

a minor. As originally written, it would make it illegal to receive indecent material whether or not the user knew the material was indecent at the time he downloaded it. Service providers would also risk criminal liability and fines for their subscribers' use of indecent language.

Now, we have to ask ourselves if this makes such sense. We saw what happened in Vermont last week. A Vermonter from Underhill, VT, found that her personal profile on America Online had been deleted. She asked why it was deleted and was told it was because vulgar words were used on it. So she checked to see what was the vulgar word. The word "breast" was used. Why? Because she was a breast cancer survivor and was using America Online to correspond with other breast cancer survivors. So, this word came up and because of hypersensitivity over Congress being worried about words used on the Internet, she was yanked off. This is ridiculous in this day and age.

One wonders if, in the future, recipes for chicken cacciatore sent online will only call for dark meat to avoid using the "B-" word.

We should understand there are plenty of laws on the books that apply to the Internet by banning obscenity, child pornography and threats from being a distributed. What we are talking about is regulating constitutionally protected speech. One proposal under consideration by the conference would impose penalties on anybody who transmits protected speech if it is considered indecent.

In addition to effectively banning indecent speech, the conference is considering proposals to impose criminal liability on both the speakers of indecent content as well as online service providers. The result would be to draft the service providers into the role of Net police. Service providers like America Online and Prodigy, telephone companies providing modem connections, and libraries and schools hooking our Nation's children up to this brilliant new medium would face the risk of being fined and even jailed.

To avoid liability, service providers, libraries, and schools would bear the onus of asserting complicated defenses to prosecution. The implications of being hauled into court in the first place—especially for schools and libraries—should not go unnoticed. Many providers will seek to avoid the risk of litigation altogether by censoring all online speech to that appropriate for kindergarten children, or refusing to serve children at all.

These extreme proposals on the table in the telecommunications conference would leave online communications in a severely disadvantaged position in our society. While Newsweek magazine's recent cover story trumpeted the vision of the computer mogul Bill Gates, the U.S. Congress is simultaneously poised to shut down this new medium and vastly change the landscape of the information age. We must stop being paternalistic Luddites and

embrace our new communications potential.

Because indecency means very different things to different people, an unimaginable amount of valuable political, artistic, scientific and other speech will disappear in this new medium. What about, for example, the university health service that posts information online about birth control and protections against the spread of AIDS? With many students in college under 18, this information would likely disappear under threat of prosecution.

I understand that Representative WHITE will make an alternative proposal to the telecommunications conference tomorrow. His proposal avoids regulating constitutionally protected speech, and limits any regulation to materials harmful to minors. This is a step in the right direction, but still leaves Internet users guessing at what may be considered harmful to minors in different areas of this diverse country.

The Internet and other computer networks hold enormous promise for enhancing our lives in ways that would have been unthinkable only a brief decade ago. But the growth of this network will no doubt be chilled if users fear that they risk criminal liability by using particular words that might, in some jurisdictions, be considered indecent. Or, if service providers simply refuse to provide Internet access to children under 18 years of age, due to the risk of criminal liability.

I have written, along with several other Members, to the chairman and ranking member of the Senate Commerce Committee urging the conferees to appreciate the implications that these proposals will have for the Internet. They should not rush consideration of these weighty issues. This is a great new communications medium and the conference should deliberate carefully before it gives its blessing to new crimes for saying things that some people, some where in this country, may deem to be indecent for children.

We should all be concerned lest the parody becomes reality.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENSORING THE INTERNET

Mr. FEINGOLD. Mr. President, I am pleased to be able to follow the Senator from Vermont who spent a few minutes to address a matter which was reported by the news media throughout the country this weekend in which the Senator from Vermont referred to and has a great relevance to legislation which the Senate passed this summer and will consider soon again.

The telecommunications conferees may within the next 24 hours decide whether this Congress is going to take the unwise step of censoring the Internet.

