



No Frontiers? Free Speech and the Internet

Wednesday 19th – Friday 21st November 2008

A Cumberland Lodge residential conference in association with 21st Century Trust and English PEN

Introduction

Below this introduction you will find the final article in a series written for the *Guardian's* website, "Comment is Free". The author is Jonathan Heawood, the Director of English PEN, one of two other organisations along with Cumberland Lodge which organised the most recent conference here on *Free Speech and the Internet*.

The series of articles was aimed to promote the conference in the week before it began, and it is still available on the *Guardian's* web pages for any who may wish to look. The conference, although attracting a small numbers of participants, was a great success and covered a broad range of the seemingly ever increasing issues that dominate this particular topic.

The speaker list was impressive, as the article below makes clear. Participants were able to hear at first hand from experts as diverse as **Lifen Zhang**, an associate editor at the *Financial Times*, and the British journalist **Isabel Hilton** about the problems confronted by those in China willing for greater freedom of internet usage there. In case anyone was inclined to think that the UK was immune from such issues both **Ian Brown** from the Internet Institute at Oxford and **Jo Glanville**, the Editor of Index on Censorship, soon gave the lie to such perceptions. A workshop to consider exactly how one might go about the proper use of censorship in internet usage and access, especially as it applies to how terrorist groups might be using it to propagate certain sets of ideas and perceptions, was enabled by some philosophical and sociological reflection from **Digby Anderson**, the former Director of the Social Affairs Unit, and later responded to by **Ross Anderson**, Professor of Security Engineering at Cambridge. **Peter Jukes**, a screenwriter and author, gave a full account of engaging with the recent Presidential campaigns in the USA by joining the online conversations there over the 12 months leading up to the election itself. Two very different speakers then engaged the Conference in considering the problems now raised for copyright issues by the rise of the net, they being **Maria Farrell**, the Director of the Information Co-Ordination Unit at ICANN, and **Tom Frederikse**, a London based lawyer. How the net affects the reputations of those who find themselves on the wrong end of some potentially malicious campaign or other (and the way in which open access sites such as Wikipedia may contribute unwittingly to this) came under scrutiny on the final morning of the conference, ably introduced by **Siobhain Butterworth**, the *Guardian* readers' editor, **Sebastian Cody**, a media executive, and **Ben Beabey**, another lawyer specialising in media law. Philosopher and author **Jonathan Rée** gathered up that had proceeded in the previous few days by reflecting philosophically on the way in which the net has altered our ideas of freedom and identity. The conference was more than ably introduced and later summarized by three members of its original steering committee; **Jonathan Heawood** himself, **John Lotherington**, Director, 21st Century Trust (the other sponsoring organisation) and **Jonathan Briggs**, Professor of Ecommerce at Kingston University.

All of this, however, is given shape and body in the excellent opinion piece that follows below. Whether you agree with its general thrust or not, it is at the very least indicative of the ever increasing debate that the inexorable rise of the net has created. We inhabit a radically different world to that even of ten years ago, and these issues have changed forever the ways in which society construes itself. This is now the world we have. How we negotiate it for the future is still up for debate. In that sense alone this conference was more than timely.

Andrew Taylor

Acting Director, Cumberland Lodge Conference Programme

As free as they decide we can be **Jonathan Heawood, Director, English PEN**



The internet offers us an illusion of total freedom of speech. But simple changes to the law would protect us from censorship

Two weeks ago I asked Comment is free whether the internet brings "genuinely new opportunities for [freedom of speech](#)". I was swamped by positive and negative answers to the question.

Net optimists believe that the internet embodies and transforms our right to speak out without the top-down control of the state or the cultural establishment. Online, we can say what we want, when we want, in the way that we want. We can even take on the identity we choose, free of the shackles of offline reality. On the other hand, there is a growing chorus of net pessimists, who highlight the many ways in which the internet breeds new forms of censorship.

