

From Porno-topia to Total Information Awareness. Or, what forces really govern access to porn?

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Commentators on the right and left agree that Anglo-American society has become 'pornographied'. Laura Kipnis has suggested that,

mainstream culture like movies and TV, advertising, pop music, not to mention high art, are borrowing pornographic explicitness, making the distinctions between the pornographic and the nonpornographic harder and harder to maintain, if they were ever tenable at all.¹

In the *National Review*, William F. Buckley Jr. argues that "Porn has become a pervasive presence and a counteroffensive should begin." He cites *Esquire* magazine: "The pornographication of the American girl has proceeded at such a pace that the fact of Gregory Dark [adult-movie maker] directing a Britney Spears video seems not so much anomalous as inevitable."² Elsewhere pornographication has been viewed as a kind of polluting fall-out from pornography, whereby promiscuity and the sexual exploitation of women are seeping into the rest of society: "porn has left a changed society...the pornographication of our culture proceeds apace."³ And it's not just popular culture that has arguably been pornographied: Jack Barnes maintains that mass culture is giving rise to a pornographication of politics, whereby the licentiousness of politicians, royalty and other members of the ruling elites becomes disseminated in greater and greater detail, as a distraction from the real business of oppositional politics.⁴ In the wake of the Clinton/Lewinsky scandal in 1998 a number of commentators derided the 'pornographication' of American politics.⁵

For Brian McNair, "pornographication of the mainstream" is:

the incorporation of pornographic imagery and iconography into a variety of popular cultural forms, such as advertising, popular fiction, and Hollywood cinema... To the

extent that pornography has codes and conventions, these have become part of the armoury of popular cultural production.⁶

Our culture has been changed by the “amazing expanding pornosphere”⁷: the increasing sexualisation of popular culture, and the emergence of new communication technologies is claimed to herald a new era of sexual democratisation, one in which “it has been cultural capitalism...which has propelled...marginal, oppositional movements and sub-cultures into the mainstream of popular consciousness”.⁸ In this model, women, feminists and sexual minorities are not only unthreatening to capitalism, but “the commodified cultures of advanced capitalist societies have come to function as spaces for the articulation and dissemination of diverse sexual identities and radical sexual politics”.⁹ In a survey of research on pornography, Feona Attwood notes the shift towards an examination of the pornographication thesis. She suggests that,

an approach that focuses on the development of sexual representation across a range of media is useful in that it directs attention away from the debate about ‘porn’ and its regulation and on to the more important question of how sex is represented in contemporary culture.¹⁰

Despite the engagement made by these diverse commentators with contemporary culture, the pornographication thesis, in its predictable distribution along political lines, seems like a re-run of the porn wars. McNair welcomes pornographication because it represents the movement of sexual minorities into the mainstream and an expansion of cultural possibilities, whilst Buckley and others are dismayed by what he sees as the exportation of promiscuity, exploitation and sexually transmitted diseases from pornography into the rest of society. Jane Juffer has suggested that we must move away from the “tired binary”¹¹ of this debate and consider “the material and discursive conditions in which *different kinds* of pornography are produced, distributed, obtained and consumed,” pointing out that the “emphasis on the overwhelming power of the texts” has “actually inhibited an understanding of many important questions surrounding sexuality.”¹² Identifying that the culture has been pornographied does not, in itself, seem to move us away from the ‘tired binary’ Juffer recognises, and her emphasis on the

material conditions in which pornography is produced and consumed seems productive. Yet an emphasis on pornography's relationship to sexuality persists. The pornographication argument may well describe shifts in popular culture, but pornography isn't just about 'the matter of images' and it isn't just significant in terms of its relationship to our understanding of the meaning of sexuality.

Pornography has complex relationships with questions of law and regulation that are significant not just in terms of the kinds of sexual representations that are permissible. And if pornography is becoming more fully visible in popular culture, then we need to consider what this means for the relationship between such representations and capital. If pornography is moving further towards the centre of the popular culture, is it also moving further towards the economic centre of the global entertainment business? One strand of the pornographication thesis has drawn attention to the financial might of the so-called 'adult industry'; its proponents suggest that porn is economically more significant than Hollywood and Nashville.¹³ Similarly, it has been widely noted that the advent of new technological forms and the enormous growth in internet access are key engines in the pornographication of culture.¹⁴ But the relationship between pornography and technology is complex and is politically meaningful in itself; the consumption of pornography online, while it may deliver a vast quantity and diversity of content, also facilitates new forms of control and surveillance. The regulation of sexual material online, at a time when we are moving towards 'total information awareness', has potential implications that are more far-reaching than can be addressed by current paradigms of the pornographication thesis.

It is beyond the scope of this article to exhaustively address all of these issues; however, I intend to map out ways of thinking about pornographication in materialist terms. If society is becoming pornographied, does domestic legal regulation serve the interests of citizens and consumers, or the interests of capital? And if pornographication is being driven by market forces and global economic interests, to what extent does it make sense to understand pornography as marginal

and seedy? What is the relationship between pornography and new technology? The internet may be an engine of pornographication, but what are the wider political implications of a networked (sex) culture? Is it adequate to welcome the extension of porn consumers' choice, whilst obsessing about the perniciousness of online paedophiles?

These are not questions that can be answered by focussing exclusively on the content or the consumers of pornographic representations. We need to develop an analytical model that takes account of legislative, economic and technological structures alongside different modes of representational practice. In this article I will attempt to engage such an analysis in order to think about the forces that govern access to pornography, and the functions such access serve.

The OPA and the Top Shelf. Or, the functionally dysfunctional state of UK porn law

British law on sexual representation is hopelessly incoherent, contradictory and out of date. Sexually explicit materials are regulated by several pieces of legislation each with their own, not necessarily complementary, histories and objectives. The cornerstone of UK law governing the non-legal entity 'pornography' is the Obscene Publications Act of 1959 (OPA). The act defines as obscene articles which tend to 'deprave and corrupt a significant proportion of those likely to read [them]'. Most actions under the OPA are not pursued as criminal prosecutions heard before a jury, precisely because of the difficulty in securing a conviction that implicitly rests on the corruption of the jury in the process of reaching their verdict. Instead, cases tend to be heard before local magistrates under Section 3 of the OPA, which covers powers of search and seizure, and provides relatively lenient penalties. Under this provision the plaintiff can challenge the seizure of articles the police have deemed to be depraving and corrupting: "the justice... may thereupon issue a summons [to the owner of the items judged to be obscene] to appear...before a magistrates' court...to show cause why the articles or any of them should not be forfeited; and if the court is satisfied, as respects any of the articles, that at the time when they were seized

they were obscene articles kept for publication for gain, the court shall order those articles to be forfeited."¹⁵ Such summonses are rarely contested at all, let alone successfully, and magistrates are not required to give any reasons for their decisions. However, a 'public good' defence provides a possible justification for publication in the interests of science, literature, art or learning or other objects of general concern. Here expert evidence as to the worth or merits of the publication in question is admissible. This permissible defence has led to a colourful history of cultural contestation in the courts.¹⁶

The OPA operates alongside other legislation that governs explicit material: the Customs Consolidation Act of 1876 (and supplementary acts thereafter, most notably the Customs and Excise Management Act of 1979) prohibits the import into the UK of articles that are 'considered to be indecent and obscene'.¹⁷ Indecency is a much looser concept than corruption: it applies to anything that potentially offends, and therefore offers customs officers a wide latitude of discretion.¹⁸ When such material is seized by Customs & Excise it again falls to the owner to contest this through magistrates' courts. Very few people contest the seizure of their materials by Customs & Excise, largely due to the fact that only once, in 1997, have magistrates found against Customs. In practice the Customs and Consolidation Act is used especially harshly against videos, due to the fact that they can be so easily copied and distributed. Customs officials are notoriously secretive and evasive about the terms by which they judge items to be indecent or obscene.¹⁹ Customs practice apparently refers back to the OPA for clarification: however the Customs Consolidation Act is not concerned with safeguarding public good or artistic merit.

