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*From the Los Angeles Times*

## **Free speech could lead to online disconnect**

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If you're displeased with the way a company treats you, you're free to air your feelings in public, right? Not necessarily if you receive high-speed Internet access from AT&T Inc. or Verizon Communications Inc.

Buried deep within both companies' voluminous service contracts is language that says your Net access can be terminated for any behavior that AT&T or Verizon believes might harm its "name or reputation," or even the reputation of its business partners.

The language came to light the other day after AT&T sent notices to thousands of customers revising their service contracts as part of the company's merger last year with BellSouth.

It follows an incident last month in which Verizon Wireless blocked an abortion-rights group from sending text messages over the company's network, deeming the messages too controversial. The company subsequently backtracked from the decision.

Before that, AT&T was caught in August censoring political comments made by Pearl Jam's Eddie Vedder during a concert webcast. The company later said it had made a mistake.

AT&T and Verizon say they've never enforced the can't-criticize-us contract terms, which have been in place for years.

But the provisions highlight yet again the danger to free expression when a relative handful of private companies serve as gatekeepers to information networks. Whether it's a rock star ranting against President Bush or a disgruntled customer griping about shoddy service, how free is free speech in the digital era?

"Not being able to speak your mind about something is contrary to public policy," said Frank Tuerkheimer, a law professor at the University of Wisconsin who focuses on Internet-related issues.

But it's apparently not illegal. The 1st Amendment, Tuerkheimer pointed out,

doesn't apply to private entities.

You have to wade deep into [AT&T's 14,000-word service contract](#) to find the one-line disclaimer in which the company reserves the right to slam the door on any Internet customer who might bruise the company's feelings.

Along with specifying behavior that is "defamatory, fraudulent, obscene or deceptive," the contract says service may be suspended or terminated for any behavior that "tends to damage the name or reputation of AT&T, Yahoo [AT&T's online partner] or their respective parents, affiliates and subsidiaries."

In Verizon's case, you have to make it all the way through the company's 10,000-word contract to an attached document laying out the "acceptable use policy."

This is where customers are informed that, among other things, they aren't allowed to post material online that's "obscene, indecent, pornographic, sadistic, cruel or racist in content, or of a sexually explicit or graphic nature; or which espouses, promotes or incites bigotry, hatred or racism."

It's also where the company says customers are similarly crossing the line if they "damage the name or reputation of Verizon, its parent, affiliates and subsidiaries, or any third parties."

Jon Davies, a Verizon spokesman, said the language was there "to stop people from setting up websites that look like Verizon's" or engaging in other ploys frequently used by scammers to con people into revealing personal info, including Social Security and credit card numbers.

[Verizon's contract](#), however, explicitly states elsewhere that such behavior can result in termination of service. So it would appear that the "name or reputation" clause is asserting a broader prerogative on Verizon's part.

Davies said he understood that some people might view the language as Verizon claiming a right to censor customers' opinions, particularly when such opinions might trample on Verizon's good name.

"But whether or not it's interpreted that way is irrelevant," he said, "because we've never used it that way. Actions speak louder than words."

That wasn't a very persuasive argument for Kurt Opsahl, senior attorney at the Electronic Frontier Foundation, a San Francisco advocacy group focusing on digital-rights issues. "If they're not going to use it, then why have it?"

John Britton, an AT&T spokesman, stressed that the company had no plans to censor customers. "We respect our customers' right to express themselves

as they see fit," he said.

So why have the language in customers' contracts?

"The policy is what it is," Britton replied. "This is common brand language designed to protect the brand."

Actually, not all broadband providers claim such a right. For example, a spokeswoman for Time Warner Cable said the company had no policy addressing termination of customers' accounts just because they might say mean things.

Late Tuesday, Britton called back to say AT&T's contract language would be revised in the future to reflect a more free-speech-friendly mind-set.

"We are going to clarify the policy to make clear that nobody is faced with losing service because they express an opinion about the company," he said.

To be safe, though, AT&T's and Verizon's contracts also contain language specifying that customers can't hold them accountable for service disruptions resulting from circumstances beyond their control.

In Verizon's case, the company says this includes "acts of God, acts of third parties, fires, floods, strikes or other labor-related disputes."

AT&T has a much gloomier outlook. It says customers are on their own in the event of "acts of God, fire, explosion, vandalism, nuclear disaster, sun spots, solar flares, terrorism . . . insurrections, riots, wars."

"We're just trying to be as clear as possible," Britton said.

So don't go crying to AT&T when your Internet access goes out amid an insurrection or nuclear disaster. But try not to say anything unkind either.

Consumer Confidential runs Wednesdays and Sundays and frequently in between. Send your tips or feedback to [david.lazarus@latimes.com](mailto:david.lazarus@latimes.com).