

CHAPTER TWO: PORNOCRACY

The nation holds out a promise of emancipation and a pornographic culture both.

--Lauren Berlant (203)

Until recently, the Internet's existence has been largely virtual. When the Internet exploded into the national media with Vice President Al Gore's mantra of the Information Superhighway, few people outside the academic or high-tech community used the Internet on a daily or even weekly basis.¹ Second-hand reports, advertisements and media reports about the new media abounded, unashamedly laced with prophecy and speculation, unashamedly propelling their vision of the Internet.

According to the wired oracles, the Internet was to be *the* bourgeois public sphere, version 2.0. It was to fix the bugs that have reduced the public to consumers and listeners—whose pulse can be gauged only by credit histories, surveys and opinion polls—by re-turning them into discussants who publish their ideas as scholars “before the entire public of the *reading world*” (Kant 60). It would restore communications to eighteenth-century modes—on a global scale—answering those critics who had dismissed the marketplace of ideas as an eighteenth-century phenomenon or utopian dream. By inserting individual participation back into mass media, it would turn the theory of a marketplace of ideas into a practice where all literate citizens—as equals—buy and sell ideas and let the law of the marketplace determine their worth. Because of

this mass individual participation, the media monopoly in the United States, which has denied most U.S. localities truly competing media sources, would break and a hundred thousand voices would boom. Thus, the Internet would turn the tide against the manufacturing of publicity and public opinion and usher in an era of a virtually free press. It would be the medium through which the phantom public sphere could find its final resting-place.²

Others, however, warned of pornography lurking behind this specter. Like every communications medium before it, the Internet would enable pornography to penetrate everyday life. Just as the VCR revolutionized the pornography industry by moving its audience from the seedy movie theatre to the comfortable suburban couch, the Internet would move pornography's audience from the couch to the minor's bedroom.³ Hence, rather than enabling enlightenment, the Internet would corrupt its viewers through its unprecedented, instantaneous dissemination of dangerous images and texts. Moreover, rather than scholars populating the Internet, pornographers and other outlaws were its immoral majority. The Information Superhighway was Smut Expressway, littered with

¹ The link between information and superhighways was first made by Nam June Paik in 1994 in his Ft. Lauderdale Museum of Art Exhibition, "Electronic Super Highway: Nam June Paik in the '90s."

² For a brief history of the phantom public sphere, see Bruce Robbins' introduction to *The Phantom Public Sphere*. The phrase was first coined by Walter Lippmann in *The Phantom Public* (1925).

³ For more on the role of pornography in popularizing the VCR and satellite television see Mark Dery's chapter on sex and technology ("5/Robocopulation: Sex Times Technology Equals the Future"), Anne Wells Branscomb's "Internet Babylon? Does the Carnegie Mellon Study of Pornography on the Information Superhighway Reveal a Threat to the Stability of Society?" and Catherine A. MacKinnon's "Vindication and Resistance."

its roadkill of our children's innocence. Given this virtual reality, the Internet could not be the ideal public sphere—yet. First, it had to be purged of its indecent content through a civilizing, systematic overhaul. First, it had to be settled: it had to submit to government regulations, whether or not they compromised its status as a true public sphere.⁴

This conflict seemed to reduce itself to a war between First Amendment absolutists and the religious right, libertarians and big-government supporters. This conflict also seemed a remake of *FCC v. Pacifica v. Sable v. Turner*: court cases provoked by instances of indecency or obscenity that determined the extent of First Amendment protection for each new communications medium. It seemed natural that pornography would remain *the* case for testing the degree to which the “right to say anything” is possible within American democracy.

With the 1997 Supreme Court's decision to declare the Communications Decency Act (CDA) unconstitutional, the rhetoric of the Internet as a race-, gender-, class-, age- and infirmity-free public sphere moved from propaganda to legal doctrine. According to Justice Stevens of the Supreme Court, “through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer” (*Supreme Court Decision* n.p.). According to Judge Stuart Dalzell of the First District Court of Appeals, “it is no exaggeration to conclude that the Internet has achieved, and continues to achieve, the most participatory

⁴ Public spheres must be outside both state and private regulation, in order to serve as a civil space. For more on the public sphere as civil space, see Habermas and Lefort.

marketplace of mass speech that this country—and indeed the world—has yet seen. The plaintiffs in these actions correctly describe the ‘democratizing’ effects of Internet communication” (“Conclusion,” *Preliminary Injunction*). With these decisions, then, the specter of pornography seems to have been exorcised from the Internet, to the extent that its unwanted visits are deemed accidental to, rather than constitutive of, this medium.⁵ It would seem that the Internet will achieve what cable failed to achieve, namely opening mass communications to the masses. It would seem that the Gutenberg Galaxy has just gone into overdrive. So it would seem.

In this chapter, I look at MCI’s “Only Minds” commercial and the Supreme and District Courts’ decisions in order to call into question this triumphant narrative of the Internet as a marketplace of ideas. I argue that this conflict over cyberpornography reads as a struggle to contain online contact—to confine Internet interactions to the already known, to the safely public, to the safely commercial. Moreover, by privileging the question of individual empowerment, both sides of this debate effectively leave

⁵ The Child Online Protection Act of 1998 (“COPA”), passed in Congress in response to the Supreme Court’s declaration of the CDA as unconstitutional, modifies the original CDA by restricting it to commercial transactions. COPA seeks to “zone” the Internet, not only by setting up “pornography-free zones,” but also by regulating separately commercial and non-commercial sites (although COPA’s breadth is not simply limited to commercial pornography sites). A conservative federal district court ruled in February 1999 that COPA violated the First Amendment. The Justice Department has appealed to the Third Circuit Court of Appeals in Philadelphia. For more on this, see Declan McCullagh’s “GOP: Save the Net Smut Law,” and the Electronic Frontier Foundation’s “‘Censorship - Internet Censorship Legislation & Regulation, 1998’ Archive.” I focus on the CDA in this chapter because COPA extends its logic while limiting its scope.

unquestioned and unquestionable the institutional and commercial interests driving the Internet. The emphasis on personal responsibility relieves corporations of responsibilities outside of those needed to maintain a “free market.” The debate about the Communications Decency Act (CDA) redirects debate about the Telecommunications Reform Bill of 1996—a sweeping legislation of which the CDA is only a tiny portion. Remapping private corporations as public (as outside state regulation) with the correlative remapping of the private to the personal underlies the narrative of the Internet as a marketplace of ideas.

In this chapter, I also argue that the notion of the Internet as a marketplace of ideas depends on a deliberately naïve view of reading and agency. For the Internet to enable public reasoning rather than personal perversion, reading—defined in opposition to viewing or listening—must always induce critical reasoning, and mouse-clicking must always be an “affirmative action.” For the Internet to enlighten rather than to expose its users, pornographic content must be invited rather than invade, and differences—racial, age, gender and class—must appear accidentally, as slips of the keyboard. Against this limited and limiting notion of the public sphere as a marketplace of ideas, I argue that the Internet does open the possibility for a practice and theory of publicity that can account for unorderly conduct and differences without fixing identities. However, in order to understand how the Internet functions as a public space—as a space for contestation and debate—we must move away from the metaphor of the marketplace. We must not focus on ideas as commodities, but instead analyze textual communications as *textual*.

N/ONE

Sometimes a person doesn't want to seek the dignity of an always-already-violated body, and wants to cast hers off, either for nothingness, or in a trade for some other better model.

--Lauren Berlant (177)

MCI's "Only Minds" commercial succinctly encapsulates the rhetoric of the Internet as emancipated and emancipating public sphere.⁶ It features variously raced, gendered, aged, and physically challenged persons chanting, in succession and in concert:

People can communicate mind-to-mind. There is no race. There are no genders. There is no age, no age. There are no infirmities. There are only minds, only minds. Utopia? No. No. The Internet, where minds, doors and lives open up. Is this a great time, or what, what?

A computer screen, on which these words and corporate messages such as "MCI has the fastest Internet network" are typed, punctuates the stream of bodies/body parts, while an upbeat soundtrack provides continuity. The logic framing MCI's commercial reduces to: what *they* can't see can't hurt *you*. Since race, gender, age and infirmities are only skin-deep (or so this logic goes), moving to a text-based medium makes them—and thus the discrimination that *stems from them*—disappear. Although "no race" rather than "no racism" unwittingly leaves open the possibility of racism without "race," this formulation effectively conceals individual and institutional responsibility for discrimination, since it posits discrimination as a problem that the discriminated must solve. The message is not:

⁶ This commercial was aired throughout 1997. In this chapter, I analyze the shorter version of this commercial. The longer version contains two extra characters: an "ethnic" white male who speaks with a heavy Eastern European accent, and a white male boy in a wheelchair.

“do not discriminate.” It is: “get online if you want to avoid being discriminated against.” For those always-already-marked, the Internet supposedly relieves them of *their problem*, of *their flesh* that races, genders, ages and handicaps them, of *their body* from which they usually cannot escape. Ineffaceable difference, rather than discrimination, engenders oppression, and the discriminated, rather than the discriminators, must alleviate this oppression. The Internet, then, is an empowerment package *for them*.