As well as the OPA and Customs Consolidation Act, sexually explicit material in the UK is also regulated by the Post Office Act of 1953 which prohibits the transmission of 'indecent and obscene' materials by post. The resultant discrepancies between these acts (the OPA's 'deprave and corrupt' against the Customs and Post Office Acts' 'indecent and obscene') means that material which is legal under the OPA may not legally be sent through the post, and material

which is legal under the OPA may not be imported. Also, some materials that have been legally produced and distributed in the UK may not be brought into the country from abroad. The Williams Report of 1979 was an attempt to modernise, simplify and homogenise the regulation of sexual representations, replacing notions of obscenity, depravity and indecency with the concepts of 'harm' and 'offence'. But with the election of the Thatcher government, these recommendations were largely unimplemented. Instead, Williams' additional nomenclature was added to the existing acts, creating more complexity and obfuscation. The 1982 Local Government (Miscellaneous Provisions) Act required all sex shops to be licensed by local authorities, which were given powers to refuse licences at their discretion. This effectively contracted the sex shop industry and moved soft-core porn into high street newsagents shops. The revenue from 'top shelf' titles for local independent newsagents has become all the more significant since supermarkets started selling newspapers and magazines, thus squeezing the business of local traders. As supermarkets don't sell porn, 'top shelf' trade has become increasingly crucial for the viability of local independent newsagents. Sales of adult titles have been falling over the last few years, but continue to be significant, at around £3.4million per month.²⁰

The UK's domestic pornography industry is dominated by four businesses: Paul Raymond Publications (which owns eight of the UK's 10 best-selling adult magazine titles, including *Men Only* and *Mayfair*), Northern and Shell (owned by Richard Desmond, which publishes mainstream titles such as *OK!*, and includes the *Express* newspaper group, as well as *Asian Babes*, *Nude Readers' Wives* and *Big Ones*), David Sullivan (who co-owns the *Sport* newspaper and until recently published *Whitehouse International* and *Parade*, amongst others) and Gold Star Publications, owned by brothers David and Ralph Gold (which publishes a range of its own pornographic titles, owns Ann Summers, and recently took over Sullivan's 'top shelf' publications). It is a convenient implication of the conjunction of the OPA and the Customs Consolidation Act that the UK's heterosexual soft-core magazine industry is afforded a degree of

protection from competition with US and European hard-core magazine imports. In financial terms, Paul Raymond is the most successful of the UK's adult industry: in November 2002 his company disclosed pre-tax profits of £27.5million, up from £19million in 1999.²¹ Raymond's relative success in relation to his competitors is largely due to a critical deal he has with Comag, one of the UK's largest magazine distributors, which ensures that his titles get onto the shelves of national chains such as W.H. Smith and John Menzies. The financial success of both Desmond and Sullivan can in part be attributed to the protection afforded their pornographic magazine titles during the 80s and 90s by UK laws. Both men now own substantial media businesses, but their early ventures were in the adult industry, at a time when they were supplying products in a limited marketplace and relatively secure from international competition. As the availability of the internet has increased (hitting top shelf sales), and their financial strength solidified, both Sullivan and Desmond have recently made substantial diversifications: Desmond with his purchase of *Express* newspapers in 2000, and Sullivan with his investment in a UK-based internet service provider that directs users to international pornography sites. Sullivan sold his range of 'top shelf' titles to the Gold brothers in 2001, suggesting at the time that the sector was no longer a growth area.²² Desmond has been looking to raise £20million from the sale of his clutch of 'top shelf' magazines since 2001, but has so far failed to find a buyer. However, Desmond, like Sullivan, remains committed to the production of domestic pornography: his company makes both The Fantasy Channel and Television X, cable porn channels that generated profits in excess of £16million in 2002.²³

The success of these businesses, which have been founded in, and continue to exploit, UK pornography markets, is to a large extent attributable to the degree of protection they have enjoyed as a function of the UK's legal provisions. As Laurence O'Toole has suggested, "the first thing wrong with British porn magazines is they're not very good...the publishers aren't trying hard enough. They don't have to."²⁴ His lament is a common one: that the variety and quality of pornography available in the UK is lacking in comparison to that available elsewhere in Europe or

in the US, because of the restrictions imposed by UK law upon both the importation of materials and on the domestic industry. This may be the case, but whether the material it produces is good or bad, the UK adult industry is protected by the very legislation that supposedly inhibits the availability of pornography. Raymond, Desmond, Sullivan and the Gold brothers may be pornographers, but they've never been seen to attempt to change apparently restrictive UK porn laws – precisely because they benefit from them.²⁵

Despite the success of these UK pornographers, it is important to note the extent to which the OPA nevertheless facilitates random, arbitrary and incoherent actions of the part of the UK police: regulation of sexually explicit material in the UK is not a sleeping dog. Research has shown that “the [criminal justice] system [in the UK] is dominated throughout its stages by the interests and values of the police, with the Crown Prosecution Service (CPS) playing an essentially subordinate and reactive role”.²⁶ This means that considerable difficulties can be encountered by those who are understood by the police to be producing depraving and corrupting materials, without the CPS necessarily going on to undertake prosecution. UK producers routinely experience police disruption to their businesses. In 1996 the Metropolitan police seized 70,000 videos and magazines, worth an estimated £2million; the rate of seizure intensified through the 1990s, from 3,000 videos in 1990 to 52,000 in 1996.²⁷ Alan Travis has detailed the authors, bookshops, theatres, magazines and record shops that have been subject to the violence of police investigation and in some cases prosecution during the latter decades of the previous century,²⁸ and as little as five years ago a police investigation into work undertaken by a student at the University of Central England resulted in the publishers of a book of Robert Mapplethorpe photographs, as well as the university's vice-chancellor, being threatened with prosecution. Nevertheless, the four key players in the UK pornography industry have continued to thrive.

A case from 1996 demonstrates not only how the law protects the interests of UK adult entertainment businesses, but also how matters of decency and corruption routinely accede to matters pertaining to the protection of business practice. In *Armhouse Lee Limited v Chappell and St Grid Limited* (1996) the Court of Appeal was faced with a defence to an action for breach of contract that illustrates the extent to which matters of public policy on obscenity and morality give way to the interests of capital. The defendants, Chappell and St Grid, were arguing that they should not be ordered to pay for advertising services provided by Armhouse Lee, because the adverts they placed, which described phone sex lines, were themselves obscene or immoral, therefore rendering the contract unenforceable. For the purposes of this discussion, the important point here is that the judges insisted on protecting the ancient doctrine of freedom of contract, thereby privileging a version of 'public good' firmly located in the protection of economic interests. The legal implication here seems to be that questions of morality and obscenity should not stand in the way of the creation and enforcement of economically viable agreements. Furthermore, on the specific point of obscenity, this civil court had no problem in usurping the function of the criminal court to find that "no jury would conceivably label these advertisements obscene", thereby consciously and unequivocally side-stepping the specific jurisdiction of the OPA.