I am speaking of the Communications Decency Act which passed the Senate overwhelmingly as an amend-

ment to the telecommunications deregulation bill in June. The Communications Decency Act contained criminal penalties for the transmission of constitutionally protected speech over computer networks. The penalty for transmitting indecent speech which might be accessed by a minor was up to 2 years in prison and fines of up to \$100,000. Indecency, unlike obscenity, is constitutionally protected. Indecent language has thus far, only been defined by the FCC in regard to the time, place, and manner in which it may be transmitted. The definition includes the so-called seven-dirty words including what some might call mild profanity.

When this legislation was offered as an amendment in the Senate, I objected for a number of reasons. My fundamental concern was, and continues to be, that prohibitions on speech labeled indecent are unconstitutional. While courts have upheld restrictions on indecency to minors on other some forms of media, the Communications Decency Act would restrict communications between adults as well. The legislation, as passed by the Senate, could subject consenting adults communicating over a public USENET group to criminal penalties if their conversation took place in a forum that was accessed by a minor. I believe that not only is that unacceptable, it is also unconstitutional. Adults should not have to self-censor their words over public information forums. A profane exchange between two adults on a street corner which is overheard by a child would not subject those adults to criminal sanctions. However, if that exchange occurred on a public forum over the Internet and a child accessed that forum, those same adults could land in jail.

During the floor debate, I raised serious concerns that the Communications Decency Act would have a chilling effect on computer networks, forcing adults to self-censor their words to what is appropriate for the youngest of children in the most conservative communities in the country. I, along with my colleague from Vermont, Senator LEAHY, suggested that this type of censorship would also have a chilling effect on the many socially valuable forums that exist via the Internet. There exist currently many on-line support groups for child abuse victims, rape victims, victims of disease, for those coping with AIDS, and other social issues. In addition, there exist chat groups, bulletin boards and USENET groups to discuss presumably adult topics which might contain the seven dirty words or other adult language. I suggested that the Communications Decency Act would suppress those types of forums, limit the content of the discussions within those forums, and ultimately result in their termination.

The proponents of the Communications Decency Act assured the Senate that such was not the intent of the amendment. In fact, Mr. President, some suggested that these types of concerns were raised in an effort to spin the issue. They suggested these fears were not real and were not likely to be realized.

I suggest to Members of this body that news reports over the weekend confirm just how quickly those fears could be realized if the Communications Decency Act became law. One of the companies providing on-line services to consumers, America Online, in an effort to screen out filthy, vulgar and obscene language, apparently included the word "breast" in the list of prohibited words on AOL's services.

Mr. President, the word "breast" has been used many times on the Senate floor with respect to health care legislation, is not even among the so-called seven dirty words. It is not indecent. It is not profane. Yet it was screened out by a service which has been under tremendous fire for not policing its networks carefully enough.

Of course, the deletion of the word breast was met with an enormous outcry by women who participate in a breast cancer survivors online support group. According to press reports the deletion of the word breast from allowable AOL language became known when an AOL subscriber created her member profile identifying herself as a breast cancer survivor. She received a message from AOL indicating she could not use "vulgar words." AOL soon was barraged by complaints by other users of the breast cancer survivors chat room. The word "breast" was subsequently allowed back on the service. However, an AOL spokesperson caveated that with "as long as it is used in an appropriate manner."

I mention this incident not to fault America Online. They are responding to a series of calls by interest groups, Members of Congress, and others to police speech over their services and to keep AOL family friendly. AOL like other on-line service providers is anticipating additional Government restrictions on speech over the Internet. When under the threat of Government imposed speech restrictions and potential criminal sanctions, it is quite reasonable to overreact, to be overly cautious, and to restrict more than that which is necessary.

Mr. President, this is exactly what I fear will happen if the Communications Decency Act becomes public law. Words will be banned. Speech will be restricted. This, Mr. President, is the chilling effect that Senator LEAHY and I referred to on the Senate floor just 5 months ago. Perfectly reasonable and acceptable language will be restricted and prohibited.

