

for a stronger test for Bell company entry into the long-distance business and also a more meaningful role for the Justice Department.

I also share the administration's concern about the legislation not only taking the lid off but also promoting increased cable rates. I mean, we have already lived through a period of skyrocketing cable rates. Congress took action to address the problem of cable rate increases when we passed the 1992 Cable Act over a Presidential veto. Let us not go backward in time, but go forward with responsible telecommunications reform.

Again, I use Fairfax County as an example. Here you see rates go up for antiquated equipment. Rates go up, we are told, for all these channels we get, most of which I doubt if anybody including the cable system ever watch. But if at 3 o'clock in the morning, you are moved with a great desire to buy 10 pounds of zircons, you have at least five channels that you are paying for to know where you can buy those 10 pounds of zircons. Or, if you need to have your soul saved there are at least 10 different people at any given time who will tell you that your soul will be saved but only if you send the money to them. I guess they give you a plaque saying you have been saved. None of the 10 says why the other 9 should not get the money and why you get less soul salvation from them.

Well, that is fine, but I just wonder whether there might be a little more filtering, a little more selectivity, if there was competition here. Without competition, their rates go up. We see the same thing in local telephone service. Their rates go up because competition is not yet available.

Now, we know that there is a need for new legislation. Certainly the legislation from the 1950's, 1960's, 1970's, and early 1980's cannot keep up with the technology of today. But let us make sure we do not turn the clock back both for business and consumers. Rather, give us a chance to use the marketing and technological genius of our great country as we go into the next century.

I worry also about issues like criminal penalties for engaging in constitutionally protected speech that occurs over computer networks. Right now a provision in the Senate telecommunications bill would penalize you, if you are, for example, a botanist and click onto an online article on wild orchids, but suddenly find something that is not the kind of wild orchid you grow in your planter but reference to an obscene movie. The fact that you even clicked on, downloaded and found out what it was, you could be prosecuted. The distinguished Presiding Officer uses the Internet as I do, uses his computer as I do. Not that this would ever happen, but suppose he sends me a message disagreeing—I say it would probably never happen—but disagreeing with a political position I took. And suppose I sent back a message to him

and in the heat of the moment was less than senatorial in my courtesy toward him and used terms that neither he nor I would use. I use this, of course, as a hypothetical, Mr. President. I could be prosecuted under this bill for doing it.

The interesting thing is he might be prosecuted for receiving it even before he knew what was in there, and certainly should he get incensed by what he received he could be in a real heap of hurt if he sent back, and you're one, too.

These are the kinds of silly things that we have crafted in this telecommunications bill that we ought to take a second look at. It might make us all feel good at the moment, but the long-range implications are weird and we ought to look at all of these issues.

The distinguished chairman of the Commerce Committee, the distinguished chairman of the Judiciary Committee, the distinguished ranking members of both of those committees and so many other Members in this body, Republicans and Democrats alike, have worked so hard to get a bill out of here. Let us not in almost a sense of final relief of throwing it out the door, throw out something that is going to come back and bite us. It will not just bite the 100 of us, but hundreds of millions of consumers and dozens and dozens of businesses that deserve better.

So let us appoint Judiciary Committee members. It does not guarantee that everything that I might want or Senator THURMOND might want would be on that bill by any means. But it might mean that those with expertise in the areas of antitrust, first amendment rights, and so on, would have a choice, and we might have better legislation as a result.

Mr. President, I understand that neither the distinguished Senator from North Dakota nor anybody else wishes to speak over here.

I might ask the distinguished Senator from South Dakota if it is his same feeling as the distinguished Senator from North Dakota, that upon completion of this we just yield back all the time?

I understand it is, Mr. President, and I yield back all time.

Mr. PRESSLER. Mr. President, I would just like to make a couple of remarks regarding the distinguished Senator from Nebraska.

Mr. LEAHY. In that case I think I will reserve the remainder of the time, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would say that through this legislation we are trying to address and correct some of the problems raised, and we will be proceeding with the conferees after they are agreed to. I thank all of my colleagues who have participated in this debate, and I am prepared to yield back the remainder of our time on this side.

I am prepared to yield back the remainder of our time.