UK law facilitates the harassment of sexual and artistic exploration, and yet protects domestic producers and distributors from overseas competition, whilst seeming to privilege the protection of profit over the protection of so-called public good. An analysis of its functioning would suggest that rather than becoming an "amazing, expanding pornosphere", UK pornography markets have hitherto been stultified by the complacency of a cartel protected from overseas competition, and repressed by the moral prejudices of law enforcement agencies. However, these circumstances have been undergoing rapid change in the last few years, with the increasing availability of trans-national information exchange via the internet, and by the liberalisation of the regulation of video certification.

Jack Straw and Horny Catbabe. Or, A Market-Driven View of Porn Regulation

The authority of the OPA as a regulatory structure for pornography in the UK is rendered more complex by the existence of the British Board of Film Classification. The BBFC is a private organisation, funded by the British film industry, which awards classifications for all films shown in UK theatres and released for rental and sale. Theoretically independent of state government, with the Home Secretary merely appointing its President and Director, the BBFC is apparently unelected and unaccountable. Nevertheless, it is afforded considerable power: under the Video Recordings Act of 1984, introduced in the wake of the 'video nasties' moral panic of the early 1980s, it is an offence to sell or to rent out videos that have not been certified by the BBFC. The cost per film minute of a BBFC review to obtain the necessary certification for legal distribution is prohibitive for small independent film workers, thereby excluding their work from the market.²⁹

In 1996, towards the end of the last Conservative administration, the Home Office, acting on concerns raised by the Metropolitan Police about the apparent growth of unlicensed sex shops that were selling videos without BBFC certification, encouraged then BBFC director, James Ferman, to relax the guidelines on the R18 (restricted 18) category of films classified for sale only through licensed sex shops (of which there are approximately 80, 50 of which are owned by David Sullilvan³⁰). This initiative was not made public. In 1998, the new Labour Home Secretary, Jack Straw instructed Lord Birkett, vice-president of the BBFC to end this liberalisation.³¹

Subsequently Straw attempted to intervene in the decision making process of the apparently independent BBFC. He replaced Ferman and the BBFC president, Lord Birkett with figures he believed would preserve his own social conservatism, the former *Daily Telegraph* journalist and founder and editor of *The Independent* newspaper Andreas Whittam Smith was made president and Robin Duvall was appointed director. In 1998 the BBFC refused the R18 certificate to seven videos³² produced by two companies, Sheptonhurst and Prime Time; the films in question, including one titled *Horny Catbabe*, depicted heterosexual acts of vaginal, anal and oral

penetration. In 1999 these companies challenged this decision through the BBFC's Video Appeals Committee (VAC), which overturned the BBFC's ruling and granted the videos an R18 certificate. The Video Appeals Committee is a supposedly independent body constituted under section 4(3) of the Video Recordings Act that provides a facility permitting companies to contest BBFC classifications that are felt to be stricter than warranted. Members of the VAC were until recently appointed by the Board of the BBFC, and in 1999 the VAC was chaired by John Wood, former deputy director of public prosecutions, and included amongst its members the writers and commentators Claire Raynor, Fay Weldon, Polly Toynbee and Nina Bawden, two lawyers, a professor of child psychology, and the chairman of the National Children's Bureau.

According to VAC member Fay Weldon, the Committee awarded certification on the grounds of liberalisation to "reflect the increasing sexual tolerance of the young" partly due to the wide availability of internet pornography.³³ Here consumer demand apparently overrides any justification for the regulation of pornography on the grounds of its potential to deprave and corrupt (or harm and offend, for that matter).

In April 2000 the BBFC took its own Appeals Committee to the high court to challenge its decision to certificate *Horny Catbabe* and the others. Justice Hooper upheld the decision of the VAC on the grounds that there was insufficient evidence that the films would cause harm. In July of the same year the Home Office released a consultation paper outlining legislation it proposed to introduce by the end of 2000. Its central recommendations were that the R18 guidelines should be tightened to take into consideration that children may sometimes view R18 videos, that new offences should be created of showing an R18 tape to a child and of "failing to prevent a child from watching an R18 video", that there should be severe penalties for selling R18s by mail order, and that the Video Appeals Committee of the BBFC should be sacked and replaced with one appointed by the government. The penalties for showing R18s to children, or failing to prevent children from seeing one, or for selling them by mail order were to be up to six months

in prison and fines of £20,000.³⁴ These measures were variously described as 'unworkable', 'Orwellian',³⁵ and pandering to the leader writers of *The Daily Mail*.³⁶

By late 2003, the legislation proposed by Straw's Home Office in 2000 has yet to materialise. Towards the end of 2000 the BBFC produced a substantial response to the Home Office Consultation Paper on the Regulation of R18 videos. In this response the BBFC vigorously defended the existing arrangement of the VAC, and the initiative implemented in 1996. Following the court battles around *Horny Catbabe* and the others, the BBFC introduced new, robust guidelines for what was and what was not permissible in R18 certificated videos.³⁷ Following the re-election of Labour in June 2001 Jack Straw was replaced at the Home Office by David Blunkett, and the issue of R18 videos was shelved. The case of *Horny Catbabe* illustrates the extent to which legislative regulation of pornography is increasingly insignificant in determining the range and quantity of adult material available to consumers in the UK. Rather, it seems that attempts by central government to regulate pornography are more than ever about brokering political hegemony rather than enforcing control over the nature of sexual representation. Domestically, the New Labour project has depended upon the propitiation of right-wing populist constituencies with apparently 'robust' stances on public service spending, negotiations with trades unions, benefit fraud, law and order, 'efficiency' in the public services, single parents, and latterly, on asylum seekers and issues of immigration policy. Under Jack Straw, the Home Office's approach to pornography seemed very much in keeping with the wider ideological project of New Labour: appeasement of right wing social constituencies with promises about getting tough on what *The Daily Mail* refers to as 'filth' while actually acceding to the interests of the market, which in this instance, was demanding greater access to hard core.³⁸

Meanwhile the old notions of pornography as 'filth', and its consumers as sad perverts, have increasingly diverged from the kinds of sophisticated online experiences of the contemporary industry. Online the convenience of privacy and anonymity coincides with fantasies of personal

technological power through home computers, and the easy access offered to the range of tastes and preferences constituted as erotic by American corporations whose influence dominates internet sex culture. This culture gives online consumers access to the legitimisation and allure of corporate branding, where different businesses, such as Vivid, Wicked, VCA, Ultimate, Xpics, Falcon, Titan, and a host of faceless others, offer 'services' and where the purchasing environment offers the reassurance of looking like a virtual shopping mall, or a glossy magazine. The important point here is that consumption of pornography online is precisely not constituted as seedy, lonely and furtive. Rather, such acts are produced as expressions of lifestyle choices, with all the seductive power and associations such ideologies have in magazine publishing and TV programming. Sites are well-designed, attractive, and are often linked up and accessed through Age Verification portals that offer the very same kinds of services and features we would expect from a lifestyle magazine: news, information, horoscopes, gossip, and of course, personal ads. This is the moment of the pornographication thesis, where the experience of consuming 'Barely 18 year old Virgins' is mapped onto the similarly sexualised identification of being a consumer of mini-Mars bars, or Peugeot 306 adverts, and appears to legitimate both as continuous expressions of globalised popular culture.

