

# Craigslist Bows to State AGs, Censors Adult Services

by [Ryan Radia](#) on September 4, 2010 · 1 Comment

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Chalk up another victim to unwarranted political intimidation by state attorneys general. On Friday evening, Craigslist, which has long been under intense pressure to crack down on sex crimes, replaced its adult services section in the U.S. with a [black censor bar](#). This move comes on the heels of a [scathing letter](#) sent to Craigslist by seventeen state AGs insinuating that Craigslist is culpable for the “victimization of children.” While the state attorneys general are likely celebrating victory this holiday weekend, all they’ve really done is to stifle free speech online and complicate efforts by law enforcement authorities to go after the real bad guys — you know, the ones who are *forcing kids into sex slavery*.

This isn’t the first time states have publicly attacked Craigslist for its involvement in sex crimes. Various AGs been trying to intimidate the site into eliminating avenues of adult content for years, as [Alex Harris](#) and [Jim Harper](#) have chronicled on these pages. In response to state AGs’ relentless saber-rattling, Craigslist made [several major changes](#) last year aimed at curbing illegal postings. The site shut down its notorious “erotic services” section and began charging \$10 for every posting made to the adult services section. Craigslist even began manually screening all posts submitted to the adult services section. Since May 2009, over 700,000 postings have been rejected.

Apparently none of these concessions were enough for state AGs, always eager to score political points. Despite the safeguards Craigslist implemented last year, users continued to use the site in the commission of sex crimes. This is hardly surprising; given the sheer volume of user submissions and the increasingly complex measures taken by criminals to obfuscate their unlawful solicitations, some illegal postings are bound to circumvent any filtering regime.

Now that Craigslist has censored its adult services section, former users of the section will invariably flock to other sites, as has happened [every single time](#) a major Bittorrent site has been taken offline or crippled by litigation. Craigslist is just one of many, many websites on the Internet that's frequented by criminals, after all. From popular sites like Google and Yahoo! to small blogs that accept user comments, nearly any site that allows user submissions can be used to break the law.

Such websites generally aren't legally liable for crimes committed by their users, as courts across the country have held time and time again ([1,2,3,4](#)). That's because when Congress overhauled America's telecom laws in 1996, it enacted the [Communications Decency Act](#), which grants "providers" of "interactive computer service" immunity from state criminal prosecution for illegal content posted by users. Thus, while prosecutors can and do pursue criminal charges against individuals who post illegal content to Craigslist, they can't go after Craigslist itself, as long as the site complies with enforceable governmental requests and promptly removes content it knows to be illegal.

This legal provision, known as Section 230, has been crucial to the growth of the Internet as we know it. As Adam Thierer aptly put it last year, it's the "[cornerstone of Internet Freedom](#)." Section 230 has enabled website operators to offer an array of incredible user-driven offerings without fear of being sued or jailed for their users' unlawful actions. Without it, "Web 2.0" sites like YouTube, Digg, and Reddit might never have gotten off the ground. Monitoring user submissions can be enormously burdensome, especially for smaller sites like [WashingtonWatch.com](#), a popular user-centric site operated and owned by the Cato Institute's Jim Harper. Were these sites liable for the content of their users' postings, they likely wouldn't even accept them in the first place.

Congress established this protection in order to "to maintain the robust nature of Internet communication and, accordingly, to keep government interference in the medium to a minimum," as the U.S. 4th Circuit Court of Appeals concluded in its [forceful 1997 opinion](#) in *Zeran v. America Online, Inc.* In their assault on Craigslist, state attorneys general ignore Congress's clear intent in establishing Section 230 — to keep government's hands off the Internet.

To be sure, Section 230 does have a downside, as Craigslist itself has underscored time and time again. Illegal user postings can result in tragedy, as was the case for [AK and MC](#), two girls who took out ads in *The Washington Post* and *The San Francisco Chronicle* last month

recounting their experiences as victims of sex crimes facilitated through Craigslist. Despite Section 230's flaws, however, the alternative is far worse.

Many, if not most, postings on Craigslist's adult services section were perfectly legal, and until Friday thousands of individuals relied on the section to find consenting adults with whom to fulfill their intimate desires. In pressuring Craigslist to censor the section, state AGs have essentially stifled the free speech rights of thousands of individuals. Criminals will simply migrate to even shadier websites, further hindering efforts by law enforcement to put child sex traffickers behind bars.

It's 2010, and nearly 5 billion devices worldwide are now connected to the Internet — a freely accessible, unfiltered, unauthenticated worldwide network. As long as such a network exists, it's all but inevitable that it will have a seedy underbelly. Law enforcement officials should investigate sex crimes against children committed using the Internet and aggressively prosecute suspected child sex traffickers. Trying to intimidate interactive websites like Craigslist, however, is the wrong approach.

Efforts by state attorneys general to intimidate Craigslist into closing off potential avenues of illegal content run contrary to Congress's intent in enacting Section 230. As the 4th Circuit concluded in its forceful 1997 opinion in *Zeran v. America Online, Inc.*, in drafting the Communications Decency Act, Congress very clearly intended for sites like Craigslist to be free from undue governmental interference.

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