However framed, this offer to abandon or trade-in one’s always-already-violated body is tantalizing, and MCI’s vision of the Internet supports those who argue against the adequacy of formal equality. If response in the United States to discrimination has been to amend the Constitution to include within the “people” those who were initially excluded, MCI points out that formal inclusion has not resulted in full and equal participation. It is not enough that “the *status liberatis*, the *status civitatis*, and the *status familiae* gave way to the one *status naturalis*, now ascribed generally to all legal subjects—thus corresponding to the fundamental parity among owners of commodities in the market and among educated individuals in the public sphere” (Habermas 75). It is not enough that:

however exclusive the public might be in any given instance, it could never close itself off entirely and become consolidated as a clique; for it always understood and found itself immersed within a more inclusive public of all private people, persons who—insofar as they were propertied and educated—as readers, listeners, and spectators could avail themselves via the market of the objects that were subject to discussion (Habermas 37).

It is not enough that that there existed a fundamental parity among owners of commodities in the public sphere, or that the public could not consolidate itself into a clique, because the foundation has never been laid. Inequalities in status have never been

adequately eliminated, let alone bracketed.⁷ At the very worst/best, people have acted as if disparities did not exist, and in turn perpetuated them. For the “marketplace of ideas” to work, “the validity of what you say in public bears a negative relation to your person. What you say [carries] force not because of who you are but despite who you are” (Warner 239). However, MCI’s relentless focus on these people’s bodies—or more precisely their body parts—shows that this principle of negativity is itself negated by “the humiliating positivity of the particular.” The words of the persons publicized in this commercial (“no race, no genders, no age, no infirmities”) carry force because of who they are—or more precisely who they are reduced to—and, at other times, their words do not carry force for the same reason. The power behind “no race, no genders, no age, no infirmities” stems from having these raced, gendered, aged and infirm persons speak. This positive relation to their bodies, rather than interfering with their speech, grounds it.

This relation also marks “the ability to abstract oneself in public discussion as an unequally available resource,” as Michael Warner argues:

⁷ For more on the inadequacies of such attempted bracketing, see Patricia J. Williams’ “Gilded Lilies and Liberal Guilt,” Michael Warner’s “The Mass Public and the Mass Subject,” Lauren Berlant’s “National Brands/National Body,” and Nancy Fraser, “Rethinking the Public Sphere.” In particular, Nancy Fraser argues:

This public sphere was to be an arena in which interlocutors would set aside such characteristics as differences in birth and fortune and speak to one another as if they were social and economic peers. The operative phrase here is “as if.” In fact, the social inequalities among the interlocutors were not eliminated, only bracketed.

But were they effectively bracketed? The revisionist historiography suggests they were not. Rather, discursive interaction within the bourgeois public sphere was governed by protocols of style and decorum that were themselves correlates and markers of status inequality. These functioned informally to marginalize women and members of the plebian classes and to prevent them from participating as peers. (10)

Individuals have to have specific rhetorics of disincorporation; they are not simply rendered bodiless by exercising reason. And it is only possible to operate a discourse based on the claim to self-abstracting disinterestedness in a culture where such unmarked self-abstraction is a differential resource. The subject who could master this rhetoric in the bourgeois public sphere was implicitly—even explicitly—white, male, literate, and propertied. These traits could go unmarked, even grammatically, while other features of bodies could only be acknowledged in discourse as the humiliating positivity of the particular. (239)

MCI plays out this differential access to unmarked self-abstraction in the face-to-face confrontations that structure its commercial and, it uses these bodies' ineffaceable particularities to make its corporate yet disembodied trademark desirable. The young, elderly, infirm and raced persons addressing the audience are always that, since their claims to personhood are compromised by the differences which mark them and usurp their identity. These differences render them both particular and interchangeable, unforgettable and forgettable. It is important that marked persons speak, but any marked person would suffice: rather than marking them as "special" or as individuals, their particularities make them generic. These people are not icons and MCI is not interested in making them recognizable trademarks; MCI features them because their particularity and interchangeability make MCI's logo an attractive and liberating alternative. As generic bodies, there is no reason—besides the emancipating power of the Internet (specifically MCI's Internet)—that they should "surpass" the limitations of race, gender, age and physical infirmities. Shot this way, they make the seamless corporation an attractive alternative to their generically marked bodies. Thus, although this commercial seems to be directed at empowering those "unequal others," it also cuts and brands its speakers in a manner that reduces them to flesh in order for MCI to incorporate them.

This logic of objectification, of reducing persons to their markers of difference, is a logic of pornotroping. Hortense Spillers, in "Mama's Baby, Papa's Maybe," uses this

term to explain the captive body. Most simply, pornotroping reduces a person to flesh, and then displays this flesh for the pleasure of the viewing subject/body. To bring out the differences between the captive and the “people,” Spillers distinguishes between body and flesh, culture and cultural vestibularity (458). Flesh serves as an entryway to a culture: in order for others to become cultured, they must pass through flesh (as vestibule). To be flesh, then, is to be open to fissures, scars and other markings. Whereas the body in public is shielded by private protections, flesh is outside the prophylaxis offered by the Fourth and Fourteenth Amendments of the United States Constitution. There is no distance between public and private, no smooth surface to keep them separate. There is no security in person, house, papers and effects; there is no guarantee against unlawful searches and seizures. Importantly, bodies cannot emerge as bodies without flesh: there can be no culture or whole without first a vestibule to take the brunt of invasive contact. It is not simply, then, that some have had access to disembodiment and others have not, but rather that some have never had a body—in the sense of an integrated whole whose skin is seamless and unmarked—from which to abstract in the first place.⁸ If MCI’s commercial does not perform the extreme violence enacted on the captive slave as discussed by Spillers, it does refuse to treat these bodies as wholes, puncturing their skin. MCI’s cuts deny the integrity of the bodies it displays by dissecting their bodies into parts, and it does so for the viewing pleasure of the

⁸ According to Spillers, “before the ‘body’ there is the ‘flesh,’ that zero degree of social conceptualization that does not escape concealment under the brush of discourse, or the reflexes of iconography. . . . If we think of the ‘flesh’ as a primary narrative, then we mean its seared, divided, ripped-apartness, riveted to the ship’s hold, fallen, or ‘escaped’ overboard” (457).

subject; in fact, it does so for the viewing subject to emerge. This is not to say that the solution to inequality is to treat everyone as bodies, since, to repeat, without flesh, there can be no bodies. It is to say that the violence of MCI's portrayal lies in its display of flesh for the *pleasure* of those who are positioned as bodies. Moreover, by limiting the offer of embodiment (which is portrayed as disembodiment) to the Internet, MCI offers a "safe" solution to inequality and delegates the "real" world irrevocably to pornotroping, rather than trying to build connections between online public space and other spaces, and rather than fighting inequality in the "real" world.

The MCI commercial opens with an upbeat soundtrack and an old man opening a laptop (Figure 2.1). His clothing and the wrinkles on his cut-off face and hands signify his age. This camera angle denies him a "window to the soul," or any facial features that distinguish him as an individual. However, as a prelude to the message of the commercial (that the Internet can offer the protection that his skin cannot), the computer dominates this shot, protecting his mid-section from our view. Next, the commercial cuts to his hands typing on the computer (Figure 2.2). Again, the computer features prominently and the man and the computer touch: the computer, arguably, is an extension of this man, or a body part. At this point, the first words dub over the soundtrack and a little girl says "people can...," which seems to further compromise the physical integrity of this man by separating his body and his voice.



Figure 2.1



Figure 2.2

The little girl's cut-off face, in color, appears next as she says "communicate" (Figure 2.3). The commercial then zooms to the old-man's face as they together say "mind-to-mind," re-integrating this man's body and voice while, at the same time, melding them together. The contrast between black and white and color emphasizes the differences between this old man and this young girl, differences supposedly bridged by the extra-corporeal merging of their voices and, by natural extension, their minds. The old man's face is not shown until his voice joins with the colorful little girl's and even then it is cut off and shown from the perspective of the computer screen looking up at him (Figure 2.4). Like the little girl, we do not have immediate physical access to this man, but rather view him through the computer screen. This double screen (i.e. viewing him through both the television and computer screens) would seem to imply a greater distance between the viewer and the old man. However, the extreme close-ups accompanied by the telepathic communications between the girl and old man present another reading: through the Internet, distances shrink and we become closer to each other.

Lest things get too close for comfort, we move in the next shot from being within the screen to looking down on a black male placed before a window (Figure 2.5). In this shot, three windows are in play: the "real" window, the television screen and the computer screen. Each window enables a different kind of empowerment. The "real" window enables the black male to survey the concrete beneath him and thus signals that he has made it to the top—or near the top—of a corporation. Rather than surveying the landscape he has conquered, however, he first gazes into the computer screen, implying that he has conquered the "real" world through the virtual and that the physical is less important. Privileged above these windows, however, is the television screen. The move



Figure 2.3



Figure 2.4



Figure 2.5

from old man to corporate black man morphs the god-view with the viewer's computer-view. The viewer looks down on the black male who moves from looking at the computer screen to looking up at the viewer. This perspective maintains the difference between those *others* who look *at* the computer screen and those of "us" who look *through* the computer screen: he is analogous to "us," but not us. In fact, he looks up at the viewers, which reassures them that "equality" will not lead to their demotion. Instead, these others will gratefully stare at the computer screen and then at the viewers, and thus be content with the empowerment offered, even if the offer is only good on the Internet. The Internet, then, is constructed as a new empowerment zone, and the "real" world is safely cordoned off as an inequitable space.