It is in this context that opponents of pornography are now almost exclusively concerned with summoning the spectre of internet-savvy paedophiles who are variously concerned with making and distributing pornography representing children or acts involving children, contacting children in chat-rooms in order to initiate a relationship to facilitate sexual exploitation or assault ('grooming'), and establishing paedophile 'rings'. The most successful strategy right wing constituencies have for challenging sexual permissiveness or the social inclusion of sexual minorities is the connection of sexual toleration with issues of child protection. The purchase gained by such strategies is all the more significant when we consider that the legitimisation of sexual minorities, to say nothing of the pornographication of popular culture, is actually an economic expansion, made necessary by the current requirements of consumer capital. Neo-

liberal ideology, which offers us all the liberty of participating in democracy as consumers, has seen the transformation of the terrain in which the identity wars over sexuality were fought in the late seventies, eighties, and early nineties. Sexual minorities now enjoy unprecedented degrees of tolerance and social inclusion (especially those who can mobilise the pink pound, dollar, euro) in a wider context of sexual commodification.³⁹

Thus, the UK government, which supports the expansion of domestic internet infrastructure to ensure international competitiveness, is also seen to mediate its economic support of online expansion with public reassurances about internet 'safety'. In 2000 the UK Home Office added amendments to the 1994 Criminal Justice and Public Order Act to increase the maximum penalties for taking, making and distributing indecent photographs and pseudo-photographs of children from 3 years to 10 years imprisonment, and for possession from 6 months to 5 years. In 2001 the Criminal Justice and Police Act was amended to increase the powers of customs officers and the police to investigate the importation of child pornography. In March 2001 the Home Office Task Force on Child Protection on the Internet was established.⁴⁰ These legal initiatives sit alongside the government's support for the Internet Watch Foundation, which provides an opportunity for people to report "child abuse images online".⁴¹ Funded by telecommunications companies such as BT, Cable and Wireless, NTL, Orange and Vodafone, as well as ISPs such as Demon, Yahoo and Tiscali, the Internet Watch Foundation offers both government and businesses associated with the internet the opportunity to indulge in an ongoing public relations exercise and to reduce the risk of damaging public conflicts between the bodies involved, which include the National Criminal Intelligence Service, the Home Office, and industry representatives. But these public anxieties about internet paedophilia are enmeshed in wider understandings of the power and scope of the adult industry, and its supposed integration into wider business interests, as well as its apparently critical role in the success of key technologies that have driven the profitability of the global entertainment industry. Again, we cannot rely on a model of representation to offer us an understanding of the economic structure of porn; the

pornographication thesis has its proponents amongst business analysts, and it's to these accounts that I want to turn next in order to consider the economic power of the 'porn industrial complex'.

From Brown Paper Bag to Market Penetration. Or, is there a porn-industrial complex, and what is it worth?

It has become something of a folk legend that the adult industry was the only area of e-commerce to remain immune to the bursting of the dot com bubble in the late nineties. Feature articles in *Forbes*, *The New York Times*, *The Economist* and *US News and World Report* have articulated a narrative in which the once marginal pornography industry has become so financially successful that its profitability is larger than that of Hollywood, or of US major league sports. This narrative has come under attack of late, as I shall discuss below, but it continued to flourish until very recently. In May 2001 the *New York Times Magazine* ran a cover story in which it estimated pornography sales in the US to be worth between \$10 and \$14 billion per year.⁴² Towards the end of 1997 *US News and World Report* carried a story which not only pointed out the economic importance of the adult industry (\$8 billion per year at the time, apparently) but argued strongly that these profits were highly significant for businesses "not traditionally associated with the sex industry – by mom and pop video stores; by long-distance carriers like AT&T; by cable companies like Time Warner and Tele-Communications Inc; and by hotel chains like Marriott, Hyatt and Holiday Inn that now reportedly earn millions of dollars each year supplying adult films to their guests."⁴³ This is an important proposition: that pornography isn't just on the shady fringes of the entertainment business, but is integrated into the revenue streams of some of the world's most successful and recognisable corporations. The author of this story suggested that in the early nineties the adult industry in the US (encompassing videos, peep shows, live sex acts, adult cable programming, sexual toys, computer porn and magazines) generated more revenue than Hollywood's domestic box office, and more even than all the

revenues from rock and country music recordings. In 2000 *Forbes* noted that shares in sex companies with internet ventures were up by up to 84%.⁴⁴ It is in the context of this enthusiasm that an editorial in *The Economist* in 1998 argued for locating “the greater part of the sex business where it ultimately belongs – as just another branch of the global entertainment industry”.⁴⁵

The veracity of statistics supporting arguments about the pornographication of the entertainment business have been challenged, but the modern pornography industry has significant advantages in comparison with many other sectors of the media. These make its profit potential increasingly attractive to financial markets. Unlike many other forms of content provision, such as mainstream film or the recording industry, pornography’s asset base has considerable plasticity, in terms of the opportunities it offers for producing multiple commodities from one relatively inexpensive production. The costs of shooting pornography vary enormously between small independent producers employing a couple of people, shooting on hand-held video cameras, through to larger corporations such as Vivid, VCA, Playboy and Wicked who have substantial overheads. VCA has over eighty employees, all of whom are covered by the company’s family medical plan; it may spend up to \$250,000 on a high profile, ‘big budget’ production, although most cost around \$50,000. For the small independents, budgets can be as low as \$5,000 per shoot, but are more likely to come in at around \$15,000.⁴⁶ Sell-thru sales of the approximately 11,000 titles released each year have been estimated at \$250,000 per title; thus the potential profitability of small independent producers is significantly larger than their corporate competitors, a fact lamented by Russell Hampshire, the owner of VCA.⁴⁷ According to Dennis McAlpine, an analyst with US investment banking firm Auerback, Pollak and Richardson, unlike Hollywood and other mainstream entertainment industries, the marketing and advertising budgets for pornography producers are exceptionally low. They generally work in video, which is both versatile and economical, and negates the huge expense of theatrical distribution.⁴⁸ As well as providing content for video sales and rental, each shoot also provides an array of static images for web as

well as print publication (where that publication is directly revenue-generating, rather than part of a marketing strategy). Productions made by the larger companies will also gain distribution via pay-per-view on cable and satellite television, and through hotel chains, particularly those catering to the business (as opposed to the tourist) sector.

According to McAlpine, US cable companies such as AT&T Broadband, AOL Time Warner, Charter, Cox and Adelphia will take between 80% and 90% of each pay-per-view charge as profit, with no production costs (unlike content provision on many of the other channels they deliver); this is almost twice as much profit as they take from showing first-run movies. It is difficult to find statistics that reveal exactly how much money cable companies make from distributing pornography because they don't make separate declarations: all pay-per-view services, including first-run movies, concerts and sporting events, as well as pornography, are quoted together. McAlpine claims that Playboy cable TV made \$40 million profit in 2001, which he estimates would represent between 10% and 20% of the revenue taken by cable operators like AT&T who would carry its programming. Adams Media Research have suggested that in 2000 the whole pay-per-view market was worth \$642 million; they estimate that 20% of that was spent on pornography.⁴⁹ Hotel distribution is more complicated, with services being offered to chains like Marriott, Westin and Hilton by distributors such as LodgeNet and On Command, who will deliver cable programming, pay-per-view movies and pornography, as well as video games on demand. McAlpine estimates that hotel chains will net between 5% and 10% of pay-per-view charges of around \$8.95 for each first-run or adult movie.⁵⁰ Most large porn producers will also have several websites, and smaller ones at least one, through which the material from the shoot will be available for streaming online, either on a pay-per-view basis, or through subscription-based services. This one shoot can thus beget "a multi-product revenue stream, the additional postproduction and distribution costs for which may be marginal."⁵¹ Porn is a lean business in which profitability is high and overheads are low.