Mr. LEAHY. I yield back the remainder of our time.

The PRESIDING OFFICER. Under the previous order, the Senate disagrees with the amendments of the House, agrees to a conference requested by the House on the disagreeing votes of the two Houses, and the Chair appoints the following conferees: Senators PRESSLER, STEVENS, McCAIN, BURNS, GORTON, LOTT, HOLLINGS, INOUYE, FORD, EXON, and ROCKEFELLER.

Mr. PRESSLER. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

HOUSE-SENATE CONFERENCE ON TELECOMMUNICATIONS REFORM HAS IMPLICATIONS FOR FIRST AMENDMENT APPLICATION TO THE INTERNET

Mr. FEINGOLD. Mr. President, today the Senate appointed Members to the House-Senate conference committee on telecommunications reform. The historic nature of this legislation and its effect on the lives of every citizen of this country goes well beyond the issues associated with regulation of telephony, cable rates, and other forms of communications. Mr. President, this legislation has dramatic implications for the first amendment rights of every American.

Mr. President, I am referring to the precedent-setting provisions in S. 652 and H.R. 1555 regarding indecency on the Internet. I am here today to urge each Senate conferee to take the first amendment issues of these bills seriously and to consider the ramifications of these provisions not just for speech on the Internet but for all speech in this country. During conference deliberations, I urge Senate conferees to strike the potentially unconstitutional provisions regarding on-line indecency contained in both the Senate and House versions of this legislation.

The issue of Government censorship of the Internet is a critical first amendment matter. Guaranteeing the Internet is free of speech restrictions, other than the statutory restrictions on obscenity and pornography on the Internet which already exist, should be of concern to all Americans who want to be able to freely discuss issues of importance to them regardless of whether others might view those statements as offensive or distasteful.

Specifically, Mr. President, the Exon-Coats amendment, added to S. 652 on the Senate floor, included provisions which I believe violate the first amendment rights of Internet users and will have a chilling effect on further economic and technological development of this exciting new form of

telecommunications. When this matter was considered on the Senate floor, I urged my colleagues to reject the Exxon-Coats amendment in favor of legislation requiring the Department of Justice to carefully study the applicability of existing obscenity statutes to computer networks, which Senator LEAHY and I offered as an alternative.

Specifically I have objected to the indecency provisions of S. 652 for the following reasons:

First, indecent speech, unlike obscenity, is protected under the first amendment to the U.S. Constitution; second, an outright ban on indecent speech on computer networks is not the least restrictive means of protecting children from exposure to such speech on the Internet. There are a number of existing tools available today to allow parents to protect their children from materials which they find inappropriate; third, a ban on indecent speech to minors on the Internet will unnecessarily require adults to self-censor their communications on the Internet; fourth, since indecency will be defined by community standards, protected speech by adults will be diminished to what might be considered decent in the most conservative community in the United States and to what might be appropriate for very young children; fifth, the on-line indecency provisions will establish different standards for the same material that appears in print and on the computer screen. Works that are completely legal in the bookstore or on the library shelf would be criminal if transmitted over computer networks; sixth, the Supreme Court has ruled that the degree to which content can be regulated depends on the characteristics of the media. The unique nature of interactive media must be considered when determining how best to protect children. S. 652 ignores the degree to which users have control over the materials to which they are exposed as well as the decentralized nature of interactive technology which liken it more to print media than broadcast media.

Mr. President, the Senate was not alone in its rush to judgment on the controversial and highly emotional issue of pornography accessed via computer networks. Section 403 of H.R. 1555, known as the Hyde amendment, raises equally serious concerns with respect to the first amendment and appears antithetical to other provisions contained in the House bill. The prohibitions against on-line indecency contained in the Hyde language will have a similar chilling effect on the on-line communications of adults. The Hyde amendment is also inconsistent with the more market oriented and less intrusive provisions of section 104 of H.R. 1555, the On-Line Family Empowerment Act introduced by Congressmen COX and WYDEN, as adopted by the House. Section 104 recognizes that first amendment protections must apply to on-line communications by prohibiting FCC content regulation of

the Internet. The Cox-Wyden provisions also promote the use of existing technology to empower parents to protect their children from objectionable materials on the Internet, and encourages on-line service providers to self-police offensive communications over their private services.

