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New cyberstalker law raises criticism

By Reid Goldsborough

For The Inquirer

Like the world in general, the online world can be a garden of kindness and virtue, as well as a cesspool of meanness and evil. Only online, it's more visible, both the good and the bad.

Earlier this month, President Bush quietly signed into law a provision that is designed to curtail some of the evil. The "Violence Against Women and Department of Justice Reauthorization Act of 2005" now makes it illegal to anonymously annoy and harass other people online.

The section of the statute titled "Preventing Cyberstalking" extends the prohibition against anonymous telephone harassment to the Internet. Specifically, it reads:

"Whoever... utilizes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet... without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person... who receives the communications... shall be fined... or imprisoned... or both."

As you would expect, the civil libertarians, which include many bloggers, Usenetters, mailing listers, and other online chatters, are up in arms.

Taking the lead, Declan McCullagh, a correspondent for the online news service CNET News.com, worried in a column that the new law would prevent scenarios such as a woman's anonymously airing her indignation online for being fired by a manager who demanded sexual favors, or a frustrated citizen's exposing corruption in his local government through an anonymous e-mail message.

Clinton Fein, who runs the Annoy.com Web site, is also aghast. His site is specifically set up to annoy people through, among other means, anonymous postcards sent through the mail that direct the recipient to read the sender's message at the Annoy.com site. Fein calls the new legislation annoying.

I am as staunchly pro-First Amendment as any other self-respecting journalist, but I recognize that all freedoms, even those most central to a democratic society, are not limitless. Freedom without responsibility is anarchy, which actually is the state of affairs with many online discussion groups.

The harsh reality is that people do get anonymously harassed online, sometimes severely and repetitively, often with language that would make a prison inmate blush. The Internet makes it easy to hide your identity, which helps those who legitimately need secrecy, as well as those who are up to no good.

As Peter Steiner wrote in his famous New Yorker cartoon, "On the Internet, nobody knows you're a dog."

It is unclear how the new law will play itself out in real life, how it will be enforced, or if it will be enforced at all. What is clear is that, like the Communications Decency Act of 1996, which was designed to curtail online porn, the new law will be challenged in court.

According to my crystal ball, what the new law will do, at least for now, is give pause to those who would heinously harass others while cowering behind a fake identity. Perhaps a test case in court would add to the deterrent effect.

I do not see it chilling legitimate communication at all, even the anonymous kind. I do not see the government going after Joe Whistle-blower for exposing corruption, whether in government, industry, science, medicine, academia or the media. As much as the executive branch of the federal government has lately assumed a regal manner, democracy more than anything else is what defines us as a people, and the legislative and judicial branches will assure this remains so.

In the meantime, those who are harassed online have recourse today. W.H.O.A. (Working to Halt Online Abuse) and CyberAngels are two organizations that can help those who have been victimized.