What are we permitted to post legally on the Internet? Who is responsible for the content of materials posted on Web sites? Two recent legal cases have highlighted the ongoing battles over control of information being posted on the Internet.

In Italy, the government of neo-Fascist Silvio Berlusconi, the media magnate who detests the very idea of having anyone else in control of any news media, has drafted legislation to impose government examination of all videos before they can be uploaded to the Web. In a related case, an Italian judge convicted Google executives of violating a child’s privacy rights because someone posted an abusive video on Google Video and Google staff didn’t remove it fast enough to suit the judge.

In contrast, in Iceland, the Wikileaks organization, devoted to open publication of information about government malfeasance, is receiving support from legislators.

These cases raise questions about who decides what can legally be posted on Internet-accessible venues such as blogs and Web sites. If you, personally, run a blog where visitors can leave comments, are you immediately legally responsible for what total strangers post on your Web site? What if they post stolen software? What if a group of religious fanatics who seized power over an entire nation object to cartoons that you have posted on your Web site and issue death threats against you? What if a totalitarian regime objects to a description of its Dear Leader as a degenerate nitwit who lives in luxury while his people starve to death?<

I don’t include restrictions based on suppression of political speech as legal issues; dictatorships such as Burma, Cuba, Iran, Saudi Arabia, and particularly China routinely suppress the distribution of information perceived as threatening to the entrenched and corrupt elites governing their people but they do not use the rule of laws as commonly defined when implementing their rules. They use the arbitrary exercise of power and the threat of violence.

The basic legal issues surrounding posting anything on the ‘Net include the following:
In the series, I’ll present brief summaries of the three areas at issue and then follow up with analyses of the recent cases in the news. Then I’ll discuss the concept of the common carrier and the critical importance in US jurisprudence of two cases from 20 years ago: Cubby vs CompuServe and Stratton-Oakmont vs Prodigy. Finally, I’ll analyze the Italian and Icelandic cases in more depth.

The next column deals with obscenity and child pornography.

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