

Amicus Brief in Viacom v. YouTube

April 7, 2011

Tags: Array

Supporting Documents

In 1997, the Supreme Court called the Internet "the most participatory form of mass speech yet developed." Evidence of the truth of this statement has continued to mount ever since. Today, platforms such as YouTube, Facebook, Twitter, Flickr, Blogspot, and others enable people around the world to reach out to a global audience, sharing information, ideas, and commentary. Moreover, as recent events in the Middle East underscore, that ability has led to the development of new and potent forms of political expression and organizing.

The success of these platforms for speech and innovation depends in turn on the clear legal structure that Congress created when it enacted the safe harbor provisions of the Digital Millennium Copyright Act (DMCA). In order to galvanize and protect online expression and commerce, Congress specifically carved out a safe harbor provision meant to give service providers confidence that they wouldn't be held liable for copyright infringement from content uploaded by users.

Without these safe harbors, service providers would be vulnerable to potentially massive copyright damage awards when, as is virtually inevitable, use of their services implicates exclusive rights of copyright owners. To avoid that risk, service providers would be likely to block communications that occur via their services—including lawful communications—or shut those services down. Thus, changes to the legal climate for service providers can have profound consequences for free expression online, and proper interpretation of copyright laws as applied to online service providers is a matter of crucial public interest. Appellants ask this Court to thwart Congress's intent and reinstate a climate of legal uncertainty that would harm innovative online services and the speech they foster.

In the interest of protecting the millions of Internet users who rely upon online service providers to develop and support innovative platforms for expression, Amici urge the Court to reject Appellants' efforts to undermine the safe harbor and to affirm the district court's ruling.

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