ACLU v. Reno Brief

Michael Plasmeier 9/10/2012

* **Issue**: Is it legal for Congress to criminalize the transmission of “obscene or indecent” messages to recipients under 18 through the Communications Decency Act.
* **Procedural History**
  + **Parties**:
    - **Plaintiff**: The American Civil Liberties Union
    - **Defendants**: Janet Reno, Attorney General of the United States
  + **Procedural Posture**: Preliminary injunction granted by three judge District Court that enjoins the government to not enforce against “indecent” content, but allow enforcement against obscene or child pornography.
* **Facts**:
  + Congress passed the Communications Decency Act in 1996
  + The Act prohibited the knowing transmission of “indecent” or “patently offensive” content to those under 18
  + Content could be displayed if age proof (ie credit card number) was provided
* **Holding:** The above provisions of the CDA were overturned
* **Reasoning**
  + **Rules were not narrowly tailored**. The rules could have been written more narrowly to minimize the impact on adult’s First Amendment rights.
  + **Adults have a legal right to the material.** This ruling would unreasonably block adults from seeing the results. Since the internet is open to all, it would allow the “heckler’s veto.”
  + **Blocking technologies were or would be available.** Consumers could install their own filtering software.
  + **Tagging technology might allow for supervisor choice.**
  + **The Internet is growing fine without these rules.**

## Questions for John Morris:

1. How much closer are lawmakers and judges in understanding how the Internet works now vs. 1997.
2. Are more people aware of technologies such as tagging, which allow for greater self-regulation on the Internet.