Government Tackles a Surge of Smut on the Internet Via AP
By Daniel Pearl

On-line computer services are bracing for a government crackdown against smut on the Internet -- even though nobody's quite sure if the Net can be regulated.

The Internet, a loose, world-wide collection of computer networks, has traditionally had no limits on expression, except by vigilantes who cancel messages or "flame" their senders. Commercial services linked to the Internet have been loath to police their customers.

But that's changing, amid an explosion of sex talk and graphics on electronic bulletin boards, as well as recent publicity about electronic mail being used to stalk women and arrange sex with minors.

Last week, Sen. James Exon (D-Neb.) introduced legislation calling for two-year prison terms for anyone who sends obscene or harassing electronic transmissions. The Senate Commerce Committee last year approved similar language as part of a bill that eventually died. Several states, including New York and Oklahoma, are considering legislation to restrict sexually oriented computer transmissions.

Concern about phone-sex lines led Congress to enact restrictions in 1992. Partly as a result, the 900-number industry "hit its peak in 1992," said Robert L. Smith Jr., executive director of the Interactive Services Association, which represents both telephone and computer services. Some states have also cracked down.

State laws are especially troubling to some Internet activists, who cite a case last year in which a Tennessee court convicted a California couple of violating obscenity laws with their sexually oriented bulletin board based in Milpitas, Calif. The jury applied the community standards of Memphis, because the photographs were downloaded there.

"It means nothing can be put on the Internet that is more racy than would be tolerated in the most conservative community in the U.S.," says Robert Peck, legislative counsel for the American Civil Liberties Union in Washington.

Mr. Peck sees "greater demands for content control" in Congress, and on-line services fear that they, as well as their customers, will be targeted. In addition to hiring Washington lobbyists and lawyers, representatives of America Online, CompuServe and other commercial services have been meeting in recent weeks to discuss ways of policing themselves so the government won't step in.

Last year, on-line services banded together to help distribute 100,000 free brochures featuring on-line safety tips for children. CompuServe and others provide features that allow subscribers to lock children out of certain service areas. Prodigy Services Co., a partnership of International Business Machine Corp. and Sears, Roebuck & Co., even automatically screens out messages.
that contain dirty words. And last month, America Online Inc. promised a crackdown on "chat rooms" -- conversation spaces set up by users -- that have sexually explicit names.

But there are limits on how far the services can go. Federal laws prohibit snooping into users’ e-mail, so on-line services must wait for angry subscribers to turn in others. Last month, America Online expelled several subscribers after receiving copies of digitized child pornography from users who had received them as e-mail.

Also, on-line services run the risk of being treated in court like active programmers who help determine the content of on-line discussions, rather than merely providing the electronic conduit. "They're really caught in a tough bind," says David Post, a visiting professor at Georgetown University's law school, who has advised the services. "There's a notion that if you exercise editorial control at all, then you are responsible for what slips through."

Instead, the services would prefer to be treated like telephone companies, which claim no responsibility for telephone conversations. With millions of messages passing through each day, the services say they couldn't possibly monitor everything even if they tried.

Sen. Exon is unconvinced. "If I were against this, if I didn't want to be bothered with it, if I felt it might complicate my ability to make money on the superhighway, that's the argument I would make," he says, adding that a failure by the government to act would be "an open invitation to some of the hard-core pornography getting into our homes."

His bill, among other things, would also require cable systems to scramble adult programming and allow them to block public-access programming that contained "obscenity, indecency or nudity." The ACLU's Mr. Peck says the measure runs afoul of the First Amendment, because its definition of prohibited speech is too broad. He says "indecent" material is protected unless unsupervised children can inadvertently be exposed to it.

Moreover, the U.S. government has no jurisdiction over much of the global Internet. Commercial providers, which are opening wider gateways to the Internet each day, have little authority over it, either.