This online discussion culminated in a major offline conference last week at Cumberland Lodge, **No Frontiers: Free Speech and the Internet**, co-hosted by English PEN and the 21st-Century Trust, where these questions were debated by lawyers such as [Tom Frederiske](#), journalists including Lifen Zhang, editor of the [FT's China site](#), philosophers such as [Jonathan Ree](#), sociologists like [Digby Anderson](#), internet specialists including [Ross Anderson](#), [Jonathan Briggs](#) and [Ian Brown](#), activists like Jo Glanville of [Index](#) and Isabel Hilton of [China Dialogue](#), and technocrats such as Maria Farrell of [ICANN](#).

The conference has opened new inter-disciplinary doors that I hope will remain open as we attempt to make sense of the opportunities and threats that the internet poses to freedom of speech.

I began with the innocent assumption that the internet provides an essentially free forum in which to "hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers" – in line with our right to freedom of speech as set out in the [Human Rights Act](#). I was rapidly disillusioned. One contributor described the internet as "the ultimate technology of control". Another called it "the biggest Catholic confessional ever plugged together".

While the underlying technology of the internet may be blind to the content we transmit, the applications we use are watching us very closely. Whether it is Google tracking our searches or Amazon monitoring our purchases, global corporations know what turns us on, and they can use this knowledge to profit from our desires. Meanwhile, internet service providers are monitoring the content we send and receive, applying censorious filters to our communication without our

knowledge or consent. Even Wikipedia, the icon of democratisation, is open to abuse by powerful groups and individuals.

Why does this matter? Some might note that we have the right to freedom of speech, but not the right to use the internet. In a sense, the internet is just another publisher. Nobody is entitled to be published by HarperCollins – why should we be entitled to communicate online?

This may be true, but in a world where more than one billion people are using the internet as a means of communication and a source of information, surely we should expect some common standards? Globally, we have collaborated in the creation of a medium which fundamentally alters the way in which we speak to one another. We do not understand how much information online is already censored by increasingly powerful corporations. We have created new problems which the old human rights framework was not designed to address.

National legislators are struggling to keep up. Where they do create laws on the internet, they often do so badly, or without regard to the consequences. Section 58 of the Terrorism Act 2000 creates an offence out of downloading material which might be useful to a terrorist. It led to the detention of a junior academic at Nottingham University who was legitimately researching terrorism.

Similar legislation in the United States is dangerously open to abuse by state agencies, as are forms of copyright control which would allow ISPs to censor the content they transmit, or new laws on "extreme pornography", which restore the archaic offence of obscenity without the old defence of artistic merit. It is hard to grant a state or non-state actor the power to control elements of the internet without involuntarily giving them far wider powers. The law of unintended consequences is not the exception here, but the rule.

I came away from the conference convinced that we need to strengthen the international human rights framework if we are to realise the internet's capacity for freedom of speech. For this reason I believe we need an international treaty on the internet – not to encourage censorship, but to underwrite freedom of speech. One contributor to the conference suggested that the internet has "globalised the First Amendment".

Unfortunately, this simply isn't true for bloggers in Iran, Egypt, China and elsewhere who have been imprisoned for expressing their views or transmitting information online. Nor is it true for those of us whose searches are blocked, whose downloads are monitored, and whose postings are subject to "take-down" notices without any right of reply.

It's not as though we need the absolute right afforded by the First Amendment in order to achieve greater freedom of speech for the world's online population. We merely need to secure the rights we already enjoy under international law. This may require the creation of a new body, and an amendment to Article 19 of the International Covenant on Civil and Political Rights to spell out our right to use the internet, and to expect that use to be as free as it appears to be. This in turn will mean requiring the corporations which own the internet to explain their actions when they censor us and snoop on our communications.

Without greater transparency and accountability on the part of the owners of the internet, we are sleepwalking into a new era of censorship that the existing human rights framework can do nothing to address.

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