

# **Defending the freedom of speech in an advanced information society - the Finnish story**

## **Introduction: Myyrmäki Bombing 2002**

Freedom of speech online became a hot topic in the Finnish news fall 2002.

“Finland's Minister of the Interior Ville Itälä (Nat. Coalition) ordered the establishment of a police working group which is to consider the need for possible controls on the content of Internet message boards in light of the recent events. At least one message board devoted to explosives was shut down on Sunday.”<sup>1</sup>

A college student had exploded himself and five other people in a Helsinki suburb mall. Allegedly the student had learned bomb making from a local Internet discussion forum. Another youngster running the discussion group was consequently arrested. His computers were retained and all message board archives were searched for possible evidence.<sup>2</sup>

A public debate followed. Electronic Frontier Finland (EFFI) had been founded to defend civil rights and individual freedoms on the Internet just before September attacks in 2001. In spring 2002 EFFI gave Finland's first Big Brother awards and had gained mainstream media attention. Now, EFFI was needed to defend the uncensored Internet. Within a week after Myyrmäki bombing, EFFI board members commented the case and its possible online implications more than five times in different talk shows and news broadcastings.

## **New Law on Free Speech Online**

One of the major achievements of EFFI has been the amendments to a new law on the use of freedom of speech online in early 2003. Legislative process had ill timing since all those Myyrmäki news were still fresh in the memories. Christian party demanded more censorship to the Internet claiming that “at least web pages in Finnish should be cleared”.

The first proposal of the law which came out in 2001 was definitely worrisome. It fundamentally restricted the freedom of speech online and additionally required the logging of practically all Internet traffic. To be precise, the law didn't aim at regulating the freedom of expression but merely the liabilities and responsibilities of those who use their freedom of speech as stated in the constitution.<sup>3</sup> Probably similar kind of problems with new Internet related laws can be found elsewhere:

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<sup>1</sup> “Police detain youth in connection with shopping mall bombing - flags fly at half staff all over Finland”, Helsingin Sanomat 15<sup>th</sup> October 2002, <http://www.helsinki-hs.net/news.asp?id=20021015IE9>

<sup>2</sup> “International Edition coverage of the Myyrmäki bombing”, Helsingin Sanomat 22th October 2002, <http://www.helsinki-hs.net/news.asp?id=20021022IE4>

<sup>3</sup> <http://www.ffi.org/sananvapaus/>

- Definitions are ambiguous. While the Finnish law proposal perhaps targeted large web sites of traditional printed media with staff editors, in the first version it could be read to mean any web page out there.
- Unnecessary and overbroad retention requirements. The first version of the proposal had six month requirement, which dropped to 2-3 months in the second version and ended three weeks in the final law. This is a positive change, but it does not remove the fundamental problem. Why it is necessary to store web publications in the first place?
- Logging is too broad. Logging covered practically all communication possible
- Monitoring requirements are too heavy. The Finnish law proposal first required that all web publications would need an 18-year-old editor-in-chief responsible for even third party publications to some extent.

Electronic Frontier Finland, local ISPs and the International Chamber of Commerce were the main opponents of the law. With coordinated effort we were able to change the law substantially at the parliamentary hearings. As a result, the Finnish parliament finally passed the law on 17th February 2003 as substantially changed.<sup>4</sup>

### **Intellectual Property and the Freedom of Media**

Debate on justified intellectual property rules is today global. Different grass roots organization and political parties alike discuss quite heatedly on the topic. We have had a share of discussion also in Finland.

The discussion got new heat when a new copyright law proposal based on EU copyright directive (EUCD) was dismissed in the parliament in early 2003.<sup>5</sup> One of the main reasons was that it didn't take conflicting constitutional rights into account. Take the freedom of speech as an example. The freedom to obtain, use and disseminate information uncensored fundamentally conflicts with the idea of restricted copying and dissemination of copyrighted works.

The problem is that the new copyright rules limit the role of copyright exemptions granted e.g. for citation, private use and education. If works are technically protected (with so called digital rights management), even citation may result in copyright infringement.<sup>6</sup> The unlucky Finnish law proposal – interestingly written by the chairman of 1996 WIPO meetings that later resulted in EUCD – stated that: “This proposal does not include anything that would require constitutional law review.” Once again, parliamentary hearings changed the tone of discussion.

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<sup>4</sup> See “Finland rewrote the Internet censorship law”, EFFI press release 16<sup>th</sup> February 2003, <http://www.ffi.org/julkaisut/tiedotteet/pressrelease-2003-02-16.html> and “Finnish companies oppose law to censor Internet”, International Chamber of Commerce statement 6<sup>th</sup> February 2003, [http://www.iccwbo.org/home/news\\_archives/2003/stories/finnish.asp](http://www.iccwbo.org/home/news_archives/2003/stories/finnish.asp)

<sup>5</sup> “Finland kills EUCD - for now”, EFFI press release 31<sup>st</sup> January 2003, <http://www.ffi.org/julkaisut/tiedotteet/pressrelease-2003-01-31.html>

<sup>6</sup> See article 6 of the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

## Where is Scandinavia going?

One issue that needs further light is corporate environment. Our freedom to use Internet and new communication media depends on different intermediaries. Most ISPs have traditionally been proponents of the free Internet. However, there are also alarming counterexamples where the company power has been used against the principles of free communications.

We stressed corporate responsibility at the annual Finnish Big Brother 2003 awards 4<sup>th</sup> of June in Helsinki. The most prestigious award was given to by far the largest Telco, a partly government owned Sonera (as of now TeliaSonera). In October 2002, an unusually extensive privacy breach was reported. Finnish newspaper Helsingin Sanomat printed allegations that Sonera employees had violated the communications secrecy during 2000 – 2001.

The management of Sonera had ordered surveillance of over numerous phone records in order to find out who leaked classified company information to reporters.<sup>7</sup> Sonera was among those ISPs who miscalculated during the dot-com boom and invested in 3G licenses all over the Europe, later to find out the investments almost took them into bankruptcy. Understandably, at the time of phone surveillance, the company's management was very worrisome of the company's stock quote (essential in license bidding and acquisitions) and related news reporting.

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Manuel Castells and Pekka Himanen identify three types of advanced information societies: the Silicon Valley model (US style free markets), Singapore (Asian authoritative model) and Finland (Scandinavian social democracy).<sup>8</sup> Interestingly, online civil rights movements have started from the free market environment and only recently arrived in social democracies. In authoritative states they are a far cry as recent Chinese examples show.<sup>9</sup>

People in social democracies seem to trust on the government officials and consumer protection agencies even in information policy matters. Rules are obeyed to the extreme – and we have seen that new rules proposed do not always serve the best interest of the society as a whole. Our Finnish example makes one ask if there should be more push to found new influential online civil liberties organizations in the Northern European countries.

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<sup>7</sup> See e.g. "Police arrest former Sonera CEO Kaj-Erik Relander", Helsingin Sanomat 27<sup>th</sup> November 2002, <http://www.helsinki-hs.net/news.asp?id=20021127IE1>. This wasn't the first case in Sonera. See also "Sonera managers charged with data privacy invasion over e-mail snooping", Helsingin Sanomat 2<sup>nd</sup> December 1999, <http://www.helsinki-hs.net/today/021299-01.html>

<sup>8</sup> Castells, Manuel and Himanen, Pekka: "The Information Society and the Welfare State. The Finnish Model". Oxford University Press. 2002.

<sup>9</sup> On the other hand, authoritative states may have quite liberal practices towards e.g. restrictive property rules, which may balance some of the potential problems beforehand.