

Private Lives — Public Media

Sarbanes-Oxley and Other Solutions

By Leo B. Willner, Ph.D. with R. Gregory Kalsow
Partners at CMS Derfler Associates

Attention grabbing via compelling, distracting and at times annoying action is how the advanced media business we love and love to second-guess often works. It is the way of the multimedia-multitasking caffeine driven Starbucks lifestyle we are all struggling to fully get used to. In fact more and more folks are concerned about what all of the high-octane work and play with media of all kind is doing to the workings of the family. That is, more than a few of us now wonder whether a lifestyle devoid of electronic gadget interruptions by the minute is not a better way to live. The other way around, can home life with family and friends survive intact in the present setting of such an excess of multimedia reaching out for everyone's attention all of the time?

In this setting can the children still be expected to grow up to be the kind of people the parents wish them to be? Tardy questions to pose so late in the evolution of converging technologies

"This future shock is here for good now or so it seems, with much more disruption of the home and hearth to come."

Don't Miss the Last Word

CMS NewsLine offers items of interest for everyone.

Kalsow's Back-Channel offering candid comments from the publisher — is on hiatus.

When we return you will enjoy commentary on the state of the industry, new media and technology.

CMS NewsLine accepts no advertising, so expect our point of view to be no-nonsense, and maybe even a little controversial.

in a new age of all senses on much of the time! While the television, the PC and the cell phone have greatly empowered the public; we also have the media and the corporate state constantly penetrating and violating the shell of customs and behavior that underpin private family life. It seems that the old model of social stability based on daily family activity and the harmony it nurtures is straining under the heavy yoke of pervasive weighty advanced media and its technology.

This future shock is here for good now or so it seems, with much more disruption of the home and hearth to

CMS NewsLine

"Validating the Middle Ground"



CMS NewsLine
CMS Derfler Associates
RSM, CA 92688
Tel: +1.949.584.0989
www.cmsnewsline.com
info@cmsnewsline.com

come. But what of the consequences of so broad and rapid a change to the basic institutions of day-to-day life, from the home to the school, to the job and even on to the churches and the government? Under the present circumstances the attention grabbing of media continues to disrupt key aspects of private life, say homework, daily chores and family time that are far more important. A good example is the fact that many children now take some if not most of their meals away in their rooms, where they are busy with their game boxes, PCs, cell phones and TVs. What indeed are the unintended consequences of this change to family life, and what is likely to be its impact on the future? When the likes of Comcast, Disney, Microsoft, Sony and Sprint have first dibs ahead of parents on how children occupy themselves, where goes future society? Or put more simply, what of private lives in the presence of so much public media?

However self-deceived it may prove to be, quite a few Americans still believe they are living truly private lives at home — away from the nation state and its encroaching apparatus. Indeed this point of view, one that acknowledges some separation of the self from society, still matters a good deal to many persons great and small. Perhaps such iconic leaders as John Wayne and John Kennedy were right in their day to imagine that this nation could remain an island of individual

freedom and private initiative in a world of collective mentality and group action. But how does such a point of view fit with the daily incursions of the nation state, the corporations and most of all the public media into the private lives of people today? Is a Microsoft or an HP, when they give away thousands of PCs and cell phones to employees for use in the evening and during weekends, engaging in largesse or preparing for further intrusions into the sanctum sanctorum of the family? When such things as mobile phone conversations are not considered private so that anyone with a cheap listening device can listen in, where has private time gone in the midst of such a pervasive

public arena? Herein we take a look at the rapidly changing balance between what is public and private and examine the terrain. As your point of view may help shed some further light on these issues, send it along.

“What indeed are the unintended consequences of this change to family life, and what is likely to be its impact on the future?”

The physicist Hans Freistadt liked to observe that when things really get difficult and confusing it is helpful to go back to first principles. In American affairs that may mean back to the basic premise of Jeffersonian democracy that the people are sovereign and the institutions are the servants. This perspective is a far cry from the point of view of many influential persons in and out of government, business and big media today. To complicate matters further we have the fact of life that technology, with all its wonders and great success,

is bringing a good deal of insecurity to the public and even the government and the corporate world. For example, just consider the fact that Microsoft has its own firewall breached from time to time and its files stolen or corrupted! In this setting it is not always clear that government and big business can protect themselves, no less always serve the public interest. So how, in the midst of so much unregulated and unbridled public media, can these 'servants' be expected to aid in the process of protecting private life. In fact the forces of the market and the best of intentions of government may inadvertently add to the problem and cause difficulties to family life. For hidden away from immediate view and all the helter skelter of daily life are the unintended consequences of so much rapid change. Thus a return to first principles may be in order to direct the system back to something nearer to the heart's desire.