Nevertheless, both the extent and the corporate legitimacy attributed to pornography are highly contested. In 2001 an interfaith coalition of religious leaders challenged the management of AT&T over their distribution of pornography, and groups such as Concerned Women for America were involved in protests against the company in early 2003.⁵² As early as February 1997 *US News and World Report* was suggesting that the US pornography industry had made profits of \$8 billion for the preceding year.⁵³ However, more recently the most significant claim for the value of pornography in the US was made by Frank Rich in the *New York Times*, who suggested that it was somewhere between \$10 billion and \$14 billion annually.⁵⁴ Rich cites a 1998 study by Forrester Research as the source of his low-end estimate, and does not offer any detailed breakdown of how the different sectors of the pornography industry contribute to this minimum \$10 billion total (nor does he offer any source at all for his upper estimate of \$14 billion). A week after Rich's piece appeared in the *New York Times*, Dan Ackman challenged the legitimacy of his research in *Forbes*. Ackman suggested that the 1998 study by Forrester Research had looked only at the adult industry online, which it valued at between \$750 million and \$1 billion per year. The \$10 billion figure Rich uses as the cornerstone of his piece is mentioned in the Forrester report only in passing, as a speculative and unsourced estimation. In *Forbes* Ackman estimates that pornography in the US is worth between \$2.6 billion and \$3.9 billion a year, of which he suggests \$1 billion comes from online ventures.⁵⁵ In 2001 *Forbes* did not seem able to make its mind up how big pornography was: a mere two days before Ackman's critique of Frank Rich's piece appeared, the journal had published an article on the stock value of adult entertainment companies, in which an equity analyst was quoted as estimating US pornography sales to be approximately \$11 billion, more than \$7 billion higher than Ackman's top estimate.⁵⁶ When challenged on *Forbes'* inconsistency, Ackman was quoted as saying "I couldn't swear the number I produced there is right, because no one knows, but I think it's a reasonable estimate."⁵⁷ Three months after *Forbes'* indeterminacy, Randy Barrett, a well-known commentator on online commerce, especially in the adult sector, suggested that although "no official figures are available – research firms tend to shy away from tacking online porn – [...] industry executives

generally agree the digital smut market is worth about \$1.75 billion annually.⁵⁸ Less than a year after Ackman's sceptical estimation of the value of online pornography at \$1 billion annually, and Barrett's \$1.75 billion, *Forbes* published an article that suggested that internet pornography was worth only \$230 million.⁵⁹ It is possible that between 2001 and 2002 the market for online pornography collapsed by up to 90%; in 2001 Barrett himself was suggesting that intense competition online, along with high chargeback rates, was leading to lower profitability for adult internet ventures. Nevertheless, despite difficult market conditions, there have been no indications that people are spending less money on pornography on the web, and in the prestigious PBS special *American Porn*, broadcast in late 2001, the industry was once again apparently worth \$10 billion annually.⁶⁰

One of the problems with these accounts of the financial position of the adult industry in the US is their vagueness, both in terms of sources and frame of reference. When *Forbes* suggested in April 2002 that "for now the market for paid content online is at about \$500 million for nonpornography sites; online porn is at \$230 million" not only is no source attributed, but no indication of the precise e-commerce referred to is given. Does this figure account only for direct subscription by credit card to porn sites themselves, or does it include payments made through third party billing companies, or through the consumer's phone bill, that aren't so readily identifiable?⁶¹ The article suggests that a broader diversity of businesses are starting to make money from internet ventures, after failing to construct profitable business models for online content when the market for online advertising collapsed: "big media outlets are experimenting with repackaging existing content, hoping consumers will see some value in the new format".⁶² There is undoubtedly an empirical problem inherent in attempting to value an industry so much of which is marginal to financial institutions and so much of which operates online, independent of the kinds of regulatory authorities through which business activities can normally be tracked. There are also problems about visibility and declaration of income associated with the legal problems that producers and distributors of pornography have historically experienced, and in

some cases continue to do so. Despite the increasing convergence of adult entertainment and mainstream capital, pornography continues to remain a site of political and legal contestation.

In January 2001, *Adult Video News* reported on the so-called 'Cambria list', which was a set of guidelines produced by lawyer, Paul Cambria, who works for clients in the pornography business.⁶³ The guidelines stipulate sex acts that should not be depicted if producers want to avoid legal battles with the US Department of Justice. There are disputes in the industry about whether the list refers to actual movie content or what should appear on the covers of video and DVD boxes. Whatever the guidelines refer to, there has been a growing awareness of the Bush administration's intent to crack down on the adult industry since it was elected in November 2000. Rob Black, owner of Extreme Associates, which produces movies with graphic representations of sexual coercion, rape, and humiliation, was indicted in August 2003 in the first major federal pornography investigation in over a decade.⁶⁴ In an industry that has traditionally been understood as legally and politically questionable it is going to be more difficult to find authoritative source material that makes profitability transparent, particularly in the independent, smaller-scale parts of the sector. We must also not overlook the impact of journalistic laxity: \$10 billion is frequently cited, not because concurrent commentators have authoritatively corroborated the statistics, but because they have unquestioningly picked it up from Rich's *New York Times* piece, which achieved substantial notoriety at the time of its publication. Yet even those corporate interests that make most profit from porn - such as AT&T Broadband, acquired by Comcast in late 2002 and now the world's largest cable company - publish their financial results in such a way as to obscure the extent to which their business is dependent on pornography: "for AT&T, porn distribution is great business, but there's no mention of adult material in the company's annual report, nor how much it contributes to the company's bottom line".⁶⁵ Thus, commentators and financial analysts make educated guesses of the value of pay-per-view adult entertainment based on known statistics about the number of subscribers (21.4 million in the case of AT&T Broadband⁶⁶), and an estimation of the number of those subscribers

likely to consume pornography regularly. Similar kinds of educated guesswork can be used to estimate the value of the adult industry online, based on published results from some of the larger providers, who are becoming increasingly consolidated as a saturated market becomes precarious for smaller webmasters. Some of the larger companies, such as New Frontier Media Inc. are publicly owned; for the three months up to the end of June 2003, it posted profits of \$10.1 million. Credit card companies generate significant revenue from payments made for online pornography; although they are as circumspect as other mainstream corporations in revealing the profitability of these transactions. (Visa is currently a target of Concerned Women for America for its servicing of hard core websites.⁶⁷) Their recent attempts to exert greater control over their partners in pornography have facilitated a more detailed understanding of adult e-commerce.

