

▶ CASE 10-5

Cyberporn and Free Speech

Obscenity in outer space: The marketing of cyberporn. This snappy headline in the Southwestern University *Chronicle*, the university's student newspaper, highlighted a two-page article on the marketing of sexually explicit material through the Internet. It also presaged a public relations nightmare for university president William Calders.

The article, published under the byline of student reporter Scott Winters, had been the culmination of several weeks of painstaking research "surfing the Net" for any trace of online pornography, which he found in surprising abundance. Winters had availed himself of the university's connection to the World Wide Web that was available to students both in the library and in a special computer-equipped room in the student union. The *Chronicle's* editorial offices were also hardwired for ready access to cyberspace. Winters had not targeted commercial bulletin boards that housed adult pictures and narratives, since those were available only upon payment of a fee. He was interested primarily in the availability of such adult-oriented fare online, including explicit "sample" materials (both pictures and narrative) that served as promotional and marketing tools for the commercial adult bulletin boards.

Not only was Winters surprised at the accessibility of such morally offensive content, but he was also able to identify the computers from which requests for pornographic materials originated because the Netscape browser tool provided by the university to facilitate student access to the Internet

also made a copy of each transaction. And much to the dismay of the university's administration, the young journalist had dutifully noted his classmates' keen interest in the material under investigation. Southwestern University students, it seemed, viewed the Internet as more than just an engaging medium for intellectual pursuits.

"I'm really catching some heat about this *Chronicle* article—or, more precisely, what the article represents," said President Calders as he convened a strategy session on what he called the "cyberporn flap." With him were Nathan Moses, vice president for academic affairs; Morris Feldman, director of university public relations; Joanne Michaels, the dean of students; and Jacob Samuelson, student government president. Calders usually consulted the president of student government on matters affecting student life at the university, because he liked to think of himself as "student-oriented" and also because he considered Samuelson a good source of intelligence about student opinion.

"I've had calls from several parents wondering why we're allowing students to have access to this kind of material," continued Calders. "And the chair of the board of regents isn't thrilled about it either. On the other side, the president of the local chapter of the American Civil Liberties Union heard we were considering blocking student access to this material and called to urge us to reconsider. I told him no decision had been made on the matter."

"It's been only a week since publication of this article, but my office has already handled numerous inquiries from the media, including the *Chronicle of Higher Education*," volunteered Feldman.

"There's a lot of interest at every level," admitted the university president. "This is a complex issue—for us, it involves free speech, academic freedom, and our responsibility to the students and their parents. And because whatever we decide will also affect the image and credibility of the university, it's also a troublesome public relations problem. And that's your domain, Morris!"

"I think I speak for the faculty in opposing any limitation on access to any part of the World Wide Web," said Moses. "We invested heavily in this system to facilitate both faculty and student research. I'm aware that some of this usage may not be for legitimate research purposes. But I don't think we

should spend our time policing how the students and faculty use this facility. This is a public university, and I don't think there should be censorship of any kind."

"I don't see this as censorship," responded Michaels. "Because we're facilitating the students' access to this material, why can't we control the conditions under which they have this access? I realize our students are adults. But our mission is to encourage earnest intellectual pursuits. Surfing the Net to gawk at pornography is not my idea of serious research. Besides, some of this material is probably illegal under current obscenity laws. Do we want to be in a position of providing access to material that may not even be legal to begin with?"

"But how can we recommend values to our students that promote freedom of inquiry and freedom of expression and then tell them that they are too immature to view this material?" asked Moses. "It's too paternalistic to try to distinguish between legitimate research interests and prurient interests."

"There are other values that are just as important as freedom of inquiry and expression," stated Michaels unequivocally. The dean of students was not bothered by the accusation of paternalism, because she viewed the moral behavior of many college students to be subject to the whims of unbridled youth. Their psychological maturity, she reasoned from her own experience, was not matched by their ethical development. "Just three years ago," she continued, "this university decided that the teaching of ethical values was important enough that now all students are required to take a course in moral philosophy. And two years ago the Faculty Senate approved an amendment to the Code of Student Conduct punishing hate speech directed at racial and ethnic minorities. Although a federal judge has just declared this provision to be unconstitutional, the point is that the faculty decided that the promotion of campus civility and tolerance was just as important as free speech. If we limit access to this so-called cyberporn, this will send a message that this kind of material has no socially redeeming value and doesn't contribute anything of significance to intellectual discourse. I don't see this as a free speech issue because it's not the students' speech that's at stake."