In addition, the Hyde amendment is incompatible with the pro-first amendment provisions of section 110 of H.R. 1555, which requires a report by the Department of Justice [DOJ] on existing criminal obscenity and child pornography statutes and their applicability to cyber-crime. Section 110 also requires an evaluation of the technical means available to enable parents to exercise control over the information that their children receive on the Internet. Perhaps most significantly, section 110 embraces the application of first amendment speech protections to interactive media. H.R. 1555, while embracing the principles of restraint with respect to new criminal sanctions on protected speech and the promotion of a free-market parental empowerment approach, simultaneously ignores both of those axioms with the Hyde provision. By imposing new criminal sanctions on indecent speech and amending existing criminal statutes, the Hyde amendment rushes to judgment before the DOJ study has even begun.

Mr. President, recently the Senate Judiciary Committee held the first ever congressional hearing on the issue of cyberporn. Based on the testimony of the witnesses, which included parents as well as victims of cyberporn, it became clear that the objectionable communications on the Internet are already covered by existing criminal statutes. The concerns raised at the hearing centered upon trafficking of child pornography, the proliferation of obscenity, and the solicitation and victimization of minors via the Internet. However, those offenses are already violations of criminal law. Indeed, recent press accounts indicate that law enforcement officers are already aggressively prosecuting on-line users for violations of criminal law relating to obscenity and child pornography.

It is critical that we use law enforcement resources to prosecute criminal activity conducted via the Internet and not be distracted by the issue of indecency which has not been identified as a serious concern by users or parents. It was clear, during our recent Senate hearing, that the witnesses' concerns about the Internet did not relate to indecent speech or the so-called seven dirty words. It is incumbent upon Congress to wait for the results of the study required by H.R. 1555 before embracing overly restrictive, potentially unnecessary, and possibly unconstitutional prohibitions on indecent speech contained in both versions of telecommunications reform legislation.

Mr. President, I urge the conference committee to reject the Exxon-Coats and Hyde provisions during its deliberations and to maintain the Cox-

Wyden amendment adopted overwhelmingly by the House of Representatives. If the United States is to ever fully realize the benefits of interactive telecommunications technology, we cannot allow the heavy hand of Congress to unduly interfere with communications on this medium.

Furthermore, Mr. President, I urge Senate conferees to recognize that if the first amendment has any relevancy at all in the 1990's, it must be applied to speech on the Internet. As Members of this body sworn to uphold the Constitution we cannot take a cafeteria style approach to the first amendment, protecting the same speech in some forms of media and not in others. Shifting political views about what types of speech are viewed as distasteful should not be allowed to determine what is or is not an appropriate use of electronic communications. While the current target of our political climate is indecent speech—the so-called seven dirty words—a weakening of first amendment protections could lead to the censorship of other crucial types of speech, including religious expression and political dissent.

I believe the censorship of the Internet is a perilous road for the Congress to walk down. It sets a dangerous precedent for first amendment protections and it is unclear where that road will end.

CHILDREN'S TELEVISION

Mr. LIEBERMAN. Mr. President, I rise today to continue the discussion that I gather a few of my colleagues here in the Senate began earlier in the day as a result of the fact that conferees have been appointed to deal with the telecommunications bills that have passed both the Senate and the other body. These are very important bills dealing with a rapidly expanding, rapidly changing, ever more influential sector of not only our economy but our lives, that of telecommunications.

I rise today not to talk about the corporate structures that are overlapping or the technical details of the revolutionary changes occurring in telecommunications but to talk about the content, talk about what is broadcast on these increasingly important parts of our lives and particularly to focus on the ever-present box, the television, in our homes and the impact that what is on television has on our kids and therefore on our society.

The Senate and the House included in their telecommunications bills the so-called V chip, or violence chip, or C chip, as we like to call it, choice chip provisions that I was privileged to co-sponsor with the Senator from North Dakota [Mr. CONRAD], but which was supported by a very strong bipartisan group in the Senate to create the technical capacity in parents and viewers generally to have some control over what comes through the television screen and affects our kids and also to require the industry to create a rating