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# Anonymity on the Web

Essay by The Cheshire Cat, July 25, 2008

"C'mon. Give us the juice. Posts are totally, 100% anonymous." So reads the juicycampus.com web page. Read on and you'll find every manner of gossip about America's college students, searchable by name. Joe Johnson's mental and venereal illnesses. Mary Smith's suicide attempt after her sex life was splashed across the site a few days earlier.

Of course, all you are really seeing is what nameless people claim, and what others namelessly claim about that.

Many posts are cruel. There is no way to tell if they are true. And no one takes responsibility for them.

JuicyCampus and its kin—rottenneigbor.com, for example—are the evil cousins of the Web's happiest successes. Facebook, Flickr, Match.com, and the hundreds of other web sites have sprung up to bring to connect people to each other and to bring them love, solace, and companionship.

Anonymity is by no means restricted to gossip sites. As newspapers evolve into online publications, anonymous commenting keeps readers coming back. The papers do their best to screen out the sort of mean-spirited stuff in which the gossip sites revel. But the energy of the discussion seems to require that commentators not reveal their identities.

By even the most minimal standard of decency, what JuicyCampus is doing is wrong. Should it be illegal? In fact, isn't it illegal already? After all, if The New York Time*s* printed anonymous letters resembling the JuicyCampus posts, it would be liable for serious monetary damages for defamation. Publishers have a responsibility to check what they publish, even when their reporters are not the authors. Isn't JuicyCampus like a publisher?

The law says exactly the opposite: No web site "shall be treated as the publisher or speaker of any information provided by another information content provider." This law was put in place to encourage services to filter their content—to keep pornography away from children, for example. With the assurance of immunity, sites would not risk publishers' liability if they tried to edit but occasionally missed a few things. This section of the so-called "Communications Decency Act" made the Web, as one federal judge put it, "the most participatory form of mass speech yet developed." The Web is free speech paradise.

Do we really want so much freedom that anonymous attackers can lawfully malign the innocent and helpless? Doesn't freedom of speech come with an expectation that you will take responsibility for your words?

No, it doesn't—not in U.S. law, anyway. Anonymous speech has a distinguished history in the U.S., going back to Publius himself, for whom this collection is named, the pseudonym used by the authors of the Federalist Papers. Benjamin Franklin wrote pseudonymously—as a young man, when no one would have taken him seriously if his true identity were known, and in later life when he had established a reputation he feared losing. U.S. courts have repeatedly affirmed that the First Amendment applies to anonymous speech.

JuicyCampus is not Hamilton, Madison, Jay, or Franklin. Prosecutors are frustrated by web sites' blanket immunity. Yet lawmakers should just leave anonymity alone. Virtually every legislative effort to enforce good speech behavior in Cyberspace has overshot its mark. Many have been overturned on First Amendment grounds.

Without some change in the law, few retaliatory tools are available. Spamming might disable offending sites, but such sabotage seems a descent to the level of the evil adversary—and in any case won't work once the sites realize what is happening. Some colleges threatened to block JuicyCampus from their campus networks. Acting on this bright idea would precipitate a losing game of hide and seek—the same sites would keep turning up under new names, more enticing than ever because of their banned status. The only loss would be to the institutions' claim to information freedom.

Of course, the problem would go away if everyone stopped patronizing these sites. In the long run, once the novelty has worn off, that is exactly what will happen. In the short run, unfortunately, trying to achieve a consensus not to peek is like sending out an alert telling everyone not to look at the elephant in the middle of the room—while the beast is attacking your loved ones.

You probably remember the faceless, mocking grin of the Cheshire Cat in Alice in Wonderland. But do you remember what finally happened to the Cat? The queen wanted the Cat beheaded. The king called in the executioner. The executioner pled that anything lacking a body could not be beheaded. The king claimed that anything with a head *could* be beheaded. In the midst of the argument, the Cat's head disappeared completely, "so the King and the executioner ran wildly up and down looking for it, while the rest of the party went back to the game." That's just what will happen in the fight against anonymity, if we can restrain our urge to regulate Internet speech.

*This essay is signed pseudonymously in reflexive deference to its subject. For those dying to unveil the author, however, here's a hint: He's one of the authors of* Blown to Bits: Your Life, Liberty, and Happiness After the Digital Explosion.

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