

Internet Law

Too Much Speech or Not Enough?
Anonymity, Defamation, Liability

Anonymity

- “any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox”
- Anonymously?
 - Many online forums don’t verify identity
 - But, your ISP often knows who you are (billing, connection records)

How does law react?

- Protect speech?
- Protect those victimized by speech?
- What’s the ISP’s role?
 - Should the ISP be made liable for speech it enables?
 - Should it be forced to identify speakers?

Defamation

- a *publication* to one other than the person defamed of
- a *false statement of fact*;
- that is understood as
 - being of and concerning the plaintiff; and
 - tending to harm the reputation of plaintiff.

HooYa! (1995)

- The year is 1995. You are counsel to HooYa!, a startup web directory company that wants to turn its website into a “destination” by adding news and entertainment content – sports and celebrity gossip, for example – and bulletin boards or forums where users can discuss the issues of the day. HooYa! comes to you to ask for help structuring the portal.
- Still a small company, HooYa! doesn’t want to hire its own writers, but it might be able to ask a few employees to review or edit syndicated articles before posting them to the site, in order to keep the site “family friendly.” How do you advise the company to proceed?



47 USC § 230 ("CDA 230," 1996)

Protection for private blocking and screening of offensive material

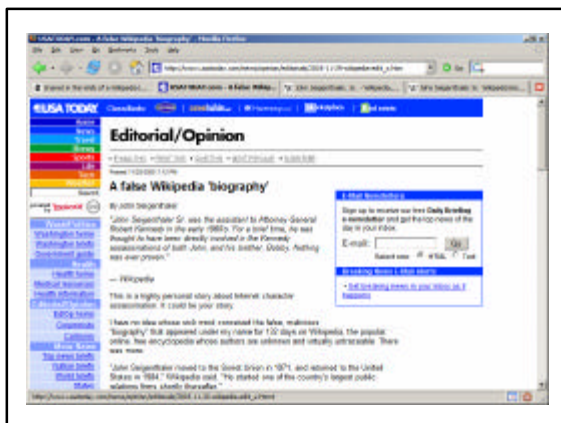
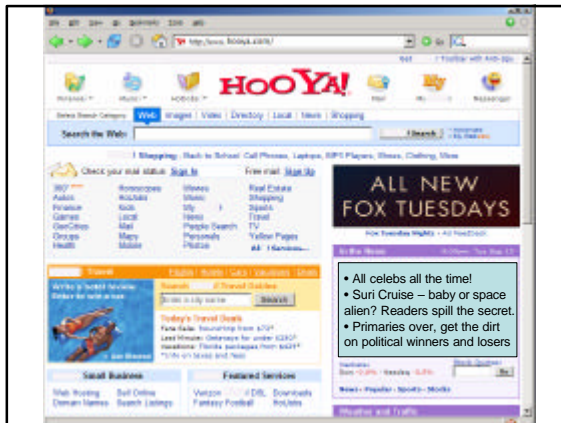
(a) Findings. The Congress finds the following:

(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens....

(c)(1) Treatment of publisher or speaker. No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

HooYa! (2006)

- Thanks to your earlier good advice, HooYa! has grown by leaps and bounds. After a successful IPO, the company now has the funds to pay editors and moderators and to add forums from Accounting to Zorro.
- Somebody posts to HooYa!'s Celebrities forum that "Baby Suri Cruise is a space alien." The thread is very popular with members, who add lots of speculation and comments. Cruise says this is false and threatens to sue HooYa! if they don't remove the posts and issue a correction immediately. How do you advise the company?
- What if a HooYa! employee posted the defamatory message?
- What if it was someone writing freelance for HooYa! ?



Snake Oil

- Mary Bezzle is the CFO of Snake Oil, a publicly traded energy company. She discovered this post yesterday on MoneyBoard's SnO forum:

Ann Onymous writes:

M Bezzle lives up to her name. She's stealing money from the company to furnish her luxury apartment and private jet. Dump this Silicon Snake-Oil stock!

Posted on September 9, 2006 at 2:30 am

- Ms. Bezzle comes to your office saying she wants you to do everything in your power to stop these falsehoods. How can you help?

Snake Oil

- What if this were the post?

Sue Donymous writes:

M Bezzle & co are taking this company in the wrong direction. They should be investing in alternative energy. Dump this Silicon Snake-Oil stock!

Posted on September 9, 2006 at 2:30 am

- If shareholders filed a derivative suit after the stock price dropped?
- Which Jane Doe would you rather represent?