"Part of the free speech equation," responded Moses, "is the right to receive information. I realize that much of this material is trash. But I don't see how we can control access without interfering with legitimate research. Besides, even if we could, these students are mature enough to make their own decisions."

"But our situation isn't exactly comparable to making a rational choice to see a movie or purchase an adult magazine," said Calders. "It's true that students don't have to log on to this material. But it's certainly tempting. Should we be using public money to facilitate access to cyberporn?"

"How do the students feel about this?" Calders directed this question to Jacob Samuelson.

"There's some difference of opinion," responded Samuelson, who had patiently awaited his turn to join this engaging exchange. "But most seem to oppose any censorship by the administration. They feel they are mature enough to make their own decisions, especially because the university has set up this system partially for their benefit. However, there are a few who find pornography repugnant and would have no problem if the university blocked access to this material."

Calders then turned to the university's public relations director. "How do you assess the public fallout from all of this?"

"From a public relations perspective, there are two concerns: image and intellectual credibility," replied Feldman. "On the issue of credibility, quite frankly I don't think the public understands our intellectual debates about academic freedom. We'll catch some heat from our own faculty and probably from scholars across the country. And, of course, the civil libertarians will be heard from on the issue of free speech. But the public—and that includes the parents of our students—is fairly conservative. They aren't likely to understand why this university is providing access to pornography for our student body. We may suffer some short-term damage in terms of image. But it'll blow over. Most parents aren't likely to refuse to send their students here because of this flap, unless some other problem arises."

"What it boils down to," Feldman continued, "is what this university feels is more important: the right of students as autonomous individuals to

choose their own materials, regardless of how morally offensive they might be to some, or the responsibility of the university to set standards and to promote virtuous behavior and attitudes. Of course, the two might not be mutually exclusive."

"This has been a productive dialogue," said Calders sincerely as he adjourned the meeting. "This is a serious matter. I want each of you to give this issue some thought and have your individual recommendations on my desk within a week. And then before a final decision is made, we'll reconvene to consider whether cyberporn will continue to be a prominent feature of Southwestern University's information superhighway."

THE CASE STUDY

Even as the ethics of the distribution of and access to sexually explicit and other morally offensive content through conventional media remains controversial, new technologies now pose more daunting challenges to society in confronting the ethical dimensions of their cultural influence. The traditional regulatory mechanisms constructed to control the flow of pornography seem inadequate in the face of unrestricted access to the Web by adults, adolescents, and children alike.

In this case, a public university is a facilitator in this process. University administrators, to remain technologically competitive, have provided their students and faculty with a system that is interactive with the Internet and other computer systems. Although the purpose of this access is research, there is little supervision of how the system is used. And now that the public is finally realizing the potential of this information technology, they are demanding accountability. And even the administration is divided. On the one hand, the dean of students rejects the notion that the university, having set up this system for students and faculty, must now abandon any control over the kinds of material that are examined or downloaded by its users. She sees this as another opportunity to teach values and virtuous behavior, to which the university has supposedly committed itself. She is also concerned about whether the university should provide unsupervised access to content that may not even be legal under current obscenity statutes.

On the other hand, the vice president for academic affairs sees this as a matter of academic freedom and free speech. Both positions, of course, raise the question of what role the university should play in facilitating access to content along the information superhighway that some consider to be at least morally offensive or perhaps even legally obscene under current law.

President Calders has requested each of those present at the meeting to submit a recommendation on whether to regulate access to the Internet. Much of the analysis, of course, will focus on the ethical dimensions of the issue. Taking the role of university public relations director Morris Feldman, formulate a recommendation to the president and defend your position.