Prepared Testimony of Senator Joe Lieberman
COPA Commission Hearing
June 8, 2000

Mr. Chairman, I want to thank you and the other members of the Commission for providing me with an opportunity to share some of my thoughts on one of the most complicated challenges of our time – how to make the Internet both open and safe for surfers of all ages.

This is a question that in some ways the broad sweep of the electronic media in our country has been struggling with for the last several years, as standards within the entertainment industry have fallen precipitously, and as public concern has risen commensurately about the impact all of the violence, vulgarity, and degradation flooding into the public square is having on our children, our culture, and our common values.

It is also a longstanding, quintessentially American question of how to reconcile rights with responsibilities, of how to balance liberty and limits, which is to say our fundamental and at times conflicting interests in promoting free speech and free thought on the one hand and in protecting children and some semblance of social order on the other.

No one, not Madison, not Brandeis, not Brennan, has had an easy time working through this constitutional tension of freedom and community. But no matter how difficult the balancing act has been, we have always found a way to uphold these two ideals, because our democracy and the civil society undergirding it depends on both to survive. Self-government demands a free exchange of ideas and individuals willing and able to say unpopular things. But just the same, we as a national family need a common set of standards to guide us in places where the state can't and shouldn't reach. And as part of that, we need adults of all kinds, not just parents, to nurture the young morally and socially into good citizens.

That is the gist of the message I hope to communicate to you today, from my perspective both as a U.S. Senator and a parent. I know these are hard questions to answer. They are hard to answer in the analog world, and they are particularly hard in the digital one, given the uniquely open architecture of the Net and the even more open ethos of those who have cultivated its global growth. But we cannot afford to do nothing, to continue tolerating the intolerable, to continue dumping the burden solely on parents and abdicating any larger societal role in protecting our children. Not when so much is at stake, including the viability of the Internet itself.

I would urge you, in that vein, to step back and take a fresh look at what is happening on-line. The balance of rights and responsibilities that has

been eroding in the old media is essentially non-existent in the new. There are practically no stop signs on the information superhighway. There are no recognizable boundaries, no common norms, no shared sense of accountability.

This digital diversity is no revelation to you or to experienced "netizens," who are well aware of the wide array of sites devoted to bombmaking, bestiality and many other expressions of antisocial behavior. These faithful users know that the Net, while offering incredible riches of information, education, and communication, has also caught just about every form of depravity known to humanity and put it on display for all the world, including our children, to see.

Yet for many parents, the anything-goes aspect of the Internet represents a threat to their ability to direct their children's upbringing, not to mention to their children's moral and physical well-being, and they are scared. A national survey done by the Annenberg Public Policy Center last year found that parents in computer households -- not the unwired – are "deeply fearful about the Web's influence on their children." Seventy-eight percent are concerned that their children will be exposed to sexually explicit material, and nearly half (49 percent) believe that their children's use of the Internet could interfere with their ability to teach values and beliefs.

The upshot is that the lack of standards has significant consequences not just for America's families, but the future of the Internet. This is something the e-commerce community understood quickly. They discovered their success online was being jeopardized by the anarchic nature of the Net and the legitimate and continuing fears people had about their personal privacy and the safety of their credit card numbers. Those threats remain, but the business world at least has acknowledged them and is formulating a response of rules. In much the same way, the Internet risks squandering the trust of America's parents, and the unparalleled potential to educate and elevate our children, if we do not find a way to draw some basic lines. In short, the Net, like any large, interactive community, can't stand long without standards.

It was in this spirit that I joined with then-Congressman Rick White two years ago in sending a letter to the nation's leading Internet companies that urged them to collaborate on a comprehensive approach to protecting children from the many different forms of harmful material they can find online. We were worried that the industry's at-that-point underwhelming efforts to safeguard young surfers would do little to mollify the very real concerns of America's parents, invite more unproductive calls for censorship, and ultimately undercut the Net's growth.

The industry answered with the launch of the GetNetWise program. On

that occasion, I applauded the leaders of this project for their creativity, their sense of corporate responsibility, and in particular their sticktuitiveness, which was critical in convincing such a diverse and organizationally-challenged community to coalesce around an industry-wide solution. It was, I said, a significant step forward.

At the same time, I challenged the assembled industry leaders to avoid viewing the "one click away" program as an online bottom line, but as a portal to an ongoing effort to promote and strengthen Internet safety. It is the same challenge I make to you today. I don't know what the answer is, and I dare say neither does any one in Congress, which is why we passed a law to ask for your expertise and guidance. But I do know that ratings and icons and blocking software, all of which are helpful tools, are not enough. Technology, no matter how ingenious, is not a substitute for responsibility. There has to be some drawing of lines.

I would make three brief suggestions for you to consider. One is familiar to the old media industries, and that is to adopt a common, self-enforcing code of conduct. I know the international online community is still having trouble settling on a governing structure, let alone reaching agreement on shared standards of conduct. But if the Internet is going to continue to grow, it must self-regulate, and if it self-regulates, it must start with some basic principles.

The second is familiar to this commission and many testifying before it today and tomorrow, and that is the concept of zoning. As I understand it, you are weighing the pros and cons of creating a special domain to accommodate X-rated or other forms of adult content and segregate it away from kids. This idea, which would in effect establish a virtual red-light district, was first brought to my attention in a brilliant article written by legal commentator Jeffrey Rosen in the *New Republic*, which I would ask you to include in the record of your proceedings.   I think this idea has a lot of merit, for rather than constricting the Net's open architecture it would capitalize on it to effectively shield children from pornography, and it would do so without encroaching on the rights of adults to have access to protected speech. In doing this, we would ask the arbiters of the Internet to simply abide by the same standard as the proprietor of an X-rated movie theater or the owner of a convenience store who sells sexually-explicit magazines.

Lastly, I would encourage you in your deliberations to look at the increasing prevalence of violent online games. I have been concerned for some time about the effect some of the more gruesome and savagely anti-social video games have on young boys. After a round of hearings that Senator Herb Kohl and I held, and some prodding on our part, the video game

publishers agreed to establish an independent rating system that would warn parents about game content. That system, which I have commended on several occasions, has been in effect for six years, but I fear it is being undermined by the proliferation of independent game sites on the Web, which typically provide no ratings, no warnings of any kind to parents, and no barriers to young children to play the most hyperviolent adult-rated games. These online games can be harmful to kids, and I hope you will examine some options for limiting children's access to them.

Again, these are suggestions. I am not here to present answers. But I do know who should decide them, and that is the online community. I am very reluctant to criminalize speech or advocate any form of censorship – I was one of 16 Senators who voted against the Communications Decency Act – and I am doubtful that the U.S. Government could succeed in controlling this global medium on its own even if it tried. At the same time, I also know the risk the online community takes by doing nothing and thereby inviting Congress to pass new laws, which I believe it will do if the private sector fails to act. We can expect more court fights, more wasted time, more harm to children, and ultimately the Web will turn into a hornet's nest.

I am hopeful that we can avoid that spiral downward, and I appreciate all that this Commission is doing to find a responsible solution. Thank you again for the opportunity to testify. I look forward to your report and recommendations.ã