

ADULT INDUSTRY UPDATE

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This being the first of a new regular legal column, some introductory remarks are appropriate. Our firm is privileged to contribute to the legal knowledge of the industry and I hope that the readership will find my column informative as well as entertaining. Legal issues are inevitably intertwined with the adult industry and several emerging issues threaten the continued viability of both the online and traditional adult media. In this and future columns, I will attempt to alert readers to the legal hot buttons in the industry and give you my insights as an attorney representing clients involved in all facets of the adult industry; from feature entertainers to adult web site owners, video distributors to bookstore operators.

While the adult industry is flourishing in many respects and millionaires have been made overnight on the Web, those who would seek to impose their morality on the rest of us are also gaining strength. Groups such as the Christian Coalition and Morality in Media have gained the ear of those in government with the ability to make life miserable for both the industry and those who enjoy adult entertainment. Our research has uncovered that the now infamous government memo by the Attorney General's Office instructing prosecutors nationwide to begin cracking down on obscenity on adult web sites was prompted directly by a request from Morality in Media. The current administration's apparent willingness to appease the moral concerns of such right wing groups bodes ill for the industry in general. The hypocrisy involved in such prosecutions is only underscored by the fact that on the same day that the Starr Report was posted on the Internet and its lurid details made public to the globe, a House Committee recommended approval of the Online Child Protection Act known colloquially as the CDA II seeking to prohibit material considered harmful to minors from the Internet if accessible to children. Of course the Starr Report itself would be censored under this legislation. On October 21, 1998, President Clinton allowed this Bill to become law, giving the Thought Police a powerful tool to further their censorship efforts. The next day, various First Amendment groups challenged the law in court.

Unfortunately, such legal challenges are not sufficient. A successful campaign against the current censorship effort requires use of the same tactics utilized by the fundamentalist groups to further their own ends. These groups are well-organized and politically powerful since they are active and they vote. I would venture to guess that the average consumers of adult materials do not become active in fighting censorship until they are directly affected and they can no longer access their favorite adult material. By then it is, of course, too late. Those who value their First Amendment right to receive or disseminate materials dealing with sexual expression need recognize that their right to do so is slowly being eroded. The Christian Coalition has gained strong footholds in various local governments and are slowly chipping away at First Amendment rights from the ground up. This effort is amply demonstrated by the nationwide effort by local governments to "zone out" adult entertainment establishments through the use of overly restrictive licensing and zoning ordinances. I have always considered it a privilege to represent clients in the adult industry and advocate on behalf of their First Amendment rights. However legal battles are never enough and courts are increasingly reluctant to afford relief to those seeking to express an erotic message. The political process may be the court of last resort.

We are a country made up largely of individuals who value their First Amendment freedoms. One of those freedoms is to disseminate and receive information or ideas that many people do not

like. These rights must be jealously guarded and vigorously defended. Election season is upon us and the censors must be exposed and voted out. With the support of the troops at the polls, those of us on the front lines have a real chance to succeed.

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