

THE TESTIMONY OF
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BEFORE THE
UNITED STATES SENATE COMMITTEE ON
COMMERCE, SCIENCE & TECHNOLOGY

Good afternoon. Thank you for the opportunity to speak with you today about this important national topic. I am Paul Cambria, general counsel to the Adult Freedom Foundation, and counsel to numerous individual and corporate clients who offer lawful adult-oriented entertainment to interested adults via magazines, movies, and the Internet. During my years of representing the adult entertainment industry, I have come to know first hand the commitment of the industry to providing adults, not children, with legal, mature entertainment. The perspective I have gained through more than a quarter century representing individuals and businesses involved in adult entertainment is probably unique among the panel members you will hear from today. It is my hope that my remarks will bring some balance to a discussion before this Congress that is too often dominated by a vocal minority intent on vilifying expression protected by our Constitution.

My own views concerning adult entertainment and, in particular, its availability on the Internet, are informed by my professional associations,

but are tempered by my experiences as a father of five children. With teenagers at home, I share the concerns of parents and the members of this Committee for the welfare of children in all of their activities, including on-line communication. But I also want them to appreciate the true freedom of living under a government that does not succumb to efforts by a motivated minority to restrict the First Amendment rights of the majority of adults by way of speech-limiting schemes camouflaged as child protection or "pornography" initiatives.

Indeed, the pejorative phrase "Internet pornography" wrongly marginalizes legitimate adult expression that is accepted by mainstream America in both the marketplace of ideas and the commercial marketplace. Americans spend billions of dollars on adult entertainment each year. Adult Video News, the industry's trade magazine, estimates 2005 industry revenue at approximately \$12.6 billion, with over \$2.5 billion generated by adult Internet entertainment. The Free Speech Coalition also reports in its 2005 White Paper that nearly half of the retail outlets in the United States that sell or rent videos also carry adult titles and, in 2002, adult video and DVD rentals and sales at these stores exceeded \$3.95 billion. Adult movies are available in approximately forty (40) percent of American hotels, and the nation's major cable and satellite television providers offer many channels of adult programming.

And, of course, adult entertainment is popular among Internet users. A Nielsen/NetRatings study in 2003 estimated that approximately 34 million Americans visited adult entertainment sites on the Internet during August of that year. On an average day, American adult entertainment websites have as many as sixty (60) million unique visitors—far in excess of the unique visitors to even the top news sites in the world. Given its indisputable popularity, Internet adult entertainment cannot be written off as mere “pornography” at the whim of those who refuse to acknowledge that it is an acceptable form of legal entertainment for a substantial segment of our community.

This Committee asks whether the government should play a role in controlling so-called “pornography” on the Internet. My answer is that the government already plays a major role, and has at its disposal a variety of powerful tools sufficient to address any concern it may have about adult expression on the Internet—not the least of which is the willingness of the adult entertainment industry to work with Congress to fashion effective solutions to concerns that are proven to be legitimate.

Contrary to the claims of those who wish to stifle any adult expression with an erotic theme, the adult entertainment industry does not exploit

children. The industry does not employ child performers, and does not condone access by minors to materials created for the entertainment of adults. Put simply, the market for adult entertainment producers is adults, not children. In fact, the adult entertainment industry is a staunch supporter of efforts by the Association of Sites Advocating Child Protection (ASACP), and also supports voluntary labeling and content-rating, and the use of parental filters such as Netnanny.

Moreover, adult businesses on the Internet are currently subject to an array of legal requirements. Every American website is governed by the requirements of federal obscenity laws. Similarly, these websites must also comply with strict federal child pornography laws. Consequently, adult entertainment producers were meticulously verifying that their performers were of the age of majority long before federal law in 1995 required them to keep performer identification records.

Additionally, the 2004 CAN-SPAM Act protects children by regulating the marketing by American companies of adult materials through e-mail. Several states have also enacted laws prohibiting the dissemination of harmful materials to minors, and these laws compliment long-standing state obscenity and child pornography laws that can also apply to adult entertainment websites.

Consequently, before Congress acts to further burden Internet speech protected by the First Amendment, it should consider the objective need for additional laws, and it should avail itself of the adult entertainment industry's repeatedly rejected offers to assist Congress in fashioning effective and lawful solutions. Congress cannot control through legislation the illegal activities of overseas webmasters or spammers, whose business practices reflect negatively on the Internet as a whole. As seen after the implementation of the CAN-SPAM Act, foreign webmasters will continue to engage in illegal and unethical activities with impunity, resulting in no noticeable impact from the end user's standpoint. It is unjust to punish American webmasters, who are attempting to run ethical and legal businesses, with over-regulation in response to problems caused by those who are beyond the reach of the United States law, and it is equally unfair to exclude the adult entertainment industry from the political process of resolving issues central to the industry.

While no system is perfect, effective means of controlling children's access to adult material on the Internet presently exist. For instance, a 2005 study by the Pew Internet and American Life Project revealed that fifty-four (54) percent of Internet-connected families use some sort of filter or monitoring software. Additionally, parents themselves have the

means to restrict their children's access to material they deem inappropriate for minors, and implementation of a ".KIDS" domain would assist them in this endeavor.

The adult entertainment industry would also welcome the opportunity to work with Congress and the Department of Justice to explore the potential for age verification systems that employ constitutionally valid standards or a voluntary rating system for adult-oriented content similar to those used by the Motion Picture Association of America, the recording industry, and the video game industry. In the global context of the Internet, the development of effective and affordable voluntary solutions with the help of the adult entertainment industry will certainly have a broader impact than additional laws that burden only American Internet businesses while diminishing their global competitiveness, and stifle in a constitutionally unacceptable manner what is perhaps the world's most valuable source of entertainment and information.

I thank the Honorable Senators again for inviting me to testify today. I welcome the opportunity to answer any questions that the Committee members may have.