The particularity of the viewer does not matter. The viewer could be a black male, yet, as a mass subject, he is separated from *this* black male, which reinforces Michael Warner's point that "as participants in the mass subject, we are the 'we' that can describe our particular affiliations of class, gender, sexual orientation, race or subculture only as 'they'" (243). Through MCI's staged face-to-face, the audience becomes a "we" when and because they are addressed as such by others. The faces peering, coaxing, speaking and/or smiling at us position us as mass subjects, to which they, as particular marked subjects, appeal. This appeal combined with the viewers' unmarked mobile perspective turns this commercial from being about the empowerment of "others" to being about the empowerment of the viewer.

Not accidentally, there is only one image of an able-bodied, non-"ethnic" white man. The picture of domesticity, he flashes on the screen quickly as he hovers over his small daughter on whom the camera focuses (Figures 2.6 and 2.7). As he types on the



Figure 2.6



Figure 2.7

computer, his small daughter watches and, later in the commercial (“where minds, doors and lives open up”), his small daughter takes over the keyboard and we see only his hands, which surround her. In all these shots, this white male ignores the audience. Unlike his little girl and every other figure in this commercial, he does not look up or in any way acknowledge the audience. The promise of the Internet to disembody would seem outside his concern, or, more precisely, not something about which he needs to address the audience. Rather than speak about the Internet, he is on it. Rather than declaring that there is no race, gender, age or infirmities, he is raceless, genderless, ageless, and infirmity-free. He is, perhaps, the very person typing those messages to us.

As construed by MCI, then, the Internet promises to move us from being marked to being untraceable and unremarkable. MCI tames the already tame defiance of “there is no race,” by making these “persons” desire nothing more than to trade their flesh for better unmarked bodies on the Internet. As the commercial progresses, the people get happier: the solemn and determined faces are replaced by smiling happy shining ones. Their happiness stems from having donned a sequestered prosthetic identity. The Internet offers the opportunity to wear a body that denies being a body and thus cannot be portrayed directly. It allows one to move from these marked, speaking bodies to text on the computer screen. The Internet offers the opportunity to pass as this white male—to identify as “a disembodied public subject that [we] can imagine as parallel to [our] private person”—in the parallel universe of the Internet (Warner 238). This move enables us to protect our flesh from view, to move—at least and only—from cultural vestibularity to culture when we are on the Internet. Only when we are on the Internet—when we are only words—are we safe. This neatly separates the contradiction so

succinctly encapsulated by Lauren Berlant, that “the nation holds out a promise of emancipation and a pornographic culture both.” MCI’s answer is: be pornographic in real life, but be emancipated online; be objectified and displayed in real life, but resist objectification by becoming text online.

In accordance with this answer, the commercial represents MCI textually in its punctuating computer screens. MCI’s corporate logo becomes both corporeal and non-corporeal: its trademark seems to offer one the untrademarkable—the disembodied, unmarked body. The corporate disembodied trademark enables one to trade marks. If trademarks have traditionally, as Lauren Berlant argues, offered consumers a prosthetic body, a body to take on in public, yet still a body immersed in commodity culture, MCI offers a prosthetic identity that mimics *the original, unrepresentable* prosthetic identity. That is, the prosthetic identity offered to the viewers mimics the supposed subject of the bourgeois public sphere, who leaves only textual traces, who writes and argues rather than merely consumes. Thus, since MCI merges together the public subject of old with the consuming mass subject of new, the offer of disembodiment is good for all those bodies disenchanted with commodity culture, rather than being simply for those “others.” This offer is good for all those dissatisfied with the array of bodies currently available for consumption. By buying Internet access through MCI, one can be the reasoning subject of yesteryear, of before commodity culture, of before the reign of public iconicity.⁹

⁹ According to Habermas, the bourgeois public sphere became irrevocably contaminated by commodity culture and mass media, so that:

the programs sent by the new media curtail the reactions of recipients in a peculiar way. They draw the eyes and ears of the public under their spell, but at the same time, by taking away its distance, place it under “tutelage,” which is to say they deprive it of the opportunity to say something and to disagree. The critical discussion of a reading public tends to give way to

This “universal” buy-in takes advantage of the display-logic governing mass consumerism. According to Warner,

where the printed public discourse formerly relied on a rhetoric of abstract disembodiment, visual media—including print—now displays bodies for a range of purposes: admiration, identification, appropriation, and so forth . . . where we make symbolic identifications in a field of choice. . . . [O]ur desires have become recognizable through their display in the media; and in the moment of wanting them, we imagine a collective consumer witnessing our wants and choices. (242)

Where the public subject of yesteryear depended on “fictitious abstraction,” publicity now depends on conspicuous embodiment. As mass subjects, we view public bodies with an eye to consume, and our desires have become public desires in the sense that we “imagine a collective consumer witnessing our wants and choices.” If the newspaper once enabled national identification by encouraging each reader to imagine others partaking in the same act, viewing commercials and participating in these public desires allows for a consumer-based imaginary community.¹⁰ The MCI commercial and its vision of the Internet brilliantly merge the seemingly antithetical public and mass subjects. MCI makes the unrepresentable abstract body its trademark, through its play of regularly consumable yet unsatisfactory bodies, through its textual traces. It makes buying its product synonymous with getting beyond commodity culture. So, if Habermas condemns the laws of the market for destroying rational-critical debate by replacing it with consumption (a destruction due to the very notion of bourgeois private property that

“exchanges about tastes and preferences” between consumers—even the talk about what is consumed, “the examination of tastes,” becomes a part of consumption itself.

The world fashioned by the mass media is a public sphere in appearance only. (171)

¹⁰ For more on the role of newspapers and national identification, see Benedict Anderson, *Imagined Communities* and Jurgen Habermas, *The Structural Transformation of the Public Sphere*.

also enabled it), MCI offers a way to *buy* oneself back into the realm of rational-critical “debate,” which is now re-defined as a *marketplace of ideas*.¹¹

Key to this strategy is double identification. In the happy “Utopia? No the Internet” section of the commercial, cut-off smiling faces follow each other in rapid succession (Figures 2.8 and 2.9). These cut-off faces serve as points of identification for the viewers. Just as the mythic 1984 Apple commercial used a busty yet athletic woman to represent the technological outsider-come-innovator, MCI uses these faces to reach out to those who feel disadvantaged, or can imagine themselves as such. MCI uses this flesh to reach out to viewers who, like cyberpunk protagonists, disdain their inadequate “meat” bodies. These viewers identify with these figures as underdogs who will be liberated from nature by technology. However, as consumers viewing a commercial—as consumers with an eye for consumption and in the realm of public desires—they are also non-identical with themselves as personal or particular subjects. Again, the mass/public subject is a prosthetic identity to the extent that it runs parallel to one’s personal identity, “an identity that does not reduce to or express the given body” (Warner 238). It is an identity one takes on and wears, an identity that one imagines as protecting the personal body as one ventures into the public. This necessary self-alienation, rather than simply denying the particular, also registers the particularities within, even if it registers these particularities as outside of the self. Again:

¹¹ See Habermas’ “The Blurred Blueprint: Developmental Pathways in the Disintegration of the Bourgeois Public Sphere” (Chapter 19).



Figure 2.8



Figure 2.9

it is at the very moment of recognizing ourselves as the mass subject, for example, that we also recognize ourselves as minority subjects. As participants in the mass subject, we are the “we” that can describe our particular affiliations of class, gender, sexual orientation, race or subculture only as “they.” (Warner 243)

The key to MCI’s commercial is precisely this double recognition. It is not simply that the viewers must identify with these bodies as disadvantaged in order for the commercial to work, the viewers must do so while also identifying with the whole and clean consuming mass subject as well. It is precisely this moment of recognizing the particular affiliations of class, gender, sexual orientation, race, or age as “they” that enables one to buy into the promise of the MCI “we.” It is at this moment of unity and consumer communion that we are most vulnerable to “is this a great time, or what?”

“Is this a great time or what?” seeks to unify far more than the mass subject and the public subject. It also seeks to unify the nation by fostering historical amnesia and by providing a future alibi. These happy, shining, cut-off faces represent a happily diverse yet unified United States that opposes the view of the United States as dangerously close to disintegrating into “special interest” groups, that opposes the view that the public sphere has disintegrated into divisive spaces. But, before “is this a great time or what” can become a rhetorical question, or before race, age, gender and infirmities can end at the skin, one must forget civil inequalities and civil unrest. One must forget Vincent Chin, Rodney King, Oklahoma City and Columbine, just for starters. If, as Lauren Berlant argues, “the trademark . . . [helps] to produce the kinds of historical amnesia necessary for confidence in the American future,” MCI’s trademark enables not only Berlant’s historical amnesia, but future amnesia, as well (188). By insisting on no difference and thus no discrimination, it allows people to forget about difference and about issues of inequitable access. Since there are no visible markers of difference, it

encourages participants to imagine or assume that their audience/fellow surfers are diverse. They can let diversity of content stand in for and indeed usurp diversity of persons. Thus, in merging its logo with textual representation, MCI makes its logo merge with the legitimate citizen, and promises to iron over difficult civil inequalities and inequities. Through this ad campaign, MCI not only asserts that the Internet can lead to a situation akin to utopia (via amnesia), but also that it can do so by taking over civil responsibilities from the government. There is no need anymore for battles over civil rights since the Internet can guarantee those rights that the state has not been able to provide. The “government-free” Internet can turn disgruntled faces into happy ones.

