

# Who Put the E in E-Mail?

by A. M. Rogers

I'm Enthusiastic about mail. I'm like the woman the Essayist J.B. Priestley wrote about who would have committed suicide Except she was Expecting a letter in the next day's post.

I not only love mail but I'm also a fervent Epistolarian. An Ever-diminishing breed, I know. Nonetheless, my Christmas cards were in the mail in Early December Each with a personal handwritten letter. No computer-generated replications for me. The reason for getting them out Early was to motivate less Enthusiastic writers. It was also to Ensure they'd have sufficient time to prepare their own Excellent compositions. Alas. Most cards I received were note-less. The remaining had a "to whom it may concern" biographical summation of the year's events. Bold, slashing brushstrokes, true, but lacking the details that make a picture interesting, not to mention Entertaining. Afterwards, I felt like the woman who considered committing suicide . . . though this time with no hope of any future mail. My vision was of a mailbox forever Empty.

E-mail then Entered my life.

Though hardly an Explorer, I had no choice. It became apparent that if I was to increase the pathetic flow of my mail, I was going to have to Evolve. I was going to have to Expand my horizons. I was going to have to get Electronic. The occasional letters I received from a law school friend who had

written despite moves from Massachusetts to North Carolina to Mississippi in barely a half dozen years had Ended altogether when she went on line. It had reached the point that the only person who wrote to me regularly was my mother. I had been getting America On Line's disks in the mail. I finally installed one in my home computer.

The installation part was Easy and took about five minutes. Learning the E-mail how-tos was another matter. Evidentially, you click on "compose mail." But figuring out my E-mail address was the first problem (it's your America On Line name in small letters without spaces, followed by "@aol.com"). The second problem was how to send it. My husband who is a far more proficient hacker than I am kept proclaiming this whole E-mail business a cinch and then proceeded to send several files of Johnny Depp our daughter had downloaded into the computer along with our E-mail letter to one of my friends. Eventually we figured it out.

Now Each workday, I come home for lunch and retrieve my mail at the mailbox and if there's nothing there, who cares? Because the next thing I do, Even before preparing lunch, is to log on to America On Line. My computer is as Elated as I am. "You've got mail," it announces.

And I do.

I get mail almost Every day. Enjoyable mail. I write to my law school friend in Mississippi and she writes back almost Every day. My sister-in-law in Ohio writes to me from work during her lunch hour and

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I write back during mine. And my nephew has E-mailed me from California.

Though E-mail doesn't have as much spontaneity as the telephone, it certainly has more spontaneity than regular mail. Sometimes I send a letter in the morning before I leave for work and come back home for lunch to find the answer. It's possible to write back and forth as many times a day or night as you'd like. It is less costly than a stamp and more Economical than a phone call. For America On Line's approximately \$10 a month charge, you can send Endless E-mails. Not Enough reasons for you?

There are more. You choose the time to retrieve your messages and you choose the time to send them. No more meals interrupted by phone calls. You're in control now.

And glory bE! You can Even get mail on Sundays.

Isn't it Exciting? Technology will do what so many of us have wanted and what the post office had promised. A mail not delayed by rain or sleet or snow. An Electronic mailman who delivers mail to us mail-lovers Each and Every second of the day.

Eureka!



## "A Never-Ending Worldwide Conversation . . ."

The Internet is a far more speech-enhancing medium than print, the village green, or the mails. . . . 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 . . . the Internet may well be regarded as a never-ending worldwide conversation. The government may not, through the CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion . . . the strength of our liberty depends on the chaos and cacophony of the unfettered speech the First Amendment protects."

—JUDGE STEWART DALZELL

U.S. District Court, Eastern Pennsylvania

June 12, 1996

*Excerpted from Judge Dalzell's decision regarding the Communications Decency Act (CDA).*

# Is the Public Served by the Public Interest Standard?

by Adam D. Thierer

The so-called “public interest standard” has governed communications policy decision-making at the Federal Communications Commission (FCC) for more than 70 years. It is time to question whether this “standard” does indeed serve the public, or if it has instead served only the interests of regulators and companies that stand to gain via the regulatory process.

Ever since the passage of the Radio Act of 1927, federal regulators have been given the power to regulate if they found it was in the “public interest, convenience, or necessity.” This meant that regulators were given broad authority and discretion to regulate in the name of communications consumers. Unfortunately, in practice, this has resulted in the public truly having no voice in this marketplace.

Why is this so? Precisely because Congress has never defined what exactly is “in the public interest.” As Nobel Laureate economist Ronald Coase noted over 35 years ago, “The phrase . . . lacks any definite meaning. Furthermore, the many inconsistencies in commission decisions have made it impossible for the phrase to acquire a definite meaning in the process of regulation.”<sup>1</sup> More recently, critics have pointed out that regulation “in the public interest” has come to mean whatever is in the interest

of regulators to do at a given time.<sup>2</sup> Hence, the “public interest” or “public trustee” model of regulation that sprang up 70 years ago gave regulators the ability to exert unusual influence and require special demands be fulfilled, especially as a condition of broadcast spectrum license renewal.<sup>3</sup> In effect, therefore, the standard is a non-standard: it has no fixed meaning.

Over time, FCC actions taken “in the public interest” have had less than desirable results. Consider:

- To supposedly serve the “the public interest,” the FCC instituted in 1949 the inappropriately named “fairness doctrine.” The doctrine required radio and television broadcasters to “afford reasonable opportunity for the discussion of conflicting views of public importance.”<sup>4</sup> Instead of promoting the discussion of conflicting views and free speech in general, the fairness doctrine stifled it. In fact, over the span of its 40-year existence the doctrine was used as a tool of blatant political intimidation and influence by threatening license revocation for failure to comply with the political whims of the day.<sup>5</sup> The Reagan administration FCC wisely repealed the doctrine in 1987, citing First Amendment concerns and the fact that program diversity (informational, educational, religious, and entertainment fare) had increased steadily over time.

- To promote “the public interest” in the

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