As the dust settles on recent terrorist attacks in Europe, most notably Manchester and London, new scrutiny has been given to the effective use of social media by terrorist organizations. There is a call for Facebook, Twitter and some lesser-known social media providers to do more in policing their networks. This past week after the terror attack in London British Prime Minister Teresa May called for such scrutiny.

To see why these calls for scrutiny of users by social media companies may be a good or bad idea we need to look to the recent past. The roots of this issue are in case law involving some of the earliest Internet service providers (ISP's), CompuServe and Prodigy. In ***Cubby vs. CompuService, Inc.*** (1991) what is called *'the conduit rule*' was created. Cubby sued CompuServe for defamatory content posted by a user. The court ruled that **CompuServe** (and all Internet USP's) is a distributor, not a publisher, they could never read all user content, and cannot be held liable for content of its users. Just like your phone company would not be responsible for defamatory content transmitted to an answering machine.

A very different outcome came from a second landmark case; ***Oakmont Inc. vs. Prodigy Services Co.,*** **Prodigy** (1996), in this case **Prodigy** was found liable for defamatory content posted by a user because they exercised the *'burden of editorial judgment'*. Those of us old enough to remember **Prodigy** can recall that their sales pitch was that they were a family oriented Internet and that they filtered distasteful content.

With these cases in mind, and the magnitude of user content on today's Internet it is easy to see why this issue is not a simple one. Current law gives *'conduit rule'* immunity to ISP's, however, it states that if they use *'editorial judgment'* that the immunity is lost. To get around some this, some social media companies, most notably Facebook, put user conduct restrictions in their terms of use. This is currently their only true weapon to police their users and hopefully protect the public.

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