Adult sites frequently offer a free trial period for online content, activated by credit card; once the trial period is ended, regular automatic billing of the credit card takes place, regardless of whether the bill payer uses the site or not. In this way webmasters have developed a model of e-commerce that exploits the impulsive nature of much consumption of explicit material: consumers are enticed onto sites where the first pages are free, and then exchange their credit card details for further access; the webmasters will often set up regular billing of the credit or debit card when customers were only expecting to make a one off payment. If customers challenge the legitimacy of the debits to their accounts with their credit card company, and the transactions turn out to be fraudulent, they will be credited back to the customer's account. (This can happen because the credit card used has been stolen or cloned, but is as likely to be because husbands wish to evade the embarrassment of having their porn purchase become known to their spouses, or because regular billing of the card was not understood at the time of purchase.) These credits are called charge-backs. Most online porn sites use third party processing companies that handle credit card transactions between the sites and companies like Visa International Service Association and MasterCard International. The third party processing companies, such as DMR, iBill, First Data Corp. and Epic, levy a 15% charge on each

transaction.⁶⁸ The lucrative nature of this business has meant that there's been some degree of consolidation, with larger processing companies, such as InterCept, buying up smaller ones, like iBill, who may handle up to \$350 million worth of porn-related transactions annually. However, the practice of operating a business model predicated on generating a high number of charge-backs has meant that credit card companies such as MasterCard have levied high fines against the processing companies, and instituted rules that have meant an end to the practice of using free trial periods to generate revenue from effectively fraudulent credit card transactions. Visa has now started to institute punitive regulation of processing companies who handle transactions through age verification services, another mainstay of online porn business, where subscribers access a range of internet sites for a monthly fee, and American Express has banned the use of its cards to pay for online services through third-party processing companies, thus preventing it from being used to purchase internet porn at all.⁶⁹ These kinds of measures will act as disciplinary injunctions to the business practices that have become institutional for some sectors of the online porn industry, and will have at least short-term impacts on their profitability. But, in broader terms, they also demonstrate the extent to which porn is integrated into a wider corporate community, where its regulation underscores its importance.

It has been suggested that in the 1980s Sony lost the fight over which format would become the standard in the home video market not because of any technical problem with its Betamax system but because Sony refused to allow it to be used for adult videos. Sony never made such a ruling, and there were as many Betamax adult films as VHS ones. This tale, an urban legend of the adult industry, seems convincing because it articulates, in simple terms, what has become one of the most structurally significant features of pornography in relation to the development of new technology and its relationship to the wider entertainment industry. In the early years of home video, from the launch of the first Betamax machine in 1975, the majority of titles available on video were pornographic, and the popularity of this new technology was driven by the opportunity it gave consumers to watch adult movies in the privacy of their own homes for the

first time; previously, if you'd wanted to see a pornographic film, you would have had to watch it in public at an adult movie theatre.⁷⁰

Twenty-five years later, when internet businesses and in-house online provisions were absorbing millions of dollars and making no money, adult businesses such as Xpics Publishing were investing not only in content but in their own research and development departments that allowed them to produce successful business models for charging for online content, and security and payment software marketed to the rest of the internet retail industry.⁷¹ Pornography has significant structural importance to the development and success of key technologies that have become economically and culturally substantial within the entertainment industry. In September 1998 there was still industry speculation about the future of laserdisc and how it would fare from competition with the new DVD format.⁷² Laurence O'Toole has suggested that "[pornography] companies like Vivid and Private ... led the push to establish ... DVD as the replacement format for video ... As DVD ... proved slow to take off ... regular entertainment companies have looked to the porn industry for inspiration, with its legendary expertise at making new technologies profitable."⁷³ Sales of DVD players exceeded those of VHS machines for the first time in 2001, and in 2003 there were over 250 million DVD playback devices worldwide.⁷⁴ And, similarly, a recent report on the slow uptake of 3G mobile phones, has suggested that pornography may "kick-start the video phone revolution" because "pornography is the handmaiden of new technology".⁷⁵

Pornography has been structurally important in sustaining the viability of new media forms until market penetration is sufficient to generate significant revenue streams from non-pornographic content. One of the reasons it has been so effective in these terms online is that it is made up of a broad spectrum of providers, from small-scale enterprises (escorts, porn stars, strip artists, exhibitionists, and amateur filmmakers, photographers and writers using the web for self-publicity) and speciality providers who are able to exploit the low start-up costs of online

commerce, right through to vertically integrated, publicly quoted corporations "seeking to establish a presence in the expanding marketplace for pornographic products and services."⁷⁶ Organisations such as Playboy, Private Media Group (the first adult entertainment company to trade on the Nasdaq), New Frontier Media and Internet Entertainment Group, have achieved significant success as online adult corporations by diversifying, refining and integrating services and products to produce multiple revenue streams. Playboy Online has formed partnerships with Internet Sports Network and GourmetMarket.com, in an attempt to capitalise on the popularity of its soft-core porn: "it is universally acknowledged by information technology experts that the adult entertainment industry has been at the leading edge in terms of building high-performance Web sites with state-of-the-art features and functionality."⁷⁷ As a recent study by Nielsen/Netratings suggests, the growth of broadband is attributable to the consumer demand for pornography (and file-sharing services that enable users to download music and other media).⁷⁸ In the US there are 38 million broadband users, and similarly high levels of penetration in South Korea and Hong Kong. Whilst levels are much lower in Europe, they are increasing rapidly: from mid 2002 to mid 2003 the number of broadband users in the UK tripled to 3.7 million.⁷⁹ The same study suggests that the adult entertainment sector of the internet has been expanding dramatically in all European markets.⁸⁰

From Internet Porn to Total Information Awareness. Or, what are the implications of kiddie-porn panics?

State intervention into the processes of accessing sexually explicit material is not redundant, as the ongoing investigations into child pornography, Operations Avalanche (US) and Ore (UK) have demonstrated. On 8 August 2001 the US Attorney General, John Ashcroft, gave public details of Avalanche, which identified the names of 35,000 US citizens who had used their credit cards between 1997 and 1999 to access a site called Candyman that contained pictures of children. The webmaster of Candyman, Thomas Reedy, and his wife, Janice Reedy, were both prosecuted,

and have been sentenced to 1,335 and 14 years in jail, respectively. In January 2003 Scotland Yard released details of its own investigation, Ore, into a list of 7,272 names passed to them by their US colleagues of UK citizens who had used their credit cards to access the Candyman site. Both investigations were widely reported in the UK press.

Surveillance undertaken in the name of regulating child pornography demonstrates the political purposes to which the accepted limits of pornography can be put. Rather than working to reassure the public that the internet is 'safe' (like the Internet Watch Foundation), actions like Ore and Avalanche, whilst attempting to prevent the exchange of child pornography, also offer political justification for an extension of surveillance in the context of a wider drive towards total information awareness. Pornography is still highly regulated, not only through complex legal processes, but also through the use of surveillance technology. Here the pornographication thesis misses key ways in which pornography remains a site of rigorous control – and not only of those who download images of children.

In the US in May 2003 a new law, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (the PROTECT Act), was passed. It makes provision for the prosecution of those who use "misleading domain names". Media coverage of the Act has not questioned the extension of technological surveillance such laws, and operations like Avalanche, represent, but has focussed on the vagueness of its definitions of key terms, and on liberal anxieties about potential violations of the first amendment.⁸¹ In the UK, liberal commentators, such as the journalists Matthew Parris and Deborah Orr, have questioned the ethics involved in prosecuting people for merely looking at images, however objectionable they may be, but here, as with most commentary, there is no critique of the wider purposes to which the child pornography hysteria is being used.

