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## The Net and the Political Game: One Civil Libertarian's Journey

By *SPENCER E. ANTE*

**W**hen Jonah Seiger awoke on March 19 at 5 in the morning and saw snow falling from a cotton-ball sky, he knew it was going to be an exceptional day. As the 25-year-old communications director of the Washington D.C.-based Center for Democracy and Technology, a digital-age civil liberties group, Seiger is a trench warrior in the battle to democratize cyberspace. And on that day he was preparing for the mother of all online battles: the fight to save free speech on the Internet.

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Indeed, it was possible to see the previous two years of Seiger's professional life as nothing more than a circuitous prelude to this very day. Why wasn't the weather cooperating? "This is perfect," he later recalled telling himself. "It's exactly what I don't need."

The brutish weather, Seiger feared, would deter his band of protesters from showing up on the steps of the Supreme Court to rage against the Communications Decency Act, thereby foiling his carefully orchestrated photo op. And the CDA, as the act is known, has become civil libertarians' Public Enemy No. 1.

A hastily written law that was tacked on to the massive Telecommunications Reform Act of 1996, the CDA is an attempt by Congress to criminalize the computerized display of "patently offensive" images in any corner of cyberspace accessible to children. On this day, more than a year later, the law was being challenged in the nation's highest court after two panels of federal judges last summer declared it unconstitutionally vague and barred its enforcement. The court's decision, to be handed down by the justices in early summer, was widely expected to become the landmark ruling on free speech in the electronic age.

When Seiger arrived at the august Supreme Court building at 7:45 a.m., he was enthralled to see scores of people milling about the large public area in front of the courthouse's white marble steps, oblivious to the snow.

"Hey Hey, Ho Ho, the CDA has got to go," the protesters cheered as they mugged for the phalanx of reporters.

Everything was going to work out fine, after all, Seiger surmised. In fact, the rest of his



Jonah Seiger, right, and Shabbir Safdar, a co-organizer of democracy.net, in the Senate Commerce Committee hearing room.

day -- all 19 wired hours of it -- came off without a hitch, despite the fact that there was ample room for mayhem. Before turning in just past midnight, Seiger had watched the Supreme Court wrestle with cyberspace, overseen a press conference, produced an interactive cybercast of a Senate hearing, and orchestrated an online discussion with the lead lawyer of the anti-CDA legal team, topping it all off with a late-night interview on a popular local radio show.

"Man!" Seiger said afterward, in his gruff voice. "Never in my life again will I be involved in so many things in one day."

But if Seiger's day was exceptional, March 19, 1997, was also a watershed in the brief history of the cyberspace: The Internet -- and by extension, the online community itself, if such a thing exists -- had come of age on the Hill. It's easy to forget that just a few short years ago, the Net didn't register on Washington's radar screen. These days, it seems like Washington can't keep its hands off the global computer network, though many libertarian-leaning cyber activists wish it would.

Consider these events:

- Earlier that morning, before the Supreme Court heard oral arguments, the House had held a hearing on Internet crime.
- The following day, the House would hold its own hearing to debate the lifting of export controls on encryption -- data scrambling technology that the national security apparatus wants to control tightly.
- A few weeks before that, the Congressional Internet Caucus -- an awareness-raising cadre of cyber-legislators that's grown to more than 90 members since being founded less than a year ago -- held a well-attended meeting.
- And, most recently, Ira Magaziner, Hillary Clinton's one-time health care adviser, was asked by the President to outline a draft strategy for the United States government to promote global electronic commerce on the Internet.

The list goes on. What was once a desert is now a flurry of activity.

Seiger's own evolution mirrors the maturation of the Internet. After graduating from the University of Michigan in 1993 with a bachelor's degree in psychology and religion, Seiger, who grew up in Silicon Valley, went East to work on the House telecommunications subcommittee for Representative Ed Markey. From there, he landed a job at the Electronic Frontier Foundation, a pioneering cyber-activist group that has since left Washington for the less shark-infested waters of San Francisco.



Matt Raymond, Press Secretary for Senator Conrad Burns, chatting with Internet users live from inside the hearing room.

When, in a widely publicized fracas, the Center for Democracy and Technology split from the Electronic Frontier Foundation, Seiger threw his lot in with the CDT. As a policy wonk, he, like the others who mutinied with him, wanted to engage the political process more vigorously. Seiger recalls a time not too long ago when Congress held a hearing on the Clipper chip, the government's stillborn encryption policy that would have given federal agents the power to wiretap digital communications with a court order. It was 1994 and the press was invisible.

"Now," Seiger said, "reporters call me."

Not only had he worked the media, he went on to work the courtroom, hacking the United States justice system. In April 1996, working in conjunction with Pacific Bell and a local law firm, Seiger wired the federal courtroom in Philadelphia where three judges later struck down the CDA as a well-intentioned but overly broad and unwarranted form of state-sponsored censorship. It was first time in history, Seiger boasts, that a federal courtroom had been jacked into the Internet for the purposes of a trial.

"The Internet was on trial," Seiger said, "and the fact that the judges could play with it during the case was a critical factor."

The reverberations of that T1 line into the courtroom are still being felt today. Indeed, by the time the Supreme Court Justices sat down to hear 70 minutes of heated oral arguments, they had already been given a clue about the Net. That's because in preparation for the hearing, the Justices were themselves required to read through the hundreds of factual findings made by the Philadelphia panel of judges -- findings suggesting, among other things, that parents are in a better position than the government to decide what their children should or should not see on the Net. One federal judge was so smitten by the Net that he described it as "the most participatory form of mass speech yet developed."

But would the Supreme Court agree?

Whatever the court's eventual ruling, the cyber rights community is clearly entering uncharted waters. Like the Stamp Act of 1765, the CDA has been a galvanizing force, offering a formerly disparate rabble of malcontents and change-seekers a cause around which to rally. Indeed, a good part of the netizen community's power stemmed from its ability to organize large masses of people quickly and efficiently. The Citizens Internet Empowerment Coalition, which brought together more than 50,000 Internet users to challenge the CDA, is the foremost example of this networking power.

But what of life after the CDA? In much the same way that the civil rights movement lost much of its momentum after successfully pushing the Voting Rights Act through Congress in 1965, some observers have argued that the cyber rights movement might fracture for want of a coalescing cause. For his part, Seiger asserts that Netizens share a common set of concerns that will hold the movement's myriad factions together.

"Do they all share the same view on encryption? No," Seiger said. "But there's a bottom-line instinct that can be tapped into. People respond to things that threaten the potential of the Net."

Even if the Net community ends up splintering away its nascent power, Seiger thinks that's partly missing the point. What's important, he asserts, is recognizing that the Net is going to be a fundamental component of democracy in the 21st century.

For instance, he's particularly proud of [democracy.net](#), the Web site that sponsored the interactive cybercast of the Senate's cryptography hearings. The function of [democracy.net](#), like much of CDT's work, is to nurture civil society by fostering new avenues of participation in the democratic process. By that measure, the cybercast was a clear success: Whereas only 100 people could fit into the well-appointed room in the Senate's Russell Building, more than 700 people listened to the hearing live online. What's more, a few dozen participated in a simultaneous online discussion, and at least 10 people submitted formal comments for the hearing via the [democracy.net](#) Web page.

"We're trying to take advantage of the Net and use it to engage otherwise cynical people in the political process," Seiger said. "But we still have a long way to go. We have to play more of a realpolitik game now."

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