

October 6, 1999

Attorney General Mark Earley  
Office of the Attorney General  
900 E. Main Street  
Richmond, VA 23219

Dear Mr. Attorney General:

Today we have filed a Complaint in the Federal District Court for the Eastern District of Virginia on behalf of a broad coalition of Internet businesses, other organizations, and Internet content providers challenging 1999 Va. Acts ch. 936 (the "Act"), which amends Va. Stat. § 18.2-391 to impose criminal penalties on the display and dissemination of constitutionally protected speech on the Internet. Because of the unconstitutional burdens that the Act imposes on both Internet speech and interstate electronic commerce, we seek a permanent injunction against enforcement of the Act.

We are writing to inquire whether you would willing to certify that no actions will be instituted under the Act during the pendency of this litigation. We believe that this commitment will have significant benefits for the orderly conduct of this case, including affording the court sufficient time to give plenary consideration to the important constitutional issues presented by the Complaint.

If you are unwilling to agree that no actions will be instituted under the Act while this case is pending, we will be obliged to move for a preliminary injunction to protect plaintiffs' rights, and the rights of literally millions of other Internet users affected by the Act. In that case, we would anticipate filing our motion for a preliminary injunction within approximately ten business days from today, and therefore request your response by October 15, 1999.

We look forward to hearing from you.

Sincerely,

Frank Winston, Jr.

**Attorney General Mark Earley**

**October 5, 1999**

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Enclosure

cc: The Honorable James F. Gilmore, III