Similarly, MCI’s Internet Policy Paper merges together private regulation of the Internet with social equality. MCI asserts in its policy paper that the Internet, because it has enabled a public sphere far superior to other public spheres, should remain free from government regulation. This document, which espouses “moral responsibility” and “public interest,” argues for self-regulation instead of government regulation. This call for self- (i.e. corporate) regulation corresponds to MCI’s corporate maneuverings: with WorldCom’s acquisition of MCI, the combined company usurped the government’s role as majority owner of the Internet, controlling 60% of all US traffic and a large share of global traffic.¹² In fact, MCI made its mark after the break-up of Bell by investing in single-mode fiber optic cable.¹³ MCI’s bid to become *the* Internet’s fiber optic backbone and Internet regulation are parallel “government takeovers.” In its policy statement, MCI

¹² See Thomas Weber’s and Rebecca Quick’s “Would WorldCom-MCI Deal Lift Tolls on the Net?” B1.

¹³ For more on MCI’s investment in single-mode fiber optic cable, see Jeff Hecht’s fourteenth chapter entitled “Three Generations in Five Years (1975-1983).”

leaves no stone unturned, giving lengthy sound-bites on issues from education to privacy to children on the Internet—all issues that the legislative, judicial and executive branches of the United States government are or have been investigating. MCI positions itself—syntactically and semantically—as a parallel, enlightened force:

But just as enlightened public officials must create responsible public policy for the users of the Internet, so must businesses craft responsible corporate policy. It is, we believe, in the enduring interest of the Internet community to create good corporate policy and, through that means, to avoid unworkable public policy.”
(Foreword)

The implied relation between corporate policy and public policy privileges corporate policy. If there is good corporate policy, unworkable public policy can be avoided (as MCI spells out later, all public policy turns out to be unworkable, leaving only private policy). Framed in this way, MCI offers its white paper as a contribution “to reasoned and enlightened discussion of important policy issues, and their resolution in the best interest of the users of the Internet.”

In this new enlightened world, governments supplement “private” corporations. Although MCI admits that governments must ensure that fair competition exists “to the maximum extent necessary,” it argues that “policymakers should support strong self-regulation” and that “in general, the private sector must lead” (“Privacy: Policymakers Should Support Innovative, Strong Self-Regulation” Section; “Public Policies Should Support Innovative, Strong, Self-Regulation” Section): MCI admits that “the government created the Internet,” but argues that “its recent, geometric growth has occurred because government’s role has been consciously limited” (“Public Policies Should Support Innovative, Strong, Self-Regulation” Section). MCI sidesteps the possibility that the

Internet developed as a “marketplace of ideas” because, at first, there were no other marketplaces on the Internet. Instead, it confidently declares that:

whenever possible, the primary goal of any governmental action should be to further, to the maximum extent necessary, open, fair competition and the resulting consumer choice that inevitably follows. To avoid the risk of badly distorting healthy market forces, governments should also look to the private sector to address consumer concerns about Internet privacy and security. (“MCI’s Internet Policy Principles” Section)

MCI links together ‘open,’ ‘fair’ competition with consumer ‘choice,’ which is difficult to justify considering the mass media mergers enabled by recent telecommunications reforms. MCI positions the Internet as containing “healthy market forces,” which is also dubious given that the main question facing companies on the Internet today is: “how can money be made on the Internet?” This narrative, however, enables MCI to argue that this public sphere needs no public policy in order to survive—the public will make its presence felt not through government intervention, but through consumer spending and through buying stock in “public” companies such as MCI.¹⁴

MCI seamlessly slips between consumer concerns and enlightened discussion, taking advantage of the metaphor underpinning the “marketplace of ideas.” MCI, in fact, conflates all marketplaces, equating economic growth and the ideals of the bourgeois public sphere:

perhaps the more we succeed in jettisoning policy and legal barriers to Internet commerce and communications, the more we may help erode those other, far more critical barriers to human prosperity: the ones that divide nations, inequitably distribute wealth, and impair fair and equitable business markets.
(Conclusion)

¹⁴ www.ebay.com’s success opens another path for consumer participation: auctioning off private possessions.

Perhaps wary of being held responsible should social justice not follow deregulation, MCI tentatively links jettisoning policy (barriers) with global harmony, opening business markets with the equitable distribution of wealth, and thus flattens differences between corporate welfare and social justice. It naturalizes human prosperity, while redefining it, while all the time claiming to be following the lead of the United States government. Accordingly, “MCI strongly endorses the fundamental goals that public policy makers have established for the information superhighway: continued rapid business growth, enhanced security and privacy for users, a lessening of the gap between information ‘haves and have nots,’ and freedom of expression” (“MCI’s Internet Policy Principles” Section).

This flattening aside, MCI also shows that all issues are not equal. “Protecting children” is given two short paragraphs, whereas spamming (sending “junk email” to multiple people) is given two pages. The section on spamming also has a rather outrageous subtitle: “Spamming: No Tolerance for an Intolerable Abuse.” In opposition to MCI’s general philosophy of self-regulation, spamming has serious penalties, namely termination of the offender’s account and/or access to MCI services—it is not up to users to regulate their use of multiply addressed email messages. Spamming, carefully defined so as to guarantee due process of a sort, becomes such a heinous abuse because it undermines consumer confidence:

spamming is perhaps most harmful in the way it badly shakes the confidence of Internet users in their online privacy and security—and in the entire Internet. The clearest message that a spamming recipient gets is usually not what the senders intend, but rather the disconcerting news that his privacy has been breached—that someone has obtained his e-mail address, and perhaps other personal information, without his knowledge. (“Spamming: No Tolerance For An Intolerable Internet Abuse” Section)

Spamming becomes a textual violation, analogous not to junk mail, but rather to the traces of trespassing. Spamming is dangerous because it works against MCI's message that the Internet is a clean shiny place: it shows consumers that their information is not safe online, since anyone who has "intercepted" their email address might also have sniffed their credit card number. If we are "only words" on the Internet, what happens when these words are intercepted? In order for the Internet to become a marketplace, according to MCI, consumers have to see it as safe. This desire to convince consumers that the Internet is a clean well-lighted place underlies both the policy paper and the commercial. According to MCI, the Internet provides better protection and so is a better public sphere.

FROM PORNOTROPING TO PORNOGRAPHY

However brilliant MCI's merging of the Fourteenth amendment and the Internet, this corporate offer of prophylaxis far from quelled debate over the safety of Internet communications. Not everyone is convinced that computer networks themselves offer enhanced or even adequate private protection. Not everyone is convinced that the responsibility for the public sphere should move from the government to private corporations. In response to those arguing for an "untethered" electronic public sphere, those calling for government intervention have focussed on online pornography. Specifically, the legal debate has centered on the Communications Decency Act (CDA), a tiny section of the massive Telecommunications Reform Bill of 1996 that effectively deregulated the telecommunications industry.

Both pro- and anti- CDA advocates agree that the Internet is “a unique and wholly new medium of worldwide human communication,” “a forum for a true diversity of political discourse, unique opportunities for cultural development and myriad avenues of intellectual activity.” (“Findings of Fact” Section, *Preliminary Injunction*; “Statement, 2” *DOJ Brief*). However, they disagree over what private protections must accompany this new public medium, over what legislation citizens need in order to participate safely.

The legislative branch of the government, focussing on the rights of the viewers or consumers of this ‘brave new world,’ argues that the Internet is pervasive and intrusive: “like indecency presented on broadcast stations, indecent material presented over the Internet ‘confronts the citizen . . . in the privacy of the home’” (C. The Display Provision Is Facially Constitutional,” *DOJ Brief*). Thus the Internet, while wholly unique, is analogous to broadcast. It therefore enjoys little First Amendment protection and must be regulated along the lines of broadcast (i.e. *F.C.C. v. Pacifica*, 438 U.S. 726 [1978]). The ACLU et al., focussing on the rights of producers, argue that content on the Internet does not surprise the viewer and that the strength of the Internet lies in the power of viewers to become producers. As well, unlike broadcast frequencies, Internet bandwidth is not scarce. Because of these characteristics, the Internet, while wholly unique, is analogous to telephony or print. It therefore enjoys almost absolute First Amendment protection (along the lines of *Sable Communications of California, Inc. v. F.C.C.*, 492 U.S. 115, 126 [1989]). In other words, in response to the remapping of the private and public that has enabled both the deregulation of the telecommunications industry and the popularization of the Internet, the government seeks to “produce the

domain of publicly acceptable speech” in the media.¹⁵ It seeks to assert its ability to “[demarcate] the line between the domains of the speakable and unspeakable, and [retain] the power to make and sustain that consequential line of demarcation” (Butler 77). At the heart of the Court rulings on the constitutionality of the CDA, then, is the question of which is more intrusive to the private citizen: the CDA or the Internet (where the Internet is characterized as purveyor of pornography, as a medium for the circulation of words)?¹⁶ Regardless, the last word remains the state’s, since the decision remains in the hands of the government, albeit in another branch’s.