Operation Avalanche shows us one way in which we leave electronic trails of information as we use our credit cards online, but there are countless other ways in which we generate potentially storable, searchable records of our activities, tastes, occupations – web servers generate a record each time we click on a hyperlink, loyalty cards a list of our groceries each time we shop. As the cost of storing data in electronic form continues to drop, there is little incentive to discard potentially valuable information and vast warehouses of data are being created which store anything from our credit status, insurance claims, emails, international phone calls and all of our negotiations with the many institutions of the state, from our access to medical care to our claims for benefits to our criminal status, domestic and political affiliations, travel and geographical movements. The sheer volume of information that is being accumulated has until recently been an intrinsic obstacle to its usefulness, but recent advances in both the sophistication and funding for 'Knowledge Discovery in Databases', or data-mining technologies, promises to facilitate the generation of patterns and rules that will make interpretative sense of it.⁸² Data mining software, such as the Carnivore system used by the FBI, or Sybase's Patriot, uses algorithms to search data in order to produce profiles. The US Patriot Act, hastily passed after 9/11 to protect "homeland security", has legitimated the Pentagon's development of what it refers to as its Total Information Awareness programme. The Defense Advanced Research Projects Agency (DARPA) has benefited from the enormous increase the US government has made in military spending during the so-called war on terror, and is in the process of setting up deals with other branches of US law enforcement in order to disseminate its technology and experience.⁸³

These developments, that broker the feasibility of state agencies maintaining a total information awareness of all of its citizens, have understandably generated considerable resistance, from within Congress and the Senate, and from across the infrastructure of liberal rights organisations that operate in the US, from the ACLU, to the Center for Democracy and Technology, the Electronic Privacy Information Center, the Electronic Frontier Foundation, and a host of other marginal libertarian lobbies.⁸⁴ In contrast, public discourse on the regulatory measures instituted

to control child pornography, fails to gain a purchase on the wider political issues implicated in the drive for ever more precise forms of surveillance. Recently the chief executive of the Internet Watch Foundation has suggested that addressing the problem of child pornography online requires effective policing of the internet and a 'global response'; the IWF is apparently working with police and software developers on a project that is an application of data mining technology.⁸⁵

The measures being developed and advocated for addressing the problem of child pornography are similar to those being used to address the 'problem' of US national security and the 'problem' of copyright infringement in file-sharing networks. A recent article posted on the right-wing site Concerned Women for America, welcomes the fact that the Department of Homeland Security has become involved in an initiative to construct a database of child pornography images. Their chief counsel notes that: "By including this program under the Department of Homeland Security, the government seems to recognise that sexual exploitation of children is a form of domestic and foreign terrorism."⁸⁶ Similarly, in their ongoing battle against peer-to-peer file sharing, the US recording industry is now invoking the spectre of child pornography on networks such as Kazaa, Morpheus and Gnutella, in order to press for tighter regulation. At the same time some pornography producers, such as Titan, are sufficiently integrated into mainstream corporate affairs that they are also pursuing aggressive legal challenges against those who use P2P networks to infringe their copyright.⁸⁷ In both of the latter cases there are oppositional movements undertaking well organised and well informed actions to protect civil liberties and the 'digital commons'. It is unclear how successful US liberal lobbies, and hackers, net-heads and digital freedom fighters will be, but it is clear that where advocates of privacy infringement and indiscriminate technological surveillance encounter no resistance to their programmes is in relation to the protection of children. Child protection is a pressing issue but those concerned with the challenges of a pornographied culture need to attempt to understand the implications of pornographication in contexts beyond those immediately concerned with sexuality: the new

technologies driving the “expanding pornosphere” need to be politicised in ways that address their surveillance potential as well as the ways in which they facilitate market choice and an expansion in the potential for representing sexualities. Child abuse is one consequence of our increasing opportunities for consuming porn, but total information awareness is another.

Conclusion

Pornographication suggests that those texts which comprise popular culture – movies, TV, advertising, magazine publishing – have become more sexually explicit, and by using the representational vernacular of pornography, have affected a change in the sexual politics of Anglo-American cultures. All adherents of the pornographication thesis are agreed on the general shape of this shift; they differ, as we would expect, in their judgement of it. However, the pornographication thesis tends to take for granted both the technological developments and the economic conditions that are its engines, and does this because, as Feona Attwood suggests its adherents remain primarily interested in “how sex is represented in contemporary culture.”⁸⁸ Yet I would argue that the urgency of that investigation has receded in proportion to the successes of feminism and of minority sexual politics in expanding the range of available representations, as pornographication describes. What the pornographication thesis lacks is a consideration of how power is working through pornography, in ways that can’t be accounted for by looking at representations.

Whilst adult businesses operating online may currently be subject to discipline by larger financial institutions, and the ‘porn industrial complex’ might not be as well endowed as some may have suggested, pornography has a substantial value to capital. In the entertainment sector, as elsewhere, the necessity of economic expansion drives the extension of territories, the creation of new markets, and brand incorporation and consolidation. Pornography has had a significant role in securing the financial stability of new technological forms and new market sectors because of the broad spectrum of content providers and its ability to generate multi-product revenue

streams with exceptionally low overheads. This is why “pornography is the handmaiden of new technology”.⁸⁹ The role played by legal regulation, traditionally understood to inhibit pornography, can in fact offer conditions beneficial to adult businesses, as we have seen in the case of the UK’s domestic soft-core magazine market.

Within the context of debates about sexuality and representational politics pornography may be understood as either, “the production and consumption of inequality”⁹⁰ or a “transgressive, disruptive... genre devoted to fantasy”⁹¹ But as the pornographication thesis demonstrates, specific forms of pornographic vernacular have become staples of ‘mainstream’ popular culture, as specific kinds of pornographic products and services have become significant in generating income for corporations like AOL Time Warner. Laura Kipnis has suggested that the boundary between pornography and other forms of culture seems meaningless: pornography is content, a commodity, like any other.⁹² In this context it is crucial that we consider pornography as more than mere representation: we need to consider legal, structural and economic questions.

Pornography hasn’t stopped being implicated in larger patterns of social change because popular culture is more sexually explicit than it used to be. Child pornography is being used, along with issues of homeland security and corporate copyright protection, to extend the material field of regulation in the information society. Perhaps the most important problem with the pornographication position is that its estimation of the reach of pornography isn’t extensive enough: not only popular cultural representations have been pornographed, but corporate practice, information exchange, and new technological forms in themselves are in many ways dependent on pornography. At a time of growing military industrial power and surveillance capability it is crucial that our discussions of pornography and the pornographed culture remain sufficiently embedded in a consideration of the material. Consumers of pornography, in a pornographed culture, are subjects of total information awareness.

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¹ Laura Kipnis, *Bound and Gagged: Pornography and the Politics of Fantasy in America*, Durham: Duke University Press, 1999, p.viii.

² William F. Buckley Jr., 'Porn, Pervasive Presence: The Creepy Wallpaper of Our Daily Lives', *National Review*, 19 November 2001, <http://www.nationalreview.com/19nov01/buckley111901.shtml>, downloaded 28/8/03.

³ Jasyn Jones, 'Girls on Film' in *The Daily Cougar*, 24 April 2003, *CollegeClub.com* <http://navisite.collegeclub.com/servlet/channels.ChannelArticleServlet?areaid=22&articleid=4149>, downloaded 28/8/03.

