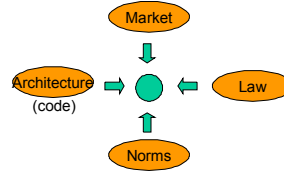


Online Speech And How to Stop It

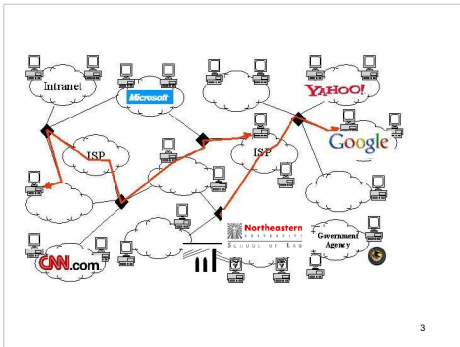
1

What regulates the 'Net'?

Lessig's taxonomy of constraints:

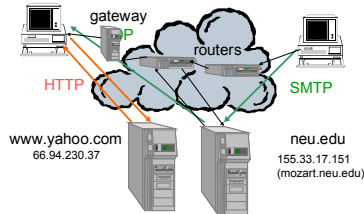


2



3

Protocols, Numbers, Names: Layers of communication (and means of attack)



4

Protocols

- Protocols: technical standards for communication and interoperation
 - TCP/IP: Transmission Control Protocol, Internet Protocol
 - HTTP (web): Hypertext transfer protocol
 - SMTP and POP (email): Simple Mail Transfer Protocol, Post Office Protocol

5

Numbers

- Numbers: "IP addresses"
 - IP addresses or "dotted quads" identify computers uniquely to enable packets to find their destinations
 - Gateways (from local network to Internet) and Routers direct the flow
 - IPs are assigned in blocks to providers, who assign smaller blocks or individual addresses

6

Names

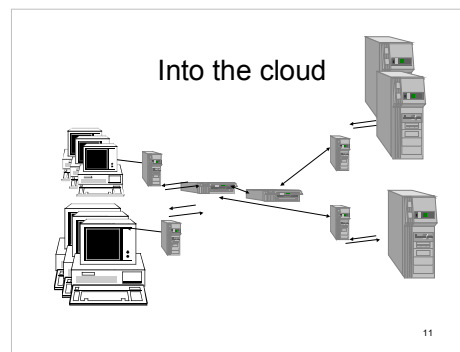
- Names: attached by the Domain Name System (DNS) to IP addresses
 - Architecture abstraction (www.yahoo.com is multiple machines, if the numbers change, you can still find www.yahoo.com)
 - Mnemonics

7

DNS

- Technical hierarchy:
 - root server (.)
 - Top-level domain (.com, .net, .edu, .uk, .ca)
 - Second-level domain (.yahoo.com, .neu.edu, .ac.uk)
 - Higher-level domains (www.yahoo.com, www.slaw.neu.edu, ox.ac.uk)
- Server asking for an address starts from the right and works backward

8



11

John Gilmore

- "The Internet interprets censorship as damage and routes around it."

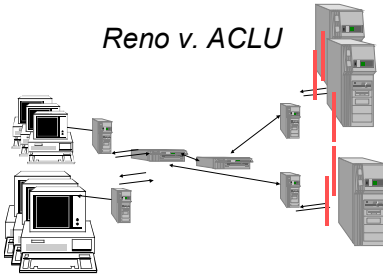
12

Reno v. ACLU

- Communications Decency Act of 1996 (CDA), 47 U.S.C. § 223 prohibited
 - (a) sending of "obscene or indecent" communications to minors and
 - (d) display of "patently offensive messages" to minors

13

Reno v. ACLU



14

Reno v. ACLU

- Is the Internet a
 - Magazine shop? (*Ginsberg*)
 - Radio broadcast? (*Pacifica*)
 - Neighborhood? (*Renton*)
 - Dial-a-porn? (*Sable*)

15

Reno v. ACLU

“Through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”

16

Reno v. ACLU

- Majority:
 - Silencing speakers if they can't assure no kids are listening is not the least restrictive means of protecting children
- O'Connor Concurrence/Dissent:
 - Yes, but...
 - We could require speakers to tag their “harmful” speech so kids (parents) could filter it out.

17

CIPA

IN GENERAL--No funds made available under this Act for a library ... may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless--

- (A) such library--
 - (i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are--
 - (I) obscene;
 - (II) child pornography; or
 - (III) harmful to minors; and
 - (ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and
- (B) such library--
 - (i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are--
 - (I) obscene; or
 - (II) child pornography; and
 - (ii) is enforcing the operation of such technology protection measure during any use of such computers.

18

CIPA

TECHNOLOGY PROTECTION MEASURE--

The term “technology protection measure” means a specific technology that blocks or filters Internet access to visual depictions that are--

- (A) obscene, as that term is defined in section 1460 of title 18, United States Code;
- (B) child pornography, as that term is defined in section 2256 of title 18, United States Code; or
- (C) harmful to minors.

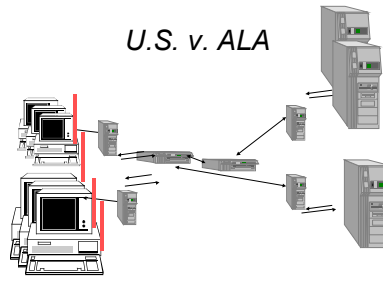
19

HARMFUL TO MINORS.--The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that--

- (A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
- (B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
- (C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

20

U.S. v. ALA



21

U.S. v. ALA

- Is the Internet (in libraries) a public forum?
- Does everyone have the right to speak on the Internet?
- Does everyone have the right to speak in a library?

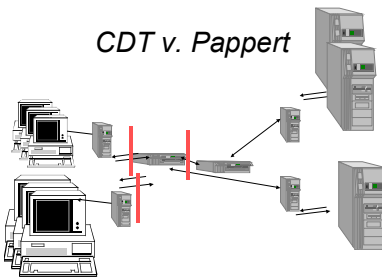
22

Pennsylvania Internet Child Pornography Act

- ISP must remove or disable access to child pornography "residing on or accessible through its service" after notification by Penn. Attorney General.

23

CDT v. Pappert



24

Compare the regulations

- Who is regulated?
- Effectiveness: does the regulation stop "harmful" speech?
- Narrow tailoring: does it stop too much?
- Administrability, Enforceability: can it be enforced efficiently?
- Transparency: do those regulated know to whom to protest?

25