The CDA section of the Telecommunications Bill encapsulates the government’s attempt to be more than a force that ensures fair competition, where “fair” means enabling massive telecommunications mergers, such as the one between MCI and WorldCom. Leaning on a series of court decisions that have placed the protection of minors above the First Amendment rights of adults, the government cites the need to shield minors as the compelling interest supporting the CDA.¹⁷

threatened with fines (up to \$100,000), imprisonment (up to two years), or both, “anyone who makes, creates, solicits, and/or initiates the transmission of any communication that is obscene or indecent, knowing that the recipient is under eighteen years of age, regardless of who placed the call.” It also threatened to do the same to “anyone who displays, in a manner available to anyone under eighteen years of age, any communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of who placed the call.” Lastly, it threatened to fine and/or imprison anyone who knowingly permits any telecommunications facility under his or her control to be used for such communications. The government would offer safe harbor to those who have, in good faith, taken reasonable, effective, and appropriate actions to restrict or prevent access by minors. Requiring the use of a verified credit card, debit account, adult access code, or adult personal identification number—all methods currently employed by commercial pornography sites—are named as adequate restrictions.¹⁸

Both pro- and anti- CDA advocates agree on the danger of pornography to the extent that the dangers of pornography are assumed rather than debated. Culling the text, it would seem that pornography is dangerous because it is performative and contagious. In logic akin to Catherine MacKinnon’s in *Only Words*, pro- and anti-CDA advocates assume that pornography creates a pornographic culture by inciting desires/erectons in its viewers.¹⁹ As opposed to MacKinnon, however, pornography’s danger stems not from

¹⁸ For the full text, see Appendix A.

¹⁹ According to MacKinnon, pornography is “constructing and performative rather than ... merely referential or connotative. The message of these materials, and there is one, as there is to all conscious

its ability to inspire the abuse of women, but rather from its propensity to produce bad subjects. Pornography's danger lies in its violation of viewers, specifically its under-aged viewers, who are unable to reason against its temptations. To refer back to Spillers' notion of pornotroping, objectification and the circulation of these representations (not always with consent)—which seem to be the acts that link pornotroping and pornography—can be dangerous because they arouse the viewer/body. More to the point, they can be dangerous because they create aroused viewers—they call the viewers to enjoy the display of flesh before them. Although this arousal is beneficial in some, if not most, situations, it carries with it the possibility of excessive and deviant enjoyment. The enjoyment of objectification, although necessary to the formation of the reasoning subject, also lies on the border of reason. This enjoyment threatens to take over reason, to take over the subject, to enslave it to its passions and to expose it to dangerous liaisons.

Online pornography heightens this danger because its content supposedly exceeds “normal” boundaries: media reports claim that the hardest of hardcore pornography saturates the Internet; they claim that not just any person can access these materials, but children in the confines of their bedroom; they claim that this instantaneous access cannot be effectively prevented. The Internet allows pornography to violate not only its viewer, but also the sanctity of the home. Thus, pornotroping may not be possible on the Internet,

activity, is ‘get her,’ pointing at all women, to the perpetrators’ benefit of ten billion dollars a year and counting. This message is addressed directly to the penis, delivered through an erection, and taken out on women in the real world” (*Only Words* 21). In terms of its effect on women, “as Andrea Dworkin has said, ‘pornography is the law for women.’ Like law, pornography does what it says. That pornography is reality is what silenced women have not been permitted to *say* for hundreds of years” (41).

but pornography certainly is. Pornography comes to stand for violation of private rights in general and becomes *the* issue driving arguments for Internet regulation. In this debate, pornography and democratic governance become twin issues.²⁰ For those against the CDA, pornography becomes emblematic of the “right to say anything,” which supposedly founds democracy, or emblematic of the separation between public and private powers. For those supporting the CDA, pornography becomes emblematic of the need for government protection that supposedly enables democracy, the need for the government to curtail an individual’s free speech for the benefit of another individual.

According to Congress, cyberspace is analogous to broadcast, but also needs more regulation than broadcast: “because millions of people disseminate information on the Internet without the intervention of editors, network censors, or market disincentives, the indecency problem on the Internet is much more pronounced than it is on broadcast

²⁰ Another compelling example of the twinning of pornography and democratic governance is the controversy surrounding the “virtual rape” in LambdaMOO. In this event, two women’s identities were taken over by “Mr. Bungle,” who made their characters perform violent and vile acts on each others bodies. Although this event had been discussed mainly in terms of the “reality” of virtual rapes (see Sherry Turkle’s “Virtuality and its Discontent” chapter *Life on the Screen: Identity in the Age of the Internet* and Catherine MacKinnon’s “Vindication and Resistance: A Response to the Carnegie Mellon Study of Pornography in Cyberspace”), I find this event most provocative in terms of the crisis of governance that it incited. According to Julian Dibell’s recounting, “certainly whatever civil society now informs LambdaMOO owes its existence to the Bungle Affair,” since “the question of what to do about Mr. Bungle began to shape itself into a sort of referendum on the political future of the MOO.” Specifically, the question of what to do about Mr. Bungle centered around the rights of individuals and public violation. For more details see Julian Dibell’s “A Rape in Cyberspace” chapter in *my tiny life*).

stations.” (“C. The Display Provision Is Facially Constitutional, 1.a,” *DOJ Brief*).

Because of this lack of intervention, while the Internet has “incredible potential as an education and information resource” (“Summary of Argument,” *DOJ Brief*), “that same technology . . . allows sexually explicit materials, including ‘the worst, most vile, [and] most perverse pornography,’” to be “only a few click-click-clicks away from any child” (“Statement, 2.” *DOJ Brief*). It argues that the “natural” laws of the marketplace fail in the face of this “free” medium. In response to MCI’s assertion that healthy market forces dominate the Internet, Congress points out that the Internet has no market forces regulating it at all. The problem does not lie with commercial pornographers who already engage in credit-card based age verification; the problem lies with those who provide pornography for free seemingly out of their own good will. Without the pressures of having to sell programming to advertisers and to the general public, the vilest materials—here pornography—are readily available.

This click-click-click proximity of net porn compromises the distance between pornography—and all that consumed within the category of obscenity and indecency—and the home. As Senator Coats put it in congressional debate over the CDA:

Congress found that the only barriers between children and such material were “perfunctory onscreen warnings which inform minors they are on their honor not to look at this,” which is “like taking a porn shop and putting it in the bedroom of your children and then saying ‘Do not look.’” (“Statement, 2.” *DOJ Brief*)

Minors, then, are portrayed as unable to resist the lure of pornography. Not accidentally, the lure of pornography is translated into geographical and commercial terms: it is like a porn shop in the bedroom of your children. This simile moves the problem of regulating the Internet from one of telephony or broadcast to one of zoning. The government moves towards zoning partly because “cyberspace” lends itself nicely to questions of spatial

segregation, and partly because the CDA seeks to prohibit both the sending and displaying of obscene and indecent materials through previously upheld zoning laws. According to the government, “in effect, the display provision operates an adult ‘cyberzoning’ restriction, very much like the adult theater zoning ordinance upheld in *Renton and Young*” (“Summary of Argument, B.” *DOJ Brief*). Through this move, the government justifies its intervention in terms of its traditional obligation to keep public spaces safe. The government correlates the geography of the “physical world” and cyberspace and makes concerns over pornography “directly analogous to the concerns about crime, reduced property value, and the quality of urban life” (“C. The Display Provision is Facially Constitutional, 2.” *DOJ Brief*). Since the porn shop resides in the bedroom, as opposed to the street, zoning cyberspace becomes a more pressing, urbane yet intimate issue.

This invocation of zoning regulations resonates with the government’s implicit plan to make all indecency commercial. The CDA, with its “safe-harbor” of credit-card based age verification, effectively forces all obscene or indecent content providers to become commercial. In this sense, the government’s assertion that the CDA would only affect commercial sites is disingenuous. It justifies the forced commercialization of “obscenity” by arguing that this places the monetary burden for screening on the providers of obscenity, rather than on the nations’ parents:

Screening software is only partially effective in screening indecent material, and Congress further determined that it would not be fair for parents to have “the sole responsibility to spend their hard-earned money to ensure that cyberporn does not flood into their homes through their personal computers.” (Sen. Grassley as quoted in “E. There Are No Alternatives That Would be Equally Effective In Advancing the Government’s Interests,” *DOJ Brief*)

In the guise of saving parents money, Congress seeks to make all exchange of indecent materials monetary. According to Congress, the shoring up of the walls of the homes should be a commercial, rather than a personal obligation, even if this adversely affects diversity on the medium:

In the short run, the CDA may impose some burdens and costs on adult-to-adult communication of indecent material. Congress constitutionally decided, however, that it is better to place some burdens and costs on those who disseminate patently offensive material through use of a new and rapidly changing technology than it is to leave children unprotected. (“Summary of Argument, D.” *DOJ Brief*)

For the future of our children, Congress has decided to sacrifice the *free* circulation of some ideas in the marketplace of ideas. Or, to spin it more attractively—as the Department of Justice did in response to the Eastern District Court’s decision to grant a preliminary injunction against the enforcement of the CDA—Congress has decided that it must stop the free circulation of some obscene ideas in order to ensure the free flow of others. According to the Department of Justice’s Supreme Court Brief, the inadequate segregation of pornography from the rest of Internet content has effectively violated the rights of adults to participate in this sphere:

Congress also learned that the easy accessibility of pornographic material on the Internet was deterring its use by parents who did not wish to risk exposing their children to such material. . . . Congress determined that a legislative response was necessary to ensure that the Internet would be a “family friendly resource” . . . Congress wanted to make the Internet “even bigger, and * * * even better, * * * but not for raunchy pornography that would turn most people off.” (Statement, 2.” *DOJ Brief*)

Following the path set out by corporations like MCI for appropriate government interventions, the government argues that it seeks to make the Internet a bigger and better place for the average citizen. Its role is supplementary to the extent that it is not

demanding use of the Internet—or universal access to it—but rather encouraging its use by ensuring that it is safe for all:

Much of the Internet’s potential as an educational and information resource will be wasted, however, if people are unwilling to avail themselves of its benefits because they do not want their children harmed by exposure to patently offensive sexually explicit material. The government therefore not only has an especially strong interest in protecting children from patently offensive material on the Internet, it has an equally compelling interest in furthering the First Amendment interest of all Americans to use what has become an unparalleled educational resource. (“Summary of Argument, 1.” *DOJ Brief*)

At present, or so the argument goes, the potential harm to children on the Internet deters adults from logging on, thus depriving those parents of their First Amendment right to participate in this new public sphere. Because of this, the government has a responsibility to ensure that these barriers are taken down, just as it has taken down race-based barriers to speech in the past, and just as it has zoned safe areas within urban centers. The government must ensure a fair playing field for its citizens.