Consider for example the fact that in the recent financial scandals at WorldCom, Enron and many others the public media and advanced technologies played a pivotal role. The fact is that to protect the public from corporate thieves, terrorists, and other foul play, government has at times had to lean over the fence that shelters the private lives of its citizens. Failure to do so would have had dangerous consequences for the public and society at large as well as to the media business and the corporate state. At

the same time a few outfits whose job it was to act as trusted watchdogs simply flunked the test. For example the conflict-of-interest ridden Arthur Anderson failed the corporations it serves, the investor community and the public at large. With profit on the mind some auditors — who would separately act as corporate consultants — failed to keep the two apart.

This goes to the heart of information technology and how media and technology are to support the public good as well as the vital interests of government and business. At the juncture of these matters are information access,

"...in the recent financial scandals at WorldCom, Enron and many others the public media and advanced technologies played a pivotal role."

information flow, information oversight and the controls that keep the whole process in balance. A week ago ABC's Nightline, under the protection of freedom of the press, aired an interview with the leader of

the Chechnya rebels, a man who admits to leading the killing of hundreds of Russian children at their school, among several other equally mindless crimes. Was this news the public needed to know months after the fact, or instead as charged by the Russian authorities a bit of yellow journalism out for some publicity? Without the advanced media and the Internet this story might have gotten short shrift — instead it circumnavigated the world in a matter of hours. It also upset a lot of children and their parents at dinnertime.

In fact an international furor was set off with many bereaved Russian parents the victims and a terrorist the apparent winner. As to President Putin of Russia, he is madder than a hatter and on a rampage to stop the excesses of Western media! Is giving a worldwide pulpit to a known terrorist necessary for the media? Furthermore, what are parents in the Western world to think of such media sensationalism, at a time when mad bombers threaten their children in the streets of London and New York? Where is the line to be drawn between their private lives and public media?

The irony in all of this is that to control the misdeeds and crimes of a few persons and businesses even more access into the private lives of people as well as corporate records is needed! How else are we to impale the miscreants on their own petards? The detailed record of what is criminally committed must, by law, be organized to allow the government to investigate and where necessary punish. Unfortunately this can have the feel of the Inquisitors of the 15th and 16th century seeking confessions prior to punishing the crime of heresy in the days of Jesuit justice. The very process of data collection for the purpose of monitoring, controlling and punishing wrong doers is something of a Catch 22. Therein, to limit and control the improper use of media, more media is needed for the purpose of oversight, punishment and control.

“The very process of data collection for the purpose of monitoring, controlling and punishing wrong doers is something of a Catch 22.”

Is this big brother in a 1984 déjà vu, or what? The very process of constantly monitoring and controlling tends to empower the State and some in big business to make even further improper incursions into the private lives of people. That is the unfortunate nature of oversight that at times may have the scent of power and money and not public service in a present day *Brave New World*. Yet, like it or not, such monitoring is necessary when an Enron or a Bin Laden can run rampant while empowered by advanced media and technology. Sad but true it is — Yodel might say — concerning the interplay of private lives and public media in a highly convoluted pas des deux little dance.

In London these days there are several hundred thousand video cameras recording the peoples’ every move in public each minute of the day. Behind the cameras is a massive and growing infrastructure of data systems that enable voice recognition, image recognition, tracking and all the rest. This is data gathering and data mining with a good purpose, but also a system that may ultimately undermine some prized aspects of the British way of life. But what of the PC on which you may at this very moment be reading this article? Is it free of spies and illegal watchdogs monitoring your every move and possibly stealing or phishing away your very existence? Are all your PC ports fully secured? Is your

company network fully protected, even as Microsoft's Service Pack 2 has been shown to have vulnerability? Also are you and your company in compliance with the new federal regulations that demand that you monitor and record what is moving in and out of your business computers?

With the passing of the Sarbanes–Oxley Bill in the US Congress the rules governing the official monitoring and control of key financial business records moving out of company networks has been institutionalized. From now on corporations must know what information is leaking out of their systems and maintain a permanent record that under due process can be subpoenaed by the courts. Surprise, surprise, it seems that seventy–five percent of what is improperly moving out of the corporate information bank or stolen away is the result of employee action and not a penetration of its firewalls by outside agents. As a consequence, instead of just guarding the gate from intruders the key to protecting the corporate files is first and foremost to prevent information from escaping the system via employee email and the like. Of course much of this loss is inadvertent and the result of carelessness and poor systems. Overall the Sarbanes–Oxley regiment and similar business and government controls are based on good intentions meant to lead to good results. But

what of the unintended consequences of so much snooping on the employees, even on their private conversations via their every keystroke?

The June 2005 issue of InfoWorld does a commendable job of comparing the major new software systems available to prepare companies for a Sarbanes–Oxley audit of their IT traffic records. Mike Heck's article *Clamp Down on Security Leaks* in this issue compares the features, functions and benefits of five real–time monitoring systems that track computer activity and create a detailed record of what goes out of the system.

“But what of the unintended consequences of so much snooping on the employees, even on their private conversations via their every keystroke?”

