approval rate and recent

acquittal of President Clinton, are further evidence of the vicious cultural war being waged across America. The puritanical censors will keep devising ways to control the country's information intake. At the same time, mainstream America appears to insist upon their right to private sexual activities and entertainment.

Interestingly, while the Government is trying to design new and better tools for the Thought Police, pornography is becoming more mainstream. For instance, two adult industry documentaries appeared at this year's Sun Dance Film Festival: "American Pimp" and "Sex: The Anabel Chong Story." As acceptance of sexually oriented materials continues to pervade mainstream society, the government, allied with pro-censorship groups, will be forced into a position of attack on this industry. Fortunately, at least in some courts, the First Amendment still protects the free flow of information in the market place of ideas.