This reasoning however, failed to persuade the judiciary of the constitutionality of the CDA.²¹ In response to the Government’s argument that the CDA follows precedents set for broadcast regulation, the Supreme Court decided that:

the special factors recognized in some of the Court’s cases as justifying regulation of the broadcast media—the history of extensive government regulation of

²¹ The zoning argument did, however, win over Justices O’Connor and Rehnquist. In their concurrence, O’Connor explains that: “I write separately to explain why I view the Communications Decency Act of 1996 (CDA) as little more than an attempt by Congress to create ‘adult zones’ on the Internet. Our precedent indicates that the creation of such zones can be constitutionally sound. Despite the soundness of its purpose, however, portions of the CDA are unconstitutional because they stray from the blueprint our prior cases have developed for constructing a ‘zoning law’ that passes constitutional muster” (*Concurrence* n.p.).

broadcasting . . . the scarcity of available frequencies at its inception . . . are not present in cyberspace. Thus, these cases provide no basis for qualifying the level of First Amendment scrutiny that should be applied to the Internet. (*Syllabus* n.p.)

Given that the Internet, unlike broadcast, receives full First Amendment protection, the vagueness of the terms “indecent” and “patently offensive” become key issues. Without *FCC v. Pacifica* to rely on, “indecent” does not have a judicial history. Congress’s definition of “patently offensive” leaves open the question of whose community standard is to be used, and it is without the usual clauses about artistic merit and parental support as well.²² In light of this, the Supreme Court, concurring with the District Court’s initial decision, states that the CDA’s use of “the undefined terms ‘indecent’ and ‘patently offensive’ will provoke uncertainty among speakers about how the two standards relate to each other and just what they mean. The vagueness of such a content based regulation . . . , coupled with its increased deterrent effect as a criminal statute . . . raise[s] special First Amendment concerns because of its obvious chilling effect on free speech” (*Syllabus* n.p.). The vagueness of these words, then, causes individuals to steer clear of speech that is constitutionally protected and deprives the medium of its richness in content. The

²² In response to the government’s precedents, the Supreme Court stated:

a close look at the precedents relied on by the Government—*Ginsberg v. New York*, 390 U.S. 629; *FCC v. Pacifica Foundation*, 438 U.S. 726; and *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41—raises, rather than relieves, doubts about the CDA’s constitutionality. The CDA differs from the various laws and orders upheld in those cases in many ways, including that it does not allow parents to consent to their children’s use of restricted materials; is not limited to commercial transactions; fails to provide any definition of “indecent” and omits any requirement that “patently offensive” material lack socially redeeming value; neither limits its broad categorical prohibitions to particular times nor bases them on an evaluation by an agency familiar with the medium’s unique characteristics; is punitive; applies to a medium that, unlike radio, receives full First Amendment protection; and, cannot be properly analyzed as a form of time, place, and manner regulation because it is a content based blanket restriction on speech. (*Syllabus* n.p.)

Supreme Court here assumes that speech is generally without uncertainty and that degrees of uncertainty determine whether or not one will speak.

According to the Supreme and District Courts' decisions, Congress did not adequately tailor the CDA to the uniqueness of the medium; viewing the Internet as an educational resource or as a shopping mall completely ignores the "speaking" aspect of the Internet. Whereas broadcast is marked by scarcity, pervasiveness and intrusiveness (and thus enjoys the least First Amendment protection), the Internet is distinguished by plenitude and user participation. Specifically:

four related characteristics of Internet communication have a transcendent importance to our shared holding that the CDA is unconstitutional on its face. . . . First, the Internet presents very low barriers to entry. Second, these barriers to entry are identical for both speakers and listeners. Third, as a result of these low barriers, astoundingly diverse content is available on the Internet. Fourth, the Internet provides significant access to all who wish to speak in the medium, and even creates a relative parity among speakers. ("D. 3. The Effect of the CDA and the Novel Characteristics of Internet Communication," *Preliminary Injunction*)

These four characteristics, determined by the District Court's "Findings of Fact," make the Internet "the most participatory form of mass speech yet developed," so that the Internet deserves the highest protection from governmental intrusion" ("E. Conclusion," *Preliminary Injunction*). Put entirely in terms of the individual and his or her ability to speak, the government, rather than pornography, is that which intrudes. It is the government and not pornography that would intrude into the homes of its citizens were the CDA to become law.

Judge Stewart Dalzell, in his section of the written decision granting a temporary injunction against the Communications Decency Act, argues that the Internet has resuscitated the "much-maligned 'marketplace' theory of First Amendment Jurisprudence" ("D. 4. Diversity and Access on the Internet," *Preliminary Injunction*).

According to Dalzell, economic realities have skewed the marketplaces of mass speech in favor of “a few wealthy voices . . . [that] dominate—and to some extent, create—the national debate. . . . Because most people lack the money and time to buy a broadcast station or create a newspaper, they are limited to the role of listeners, i.e., as watchers of television or subscribers to newspapers” (“D. 4. Diversity and Access on the Internet,” *Preliminary Injunction*). To worsen the situation, economic realities have forced competing newspapers to consolidate or leave the marketplace, effectively leaving most Americans with no local competing sources of print media. Lastly, cable has not delivered on its promise to open the realm of television. “Nevertheless, the Supreme Court has resisted governmental efforts to alleviate these market dysfunctions [since] . . . the Supreme Court held that market failure simply could not justify the regulation of print” (“D. 4. Diversity and Access on the Internet,” *Preliminary Injunction*). With the advent of the Internet, however, the judiciary can go on the offensive, by going on the defensive. Rather than interfering with a media monopoly already in place, the Supreme Court can rule to maintain the status quo. By ruling the CDA unconstitutional, the judiciary is maintaining “the most participatory marketplace of mass speech that this country—and indeed this world—has yet seen” (“D. 5. Protection of Children from Pornography,” *Preliminary Injunction*).

According to Dalzell’s decision, the presence of indecency proves the diversity of the medium:

Some of the dialogue on the Internet surely tests limits of conventional discourse. Speech on the Internet can be unfiltered, unpolished, and unconventional, even emotionally charged, sexually explicit, and vulgar—in a word, “indecent” in many communities. But we should expect such speech to occur in a medium in which citizens from all walks of life have a voice. We should also protect the autonomy that such a medium confers to ordinary people as well as media

magnates. (“D. 5. Protection of Children from Pornography,” *Preliminary Injunction*)

Indecency is to be expected considering the diversity of people allowed to voice their opinions on the Internet. Here, diversity of content stands as proof of diversity of people, whether or not there is any substantial proof for said economic, or, perhaps more specifically, occupational diversity. This indecency proves the democracy of the medium and must be preserved at all costs, since diversity is compromised by the current market press:

The diversity of the content will necessarily diminish as a result . . . In this respect, the Internet would ultimately come to mirror broadcasting and print, with messages tailored to a mainstream society from speakers who could be sure that their message was likely decent in every community in the country. (“D. 3. The Effect of the CDA and the Novel Characteristics of Internet Communication,” *Preliminary Injunction*)

If communication is decent in every community, democratic speech is not served. The goal, then, is to save the Internet from becoming like broadcast; indecency thus moves from an evil that must be accepted to proof of the diversity of the medium itself. It becomes necessary to proving the “democratizing” effects of the Internet.

Although Judge Dalzell is admittedly outspoken and enthusiastic in his defense of the Internet against government intrusion, even the more measured Justice Stevens ends his decision with an homage to the phenomenal growth of the Internet. Justice Stephens declares that “the interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship” (*Supreme Court Opinion* n.p.). The primacy given to the private citizen or non-profit organization over commercial interests marks these decisions. Responding to the government’s attempt to

make all indecency de facto commercial, the Supreme Court sees this intrusion as going beyond the scope of previous communications regulations:

The breadth of the CDA's coverage is wholly unprecedented. Unlike the regulations upheld in *Ginsberg* and *Pacifica*, the scope of the CDA is not limited to commercial speech or commercial entities. Its open ended prohibitions embrace all nonprofit entities and individuals posting indecent messages or displaying them on their own computers in the presence of minors. (*Supreme Court Opinion* n.p.)

