

# 網路情色工業 ——敗德或自由？\*

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網際網路色情無遠弗屆，論者謂此現象嚴重敗壞善良風俗，故須加以限制或取締。然而此論點背後之理由，卻少有深入之討論。此論點係與網路倫理學 (Internet ethics) 之檢查問題 (censorship) 有關；而網際網路之檢查問題，則與言論自由 (freedom of speech) 或表達自由 (freedom of expression) 息息相關。對此，我們可問：網際網路之檢查行為可有充分之理由，也因此，我們可有充分理由對網際網路色情加以限制或取締？對網際網路之檢查行為，已有許多學者嘗試提出許多判準，以為檢查行為提供充分理由。本文將針對學者所提出之此等判準一一進行檢驗，並指出其中之缺失。最後，本文將主張：學者為檢查行為所提出之判準，皆無法令人滿意，也因此，網際網路情色工業究係敗德抑或自由，並無法清楚論斷。

關鍵詞：傷害原則、冒犯原則、穆勒、凡博格、網路色情

# Internet Pornography: Who Is Offended? And Why?

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## ABSTRACT

The ethical questions to be discussed here concern the combination of sex and computers, which seems to make us a little crazy. Concerns about pornography on the Internet can roughly be grouped into philosophical discussions of Internet ethics, where the vexed question of curtailing freedom of speech and expression on the Internet is one of the central topics. The concept that underlies much of the discussion of freedom of speech is censorship. In these discussions, one can distinguish several lines of thought. The familiar strategy, mainly adopted by Joel Feinberg and John Weckert, is to regard the concept of offence as central to the problem of censorship, and then to give a basis for attempting to discover what, if anything, is wrong with giving offence. Both Feinberg and Weckert believe that they have shown what is involved in giving offence. In this paper I will examine the criteria that Feinberg and Weckert propose and defend respectively for the acceptable and unacceptable giving of offence. I will argue that both criteria fail. The main reason is that both Feinberg's and Weckert's arguments cannot get rid of the haunting tones of *the subjective condition of taking offence* and *the relativity of taking offence*. Therefore, the answer to the question "how much of offence can be made sense of in terms of Feinberg's and Weckert's criteria" is not "very little" but "none whatsoever."

Key Words: internet pornography, the harm principle, the offence principle, J. S. Mill, Joel Feinberg