

The medium is the message — if it can get through

BY HENRY C. DINGER

Near the end of his saga about Alice's Restaurant, Arlo Guthrie muses about political arithmetic. He said that if one person went into to the draft induction center on Whitehall Street singing, "You can get anything you want at Alice's Restaurant," they would dismiss him as crazy. Two singers "in harmony" would be considered gay. Three would be an "organization." And 50 would be a "movement."



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What about 20,000? At the induction center, it would undoubtedly be a riot, if not an insurrection.

But what about 20,000 e-mails hitting a government e-mail server all at once? If those messages are political, the senders might well consider them powerful evidence of a "movement." California, however, seems to think that 20,000 e-mail messages, at least if they are all routed through a particular movement organizer, are just "spam."

That is the claim of the Campaign for California Families (CCF), a conservative organization that devised a way for its followers to "send a message" opposing new taxes to California political leaders. Visit CCF's Web site, www.save-california.net/taxes/, and you can fill in a form and CCF will send your message along to the governor and 118 California legislators. Pretty good leverage; one message replicated 119 times.

According to news reports, after CCF sent thousands of such messages to the servers of the state of California during a three-day period in January, the California legislative data center complained to CCF's Internet service provider about CCF's "spamming" the state.

The provider canceled service for a brief period. CCF has sued California and myriad state officials, seeking to enjoin such interference with First Amendment rights to petition the government. CCF claims that e-mail from other groups with different political agendas has not been blocked.

The state argues that it was not engaged in censorship. The problem was that some of the addresses that CCF used were obsolete (probably legislators who had not been re-elected) and that they were getting thousands of bad e-mail an hour. CCF's ISP complained that its other customers had experienced a slowdown of service as a result of CCF's dispatches in January.

This may be a classic "hard case," where valid legal principles point in opposite directions in a particular situation. Clearly, people have a right to expect that government computer systems will forward their e-mail messages to the government officials to whom they are addressed.

Equally clear, the government has the right to protect its computer networks against electronic assault. Computer security experts identify "e-mail bombing" as a form of denial-of-service (DoS) attack.

If California's tolerance for high volumes of e-mail depends on who's sending it and what they have to say, then California ought to lose. An anti-tax message and a pro-tax message of equal length should have an equal chance of getting through.

Moreover, it is reasonable to expect a state government to be able to digest quite a lot of e-mail. It is reasonable to anticipate particularly high volumes as controversial measures come up for votes. A state with a computer system that chokes on such volumes is not being responsive to the people.

By the same token, while the volume of messages is sometimes an important part of the message, if the volume is so large that it threatens to overwhelm a well-equipped system, then it begins to look like a DoS attack. Whether it is intended to bring the system to a halt, the government ought to be free to act as if it is.

The First Amendment should not be an obstacle. Speech is free, but speakers are not free to blast amplified speeches in the middle of the night in residential neighborhoods. E-mail bombing prevents other equally protected messages from getting through.

And gumming up the works is occasionally the whole point. I don't suggest that CCF was trying to do so, but Arlo Guthrie was. The Alice's Restaurant Anti-Massacre Movement was, in its own way, a 1960s version of the e-mail bomb, with draftees singing the song at Whitehall instead of "gettin' more injections, inspections, detections, neglects and all kinds of stuff."

Alas, we can't always get everything we want.

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