⁴ Jack Barnes, 'The Pornographication of Bourgeois Politics', *The Militant*, vol. 61, no. 4, 27 January 1997, http://www.themilitant.com/1997/614/614_18.html, downloaded 28/8/03.

⁵ See, amongst others, Thomas Fiske, *Minnesota e-democracy*, <http://www.e-democracy.org/mn-forum/e-debate98f/r2fiske.html>, downloaded 28/8/03; DC Socialist Workers 1998 Campaign Committee, <http://www.dctrack.com/archives/election98/socialist-3.htm>, downloaded 28/8/03; John Armstrong, 'The Pornographication of Politics', September 1998, *Plowshare News*, <http://www.plowshare.org/resources/News98Septright.htm>, downloaded 28/8/03.

⁶ Brian McNair, *Mediated Sex: Pornography and Postmodern Culture*, London & New York: Arnold, 1996, p.137.

⁷ Brian McNair, *Striptease Culture: Sex, Media and the Democratization of Desire*, London & New York: Routledge, 2002, p.37.

⁸ *ibid.* p.206.

⁹ *ibid.*

¹⁰ Feona Attwood, 'Reading Porn: The Paradigm Shift in Pornography Research', *Sexualities*, vol. 5, no.1, 2002, pp.91-105.

¹¹ Jane Juffer, *At Home With Pornography: Women, Sex and Everyday Life*, New York & London: New York University Press, 1998, p.2.

¹² *ibid.*, p. 2; emphasis in original.

¹³ Eric Schlosser, 'The Business of Pornography' *US News*, 10 February 1997, <http://www.milligan.edu/communications/Library/Articles1/USNewsPorn.htm>, downloaded 16/10/03.

¹⁴ McNair, *Mediated Sex and Striptease Culture*. See also Attwood, 'Reading Porn'.

¹⁵ *Obscene Publications Act 1959*, Section 3, Paragraph 3, www.oup.co.uk/pdf/bt/hedleyaplin/part_a.pdf, downloaded 16/10/03.

¹⁶ The most famous instance of which is the trial in 1960 of D. H. Lawrence's novel *Lady Chatterley's Lover*, provocatively published by Penguin thirty years after Lawrence wrote it to test the new legislation. Penguin's lawyers mounted a fierce defence of Lawrence's novel that exploited the 'public good' provision of the OPA, bringing on a series of 'expert' witnesses including E.M. Forster and Raymond Williams.

¹⁷ For accounts of the implementation of these acts, see www.melonfarmers.co.uk/possess.htm, downloaded 15/9/03, and <http://www.offmsg.connectfree.co.uk/censorship/offLIMpn.htm>, downloaded 15/9/03.

¹⁸ See Annette Kuhn, 'Public Versus Private; The Case of Indecency and Obscenity', *Leisure Studies*, 3, 1984, pp.53-4; Beverley Brown, 'Private Faces in Public Places', *Ideology and Consciousness*, 7, 1981, pp.3-16; and Mandy Merck, 'From Minneapolis to Westminster' in Lynne Segal & Mary McIntosh (eds) *Sex Exposed: Sexuality and the Pornography Debate*, London: Virago, 1992, for further discussion of this.

¹⁹ This lack of transparency and lack of accountability is nowhere more apparent than in an edition of *Panorama*, the BBC's flagship current affairs programme, transmitted in October 1998, which was investigating the state of porn regulation in the UK. When the reporter asked a Customs official to specify the terms upon which he would decide an object to be obscene, a press officer for Customs and Excise intervened to stop the interview.

²⁰ Jamie Doward, 'Top Shelf Gathers Dust' *The Observer*, 13 May 2001.

²¹ Conal Walsh, 'Videos Kill Magazine Stars' *The Observer*, 3 November 2002; Doward, *ibid*.

²² Walsh, *ibid*; 'Media Top 100' *The Guardian*, 16 July 2001.

²³ Chris Tryhorn, 'Desmond Gives Himself £12m Pay Rise' *The Guardian*, 6 May 2003; 'Desmond has no regrets over adult titles' <http://news.bbc.co.uk/1/hi/business/2256910.stm>, downloaded 24/8/03; 'Desmond to sell adult titles' <http://news.bbc.co.uk/1/hi/business/1111704.stm>, downloaded 24/8/03.

²⁴ Laurence O'Toole, *Pornocopia: Porn, Sex, Technology and Desire*, London: Serpent's Tail, 1999, p.138.

²⁵ *ibid*, p.142.

²⁶ M. McConville et al, *The Case for the Prosecution*, London: Routledge, 1991, p.126.

²⁷ O'Toole, *Pornocopia*, p.116.

²⁸ Alan Travis, *Bound and Gagged: A Secret History of Obscenity in Britain*, London: Profile, 2000, pp.231-271.

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- ²⁹ As of 22 May 2003, the BBFC charges £9 per minute for the first hour, £6.75 for the second hour, and £5 per hour thereafter, with a minimum charge of £95 for up to ten minutes. This means that the cost of obtaining a BBFC review for a feature that lasts one and a half hours (the average length of an 'adult' film) would be £742.50. See www.bbfc.co.uk for further information.
- ³⁰ 'Media Top 100' *The Guardian*, 16 July 2001.
- ³¹ See Travis, *Bound and Gagged*, pp.284-86, for an account of this.
- ³² *Horny Catbabe, Nympho Nurse Nancy, TV Sex, Office Tart, Carnival International Version, Wet Nurses 2 Continental Version, and Miss Nude International Continental Version.*
- ³³ Fay Weldon, 'There's hard porn, and porn the public wants', *Sunday Times*, 6 August 2000.
- ³⁴ The Home Office, <http://www.homeoffice.gov.uk/docs/r18vid3.html>, downloaded 24/08/03; The Melon Farmers, <http://www.melonfarmers.co.uk/news0700.htm>, downloaded 24/08/03
- ³⁵ Richard Morrison, 'The Key to Cracking Down on Pornography' *The Times*, 16 November 2000.
- ³⁶ David Pannick, 'Horny Catbabe fails to save Straw's blushes' *The Times* 19 September 2000.
- ³⁷ These guidelines are available online at www.bbfc.co.uk.
- ³⁸ Following the High Court's decision to grant *Horny Catbabe* and the others an R18 certificate, *The Daily Mail* demanded to know why nobody had the moral conviction to halt the "flood of filth". Quoted in Alan Travis 'Do you really mean you're going to allow oral sex?' *The Guardian*, 15 September 2000, p.5.
- ³⁹ See Dennis Altman, *Global Sex*, Chicago: University of Chicago Press, 2002.
- ⁴⁰ Criminal Justice System Online, http://www.cjsonline.gov.uk/news/2003/january/new_drive_to_protect_children_online.html, downloaded 24/8/03.
- ⁴¹ Internet Watch Foundation, <http://www.iwf.org.uk/index.html>, downloaded 9/7/03.
- ⁴² Frank Rich, 'Naked Capitalists: There's No Business Like Porn Business', *New York Times Magazine*, 18 May 2001.
- ⁴³ Schlosser, 'The Business of Pornography'.
- ⁴⁴ Michael Katz, *Forbes*, 3 October 2000.
- ⁴⁵ *The Economist*, 14 February 1998; no author attributed.
- ⁴⁶ Rich, 'Naked Capitalists'.
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