Mr. President, while it may seem ridiculous that the word "breast" was, at least for a short period of time, considered vulgar, it would not be unreasonable for a company like AOL to restrict

such words if the Communications Decency Act becomes law. Indecency is a largely undefined term. We know how the FCC has defined indecency for broadcast, but it is unclear what would be indecent on computer networks. If such restrictions are imposed, people will err on the side of caution in their speech. Under the Communications Decency Act, to protect themselves from criminal liability, on-line services will likely find themselves prohibiting the word "breast" as well as many other words. Adults with direct Internet access will also be forced to self-censor their speech, guessing what might be indecent, and guessing who might access their communications.

In Saturday's Chicago Tribune, Barbara LeStage, a member of the American Cancer Society, commented on the AOL prohibition on the use of the word "breast". Her comments, I think are fairly insightful. She stated

I don't have any problem with AOL trying to keep dirty words off their service. But I don't consider breast to be a dirty word. If you have people who see it as dirty, for whatever reason, then this [prohibition on use] is going to continue to happen.

Mr. President, Ms. LeStage is exactly right. If indecency is going to be outlawed and the term therefore defined by community standards and the courts, this will continue to happen. People differ in their beliefs about what is appropriate for children, about what is dirty, vulgar or indecent. To some individuals even extreme profanity may not be indecent, to others, perhaps the word "breast" is indecent. When AOL determined that "breast" would be allowed under appropriate circumstances, we must wonder under what circumstance would it be inappropriate and who decides.

This is the danger of government censorship of the Internet. Who defines what can be said without criminal sanctions? Who defines what is indecent? Who defines when certain terms are used appropriately and when they are not?

Mr. President, Congress has entered a very dangerous area in its attempt to restrict constitutionally protected speech on the Internet. In the next 24 hours, the Telecommunications conferees will decide which road to take—that of Government excess or that of caution.

I urge the conferees to err on the side of caution and to protect first amendment rights of Internet users. Such a goal is not inconsistent with our overriding objective of protecting children. Technology exists now to allow parents to screen out materials they find objectionable for their children. Obscenity, child pornography, and solicitation of minors via the Internet is already a violation of criminal law and is being aggressively prosecuted by the Department of Justice.

I urge my colleagues not to take the step toward censorship. I believe we will immediately regret it.

The PRESIDING OFFICER. Under the previous order, the Senator from

South Carolina is to be recognized to speak.

Mr. SIMON. I have the consent of my colleague from South Carolina to speak for 2 minutes, if there is no objection, and I ask unanimous consent to speak.

Mr. DOMENICI. Reserving the right to object, I have to be at a negotiating session at 3 o'clock. I introduced this bill 4 years ago, so I ask if maybe I could have some time before 3 o'clock, 10 minutes or something?

Mr. BENNETT. Mr. President, I suggest that we grant the unanimous-consent request of the Senator from Illinois, during which time—not to be disrespectful to his announcement—we sort out the time on this side.

The PRESIDING OFFICER. The Chair must clarify that under the previous order, the Senator from Utah is to be recognized, then the Senator from South Carolina.

Mr. SIMON. I ask my colleague from Utah if he would permit me to speak for 2 minutes.

Mr. HATCH. I yield to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE NORTHWESTERN UNIVERSITY WILDCATS

Mr. SIMON. Mr. President, I send a resolution on behalf of Senator MOSELEY-BRAUN and myself congratulating Northwestern University's football team. It has been cleared on both sides.

Let me just say, after 24 losing seasons, they are going to go to the Rose Bowl. They now rank No. 3 in the Nation. Even more interesting, of all the division 1A schools in the Nation, they are No. 2 in scholastic aptitude tests.

I offer this resolution, and I ask unanimous consent for its immediate consideration. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 197) to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Without objection, the resolution is agreed to.

So the resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 197

Whereas the Northwestern University Wildcats are the 1995 Big Ten Conference