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*Patrolling the Red Light District of the Information Superhighway*

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Abstract by Ryann Kathleen Bernard

The First Amendment poses many challenges to the Federal Communications Commission (FCC) in regulating industries filled with rapid technological advances. The FCC has yet to regulate computer networks, despite their easy accessibility. The digital environment combines broadcasting, telephone, and data into one medium, the result of which, according to the author, is a need to recreate the distinction between these media when regulating indecent conduct.

The Communications Decency Act of 1996 (CDA) prohibits knowingly transmitting obscene and indecent material to minors through computer networks or other telephone communication devices, and Courts can use community standards in testing what qualifies as obscenity. The author argues that applying these standards to the Internet, given its global nature, is problematic and could result in the most restrictive community standards being applied to the entire Internet. The CDA does not explicitly give the FCC control over the Internet, but the author claims that such a role is inevitable for the FCC.

There are several problems with FCC control, including their inability to regulate content from outside this country and the costs involved. The author notes that the same justifications that apply to regulating other means of broadcast do not apply to the Internet. It does not transmit over public airways, the entities that operate computer services do not control transmission channels, and regulation of the Internet is not “reasonably ancillary” to the FCC’s obligation to regulate broadcasters or common carriers. In conclusion, the author recommends that new standards and regulations be designed for computer networks, and that the FCC should not involve itself in Internet regulation.