Here, the government, just as the Internet, intrudes upon terrain previously outside the realm of the public. By curtailing the breadth of the government, the judiciary sees itself as protecting the voices of individuals and other non-commercial interests, while it simultaneously ignores the larger ramifications of the Telecommunications Reform Act:

The CDA will also skew the relative parity among speakers that currently exists on the Internet. Commercial entities who can afford the costs of verification, or who would charge a user to enter their sites, or whose content has mass appeal, will remain unaffected by the Act. Other users, such as Critical Path or Stop Prisoner Rape, or even the ACLU, whose Web sites before the CDA were as equally accessible as the most popular Web sites, will be profoundly affected by the Act. This change would result in an Internet that mirrors broadcasting and print, where economic power has become relatively coterminous with influence. Perversely, commercial pornographers would remain relatively unaffected by the Act, since we learned that most of them already use credit card or adult verification anyway. ("D. 3. The Effect of the CDA and the Novel Characteristics of Internet Communication," *Preliminary Injunction*)

Through this, the judiciary calls the legislature's bluff. The key targets of the CDA—the major landscape change that would follow from it—have nothing to do with commercial pornography. The judiciary denies the government the ability to force the commercialization of indecency as a means to regulate it—as a means to introduce market forces into the “marketplace of ideas” on the Internet. It allows the Supreme Court—which has systematically avoided issues of protecting citizens against media monopolies, against the reduction in consumer choice resulting from the effective

destruction of anti-trust laws—to stand up for individual citizens, while at the same time delivering a decision applauded by all telecommunications companies:

We agree with the District Court’s conclusion that the CDA places an unacceptably heavy burden on protected speech, and that the defenses do not constitute the sort of “narrow tailoring” that will save an otherwise patently invalid unconstitutional provision. In *Sable*, 492 U.S., at 127, we remarked that the speech restriction at issue there amounted to “burn[ing] the house to roast the pig.” The CDA, casting a far darker shadow over free speech, threatens to torch a large segment of the Internet community. (Justice Stephens, *Supreme Court Opinion* n.p.)

Taking advantage of the spatial metaphors used thus far, it equates cyberzoning as currently devised with arson and it equates the Internet with the home, once again remapping the public and private.

The argument that the Internet is not like broadcast and that it cannot be regulated as such hinges on the question of user agency. Concentrating on the act of searching and surfing, the Court agrees with the plaintiffs that “although such [sexually explicit] material is widely available, users seldom encounter such content accidentally The receipt of information requires a series of affirmative steps more deliberate and directed than merely turning a dial. A child requires some sophistication and some ability to read to retrieve material and thereby to use the Internet unattended” (Justice Stephens, *Supreme Court Opinion* n.p.). Rather than being passively attacked by images or speech, a child must be able to read—and implicitly able to reason or to want—in order to retrieve indecency. Resonating with MCI’s emphasis on the typed word, this literacy—this reading rather than hearing or watching—makes all the difference. Whereas broadcast’s content invades, the Internet’s content must be invited:

In any event, the evidence and our Findings of Fact based thereon show that Internet communication, while unique, is more akin to telephone communication, at issue in *Sable*, than to broadcasting, at issue in *Pacifica*, because, as with the

telephone, an Internet user must act affirmatively and deliberately to retrieve specific information online. Even though a broad search will, on occasion, retrieve unwanted materials, the user virtually always receives some warning of its content, significantly reducing the element of surprise or “assault” involved in broadcasting. Therefore, it is highly unlikely that a very young child will be randomly “surfing” the Web and come across “indecent” or “patently offensive” material. (Judge Sloviter, “C. Applicable Standard of Review,” *Preliminary Injunction*)

Because one must click and read, pornography on the Internet—and thus content in general—does not assault the viewer. Because links are usually textual descriptions, the random retrieval of indecent or pornographic materials is deemed “highly unlikely.” In fact, the question of random retrieval of smut becomes absorbed into the problem of imprecise searches in general, since the technology makes no distinction between decent and indecent materials:

84. Sexually explicit material is created, named, and posted in the same manner that is not sexually explicit. It is possible that a search engine can accidentally retrieve material of a sexual nature through an imprecise search, as demonstrated at the hearing. Imprecise searches may also retrieve irrelevant material that is not of a sexual nature. The accidental retrieval of sexually explicit material is one manifestation of the larger phenomenon of irrelevant search results. (“Findings of Fact,” *Preliminary Injunction*)

By subsuming indecency within results from “imprecise searches,” the judiciary further highlights user agency. Presumably, should the user provide better search strings, uninvited indecency would go away. Regardless, the retrieval of pornography in the home is discounted as accidental. It is not a porn shop in the bedroom, but rather a library or mall with secret exits to porn shops (much like the video store with the pornography section visually cordoned off). The judiciary, though, decided that the chilling effects of the government’s attempt at regulation would not be accidental:

It would appear that the extent of the abridgement of the protected speech of adults that has been shown the CDA would effect is too intrusive to be outweighed by the government’s asserted interest, whatever its strength, in

protecting minors from access to indecent material. (Judge Sloviter, “F. Whether the CDA is Narrowly Tailored,” *Preliminary Injunction*)

In the end, then, the government’s intrusion into protected speech is viewed as more intrusive than the Internet’s accidental porn exits. In the end, the Internet’s value to democracy—its potential to open the media floodgates—is viewed as more important than its analogies to broadcast. In the end, the act of posting is privileged over reading, whether or not most surfers on the Internet ever post to newsgroups, listservs or the web.

ONLY WORDS

Freedom of opinion does not transform opinion into private property, and it is not modelled on the ownership of material goods; it is a relational freedom... As everyone acquires the right to address others and to listen to them, a symbolic space is established; it has no definite frontiers, and no authority can claim to control it or to decide what can and what cannot be thought, what can and cannot be said. Speech as such and thought as such prove to exist independently of any given individual, and belong to no one.

--Claude Lefort (33)

The debate over the CDA, rather than reducing to a battle between First Amendment Absolutists and the Religious Right over pornography, centers on competing views of the public and of the marketplace. Both pro- and anti-CDA advocates acknowledge the dangers of pornography, but differ in their interpretation of cyberspace. Interpreting cyberspace literally, the government views it as a public space that can function properly for the public only if it is regulated via the rules of the marketplace. Interpreting the marketplace of ideas literally, the CDA calls for the forced commercialization of obscenity or indecency, rather than government- or F.C.C.-based censorship. Anti-CDA

advocates view the non-commercial aspects of cyberspace as a marketplace of ideas that parallels, rather than intersects with, commercial market forces. Both sides disregard the role of private ownership on cyberspace—as they do for all public media. Although the legislative branch of the government argues that cyberspace’s public outreach invades the home and disrupts the balance between public and private spheres, the judiciary decides that the CDA disrupts this balance even more and takes away an individual’s right to participate in this newly discovered marketplace of ideas.

The MCI commercial and the court decisions privilege agency over contact, empowerment over disruptions, text over images. The Supreme Court’s description of the web summarizes this conviction nicely:

The Web is thus comparable, from the readers’ viewpoint, to both a vast library including millions of readily available and indexed publications and a sprawling mall offering goods and services.

From the publisher’s point of view, it constitutes a vast platform from which to address and hear from a world wide audience of millions of readers, viewers, researchers, and buyers. Any person or organization with a computer connected to the Internet can “publish” information. (*Supreme Court Opinion* n.p.)

According to the Supreme Court, all users—whether readers, publishers, or both—act. They read, deliberate, consume, publish, research, address, listen or view. They may

This conclusion relies on a dangerously naïve understanding of language, one that rivals “they wouldn’t print it if it wasn’t true.” It assumes an intimate and immediate relation between the written word and the mind, completely bypassing the unconscious and ignoring how language belongs to others as well. It also assumes an extremely safe notion of contact between readers and publishers: users do not interrupt each other, stalk each other, or engage each other at all. Instead, they offer their statements, wait for replies, and perhaps reply back again in an orderly fashion. It assumes that texts can be reduced to ideas and that people consume ideas in the same manner they consume commodities. Lastly, it assumes that users are always the authors of texts and never the objects of texts. It avoids the question of whether online texts objectify their subjects: the major objection against pornography was not that it objectified women, as MacKinnon would have it, but rather that it assaulted its viewers.

To argue for the inadequacies of this understanding of language, I turn to “imprecise searches”—the reason, according to the Court, for the accidental retrieval of pornography. One-word searches usually produce too much information; adding qualifiers, in proper Boolean fashion, usually pares down the number of hits. However, does pornography or difference—the pornography of difference—only emerge because the search is imprecise? For this to be true, those producing and consuming information must cooperate with one another; everyone must have the same goal of providing the consumer with his or her already determined and known desire. Secondly, the successful search must supply the user exactly what s/he wanted. And thirdly, those producing and consuming information must have the same understanding of key words.

However, those producing and consuming information are not cooperating together. A careful look at the meta tags—the tags that determine the site’s key words for which search engines scan—exposes this non-cooperation, whether it be Coca Cola’s meta tag containing “Pepsi,” or pornography sites that take advantage of well-known typos, such as the porn site whitehouse.com. Marketers, at least, have not discounted the importance of slips of the keyboard, of serendipity. If the mode of searching for keywords has denied the possibility of mass advertising, which might lead to the spur-of-the-moment purchase, marketers have re-inserted this by taking advantage of various cracks in the conscious subject’s control.

Let me highlight the dangers of this understanding though a search on “Oriental” I performed on Excite on June 22, 1998. Four out of the ten sites reported as the “best hits” were pornographic, the other sites were academic, travel and cat-related (although by no means outside of Orientalism).²³ The terms that Excite suggested I couple with Oriental, in proper Boolean fashion, all related to sex, or other sexualized identities such as “blondes,” with the possible exception of “babysitting.” Further, none of these pornography sites were truly Oriental pornography sites, but rather clearinghouses that one could join in order to sample one’s favorite category, if not to discover new ones. These sites ranked so high on the Excite list because their meta tags were filled with nonsensical sentences about Orientals and other “pornographic” terms. Each site had numerous such “opener pages,” that catered to various fetishes and linked to the same main site. A search on “Asian Americans” and “Asian + woman” produced similar results. Indeed, “Asian” has become a popular pornographic category.

