

107TH CONGRESS
1ST SESSION

H. RES. 12

Opposing the imposition of criminal liability on Internet service providers
based on the actions of their users.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. DREIER submitted the following resolution; which was referred to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Opposing the imposition of criminal liability on Internet
service providers based on the actions of their users.

Whereas the rise of the Internet has provided more than
300,000,000 people around the world with access to
knowledge and information, fueling innovation and facili-
tating communication on an unprecedented scale;

Whereas the Internet is a revolutionary medium that has pro-
vided unlimited opportunities for communication and
commerce by allowing its users to communicate directly
with each other unedited by a gatekeeper;

Whereas the rise of the Internet has fueled the economy of
the United States by expanding job growth, increasing
productivity, and contributing to the growth of informa-

tion technology, which has accounted for nearly one-third of the growth in the gross domestic product since 1995;

Whereas continued growth of the Internet should be encouraged;

Whereas the Supreme Court of the United States found in *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997), that speech on the Internet deserves the full protection of the first amendment and noted that the Internet provides “vast democratic forums” and makes every user a potential “town crier”;

Whereas by passing the Cox-Wyden amendment to the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 56), which was approved overwhelmingly by the House of Representatives, Congress sought to secure the further development of the Internet by protecting Internet service providers (including website hosts and the operators of portals, search engines, and directories) from civil liability for content provided by third parties;

Whereas it is inconsistent with both the first amendment and the due process clause of the United States Constitution to require Internet service providers to remove online material without a determination by an independent adjudicator that the content is illegal;

Whereas if the Internet is to remain an innovative and participatory medium in which users can communicate with each other, Internet service providers cannot be obliged to police user conduct on the Internet under threat of criminal liability;

Whereas courts, not Internet service providers, are equipped to judge whether any online communication violates criminal law;

Whereas a number of European and Asian countries have held Internet service providers based in the United States liable for content that is illegal under the laws of those countries, but protected by the first amendment to our Constitution; and

Whereas the Council of Europe, with the participation of the Clinton administration, is negotiating and drafting a Cyber-crime treaty that may expose Internet service providers based in the United States to criminal liability for third-party content that is protected by the first amendment to the United States Constitution: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) opposes the imposition of criminal liability
3 on any Internet service provider (including any
4 website host and any operator of a portal, search engine, or directory) based on content supplied or controlled by a third party or because of links controlled
5 by a third party;

6 (2) recognizes the importance of enacting legislation during the 107th Congress to protect Internet
7 service providers from such liability;

8 (3) opposes efforts by foreign governments to
9 hold Internet service providers based in the United
10 States criminally liable under foreign laws for content that is protected by the first amendment to the
11 United States Constitution, processed by servers lo-

1 cated in the United States, and not targeted toward
2 the citizens of the foreign country; and

3 (4) opposes the expansion of liability for Inter-
4 net service providers under international treaties, as
5 in Article 12 of the Draft Convention on Cyber-
6 crime (Draft No. 25) prepared by the Council of Eu-
7 rope, which might expose Internet service providers
8 based in the United States to criminal liability for
9 third-party content, and urges the President, before
10 bringing the treaty to the Senate for ratification, to
11 obtain explicit clarification that Internet service pro-
12 viders will not be held criminally liable for the ac-
13 tions of their users.

○