²³ For these results, see Appendix B.

My choice of Oriental is hardly accidental. Orientalism, as a field of study, illustrates in its very naming that texts are not objective, and that textual contact between cultures or people does not guarantee equitable contact. Orientalism highlights how persons become objects for another person's study, how libraries and shopping malls are not sites of innocent transactions. Rather, this type of textual interaction has led to the pornography of difference. This pornographizing of difference is the obverse of the all-knowing and deliberate subject. I pursue this pornographizing of difference further in my next chapter, "High Tech Orientalism."

This pornographizing of difference does not, however, close the possibility of the Internet as a public sphere, as a new, more-open means for textual communication with others. The answer to MCI's question "is this a great time or what?" is neither an automatic no or yes. To begin answering this question, though, the consequences and possibilities behind "only words" must be explored rather than assumed. "Only words," rather than meaning only minds or ideas, means vulnerability and exposure:

Language gives no stable ground to humanity, makes no room for our signs and representations. If we do so, if we make images and express ourselves, we do so only at the risk of the selves we so desperately long to present and represent. For language intervenes in the lives of those who seek to use it with a force and a violence that can only be compared to . . . light, to the tear of the blinding, inhuman, and uncontrollable light that comes through a window—something soft that breaks. (Keenan 137-8)

Language—like the "uncontrollable light that comes through a window," which both enables the gaze *and* exposes us—"intervenes in the lives of those who seek to use it."

Language exposes in order to expose.

Publicity stems from language, stems from the breach between seeing and being seen, of representing and being represented. Publicity is an enabling violence. The key,

then, is to re-think our notions of time and space in order to intervene on this public and to let this public intervene on us. The metaphor of the marketplace seeks to contain intervention by reducing all contact to the buying and selling of ideas, as though one merely consumes and is never consumed by words. In other words, it is possible to agree with Judge Dalzell that the Internet is the most democratic medium to date without assuming that it is a marketplace of ideas. Indeed, it is only by “discounting” this marketplace theory that we can understand how the Internet can function as a public space. Rather than taking the consumer as the base, we should look precisely at what is ignored, or rendered “accidental” by this medium, namely pornography and pornographic intrusion into the private sphere. We must look at how the conditions of speech are always uncertain, and how those who speak are compromised. If the Internet does allow for disembodied communications, perhaps it is because speaking disembodies us—or rather undermines the fiction of an embodied subject. It is not that we are embodied sometimes, but rather that the very system of democracy and public intercourse relies on a disincorporation—a disincorporation that cannot be accounted for by marketplace theories that seek to cover over the breach in the subject by offering the myth of a rational, embodied yet disembodied, trackable yet unseen subject. It is a disincorporation that does not stem the fact that we all as individuals “own” our speech, nor does it stem from the fact that as speakers, we communicate mind-to-mind. Rather, it stems from the fact that as speakers and listeners in a public space, we are fundamentally at risk.²⁴ It

stems from the fact that democracy as such renders us abstract, uncertain, and undefined.

As Claude Lefort argues:

democracy is instituted and sustained by the *dissolution of the markers of certainty*. It inaugurates a history in which people experience a fundamental indeterminacy as to the basis of power, law and knowledge, and as to the basis of relations between *self* and *other*, at every level of social life (at every level where division, and especially the division between those who held power and those who were subject to them, could once be articulated as a result of a belief in the nature of things or in a supernatural principle). (19)

Thus, democracy, by disembodying power—by refusing to let power lie in the body of the monarch—introduces a fundamental indeterminacy that disrupts the notion of a body as embodied and as embodying power.²⁵

Another way to approach this indeterminacy or compromise of the individual is through universal suffrage. As Lefort observes, “it is at the very moment when popular sovereignty is assumed to manifest itself, when the people is assumed to actualize itself by expressing its will, that social interdependence breaks down and that the citizen is

²⁵ Mark Poster also argues that the Internet functions as a public sphere of sorts; however, he argues that the Internet introduces a “postmodern” uncertainty that undermines our traditional understanding of democracy. He writes, “if the term ‘democracy’ refers to the sovereignty of embodied individuals and the system of determining office-holders by them, a new term will be required to indicate a relation of leaders and followers that is mediated by cyberspace and constituted in relation to the mobile identities found therein” (“Cyberdemocracy” 225). In contrast with Poster, who sees the Internet as embodying post-structuralist theory and postmodernism and thus calling into question the notion of the sovereign subject (see *The Second Media Age*), I am arguing that the sovereign subject was always compromised and uncertain. Thus, if Poster sees the Internet as an “unintentional” public sphere that disrupts the notion of a “speaking subject,” I argue that the Internet is a public space to the extent that it exploits the uncertainty of the subject endemic to public communications.

abstracted from all the networks in which his social life develops and becomes a mere statistic” (18-9). Thus, democracy, rather than being based on individual speakers who are fully in control of their actions and respected as individuals, also reduces the citizen to an abstraction, whose reactions are measured statistically. This same abstraction takes place in political discussions on the Internet. At the very moment when individuals are assumed to be engaging in public discussion, their opinions are abstracted and their texts compromised. During the 1998-9 debate over President Clinton’s impeachment, for instance, email enabled more citizens to contact their representatives than ever before. On the one hand, sites such as Moveon.com, in combination with electronically forwarded email petitions, enabled people to contact their representative by clicking a mouse button. This arguably revealed that the Internet could lead to more meaningful participation by the citizenry—rather than simply registering their vote come election time, they were contacting their representatives and thus taking a more active and textual role in democracy (it was not simply a vote, it was an email). On the other hand, the sheer number of emails sent guaranteed that these emails remained largely unread and often crashed representatives’ email servers. Read or not, however, these emails served as a harassing message, whose import was measured by *number*, just as are votes. Furthermore, these emails inverted the relationship between header and body: given that many of these emails were forwarded and thus identical, the subject header came to represent the message. Through the subject headers, these emails were quickly divided into pro- or anti-impeachment camps. Lastly, email eradicated the semblance of personal dialogue between representative and represented. Although the signed letter of acknowledgement at least tried to sustain the fiction of personal contact and concern, the

automated email “thank you” exposed the mechanical nature of the entire interchange. Thus, as a public space, or a space for public discourse, cyberspace does not ensure that individuals will be able to fully explain, sell and control their opinions. It does, however, offer a means by which their words—which are also citations of another’s—are compromised, acknowledged, ignored and assessed.

The Internet serves as a public space to the extent that it (like all public spaces before it) is indeterminate, and to the extent that its relationship to both the state and private institutions is ambiguous and yet essential. The Internet serves as public space to the extent that it enables dialogue, since language belongs to no one. It also represents a public space—a breach in the subject, as Keenan puts it—that threatens to overwhelm the speaker so that the separation between public and private—a separation that has always been porous—threatens to become a floodgate. The dangers described by the pro-CDA forces are real: there exists on the WWW information that can play a role in serious tragedies such as the Columbine shootings and the Atlanta day-trader massacre. However, democracy has always been about dangerous freedoms to which the many revolutions to date testify. This is not to say that one must take a libertarian view, especially since current understandings of libertarianism conflate it with free market ideology. This is to say that the “dangers” of the Internet cannot be viewed as accidental or due to improper searches. This is to say that these “dangers” can also be the most fruitful products of the Internet, that the disruption it brings about can be utilized to formulate a more rigorous understanding of democracy. The key is to refuse hasty leaps between speech and “minds” and between diversity of content and diversity of people.

Moreover, taking the Internet's "democratizing" into consideration, we must press for universal access and refuse to cordon off the Internet as a "special case."

In short, the Internet is indeed a public space not because it allows individuals to finally become disembodied minds and exchange ideas as rational subjects, but rather because it allows individuals to speak in a space that is fundamentally indeterminate and pornographic, if we understand pornography to be "precisely what circulates without our consent, but not for that reason against it" (Butler 77). Lefort's primary concern in *Democracy and Political Theory* should be ours as well:

My primary concern is to promote recognition of a public space, which is always in gestation and whose existence blurs the conventional boundaries between the political and the non-political. From this point of view, the distinction between civil society and the state, to which I myself have referred, cannot fully account for what comes into being with the formation of democracy. Let us say that it is pertinent only if we refuse to see it as pure division. (35)

The Internet blurs the distinction between the political and non-political. Although in the impeachment example the relationship between politics and the Internet was straightforward—the Internet serves as another medium by which citizens can contact their representatives—the relationship is not always so clear cut. How does one classify debates that take place within listservs, for instance, over political issues? Often, the point is not to debate these issues and then to contact elected representatives, but rather to engage in an often vicious dialogue that is limited to the listserv. This does not mean that the participants will not engage in other activities, but rather that there is no clear relation between electronic dialogue and the political. Moreover, the Internet blurs the distinction between civil and private space, where by private I mean privately owned space. If Lefort, writing in the eighties, was concerned with totalitarianism and the welfare state, we, writing at the close of the nineties, need to be concerned with the increasing role of

private corporations in “public space.” This is not to say that public space is not possible within privately “owned” spaces—indeed the shopping mall and the Internet show otherwise. This means, however, that the questions facing us are precisely that of the relationship between private/public/political, and of what it means that these networks are increasingly becoming owned by private corporations. This means that we must fight the notion of a “marketplace of ideas” in order to keep the question of the public open. In the next chapter, then, I look at “cyberspace”—another popular understanding of the Internet—in order to interrogate the ways in which it both opens and closes the notion of publicity and the ways in which public space functions in the absence of physical space.