This helps to prevent data loss of every kind, with an emphasis on the movement of private financial and other business records via the Internet, the Intranet and the cell phone. According to this analysis Vontu 4.0 at \$100,000+ and Reconnex iGuard 3300 at \$70,000 are best of breed and do a comprehensive job. Using such software a company's control rules can be set up to ensure compliance with corporate policy on the control of corporate information — at whatever level of security is required. These systems are also quite advanced in the way they monitor and collect information — a great leap forward. But what of the fact that they also track everything else an employee is e–doing on the network including writing love notes to a spouse or criticizing the boss?

As the amount of information collected is far beyond what can be processed by any institution or government we might suspect that the innocent among us are safe from unwanted intrusions into our lives. While that may have been true just a few years ago, advancements in computer speed, new technologies and the growing capability of advanced search — as in Microsoft and Google — has changed all of that. In fact, the combination of voice recognition, face recognition and contextual key word search of giant data files now possible suggests that little will be left private, and much of everyone's mundane daily activities will enter the public media and become a part of the public record. Can you just picture the news: Man in the kitchen drinking coffee and reading.

“No need to look for legal recourse here, as massive amounts of everyone's most private information is already abroad in numerous databases at banks...”

As with any information that may be dangerous in the hands of corporate spies and others who would do the individual, the corporation or the public harm, it is the information that has been aggregated to give a clear view and some perspective that places the individual or the company at greatest risk. For example, a social security number by itself without the related name, address and drivers license number is a relatively harmless piece of data. However when all the pieces are brought together into one file it may be enough to steal away someone's identity or soil their reputation.

One might innocently or carelessly assume that keeping such pieces of information apart offers a degree of security, but that is hardly the case. In fact persistent snooping operations can readily assemble data from multiple sources. Thus giving one's SS number to one party, name, address and occupation to another, health records to a third and driver's license number to a fourth creates some risk. With a little probing, assimilating, and combining the information thieves have all they need to do their worst. In fact the very efficient databases of IBM, Microsoft, Oracle and others are quite capable of aggregating and reconstituting information from separate systems to create a single devastating file about an individual or a corporation. No need to look for legal recourse here, as massive amounts of everyone's most private information is already abroad in numerous databases at banks, insurance companies, marketing outfits, media companies and the like across the land, as land mines armed to threaten the public good.

How about the banks, and the way they manage and at times mishandle private information? For example, several weeks ago hundreds of thousands of social security and other depositor records were left unprotected at Bank of America and stolen away. Did many folks notice that the Bank of America had encrypted its own records so they

would be safe while leaving customer data files open and in plain view to anyone who breached their firewall? More generally, has the lay public noticed that the privacy declarations of some corporations contain loopholes that leave private information open to extensive sharing — and customers with little protection or recourse?

Thus the media impact of business on the private lives of ordinary people is great indeed and its practices and those of government highly significant in their affairs. At the same time the private use of media by the public itself is of equal concern. Indeed everything is very close to home in the more private domain of television and the personal use of the Internet for email, browsing and IPTV. Here the ‘intelligent agent’ as a program that can search for information on any network or system is alive and well. A particular virulent combination is when a personal activity or behavior file is created to be acted upon by someone else’s intelligent search system. In this case, any unprotected version of this file can be made to reveal the actions of a TV or Internet user at work or at play. Of course someone must be generating these personalized files to record the actual behavior of private persons using public media!

In the TV news, sports and entertainment sector we have

numerous folks busily collecting information about the actions of private persons watching content. For example, TiVo, Comcast and other service providers use ‘personalization’ systems to monitor every keystroke made on the TV remote control. Is that really okay, with the public and with you? While Comcast, as one of the largest data miners in America, promises not to misuse the personal data it collects can the public really trust them? Given the government’s ability under the Patriot Act to Willy-nilly take whatever it wants out of these Comcast files — should that prospect make the honest citizenry a bit uncomfortable that big brother is watching?

“While Comcast, as one of the largest data miners in America, promises not to misuse the personal data it collects can the public really trust them?”

Here are the roots of some of the problems that underlie private lives and public media — the engrossing gorilla in the living room and office. Indeed many of the systems we buy or get for free

contain data mining Trojan Horses that collect and sell our information to corporate interests and advertising companies. Have you noticed that after you download information on the net that soon thereafter you experience unwanted popups, spies in your woodpile and unsolicited emails? In all these cases the public media and its ‘fellow travelers’ are making themselves comfortable in your home or office PC, or with your set-top box and possibly your cell phone. All the while you may be paying out a lot of money for security software, broadband access, cable and satellite

service and all the rest. Why is such violation being allowed and what can you do about it? In truth unless the media masters and their corporate clients act to stop it, these breaches of privacy are likely to go on. In fact it seems that not even such powerful US senators as Joseph Biden the Democrat of Delaware and John McCain the Republican of Arizona are able to stop these intrusions into the private lives of the citizenry.

In questions is whether the unpredictable market forces that govern the commercial media industry be all that is in place to limit its affairs? That is let it work as it will under the assumption that the outcome will be benign to society at large. Or, must the advanced media be encouraged to behave in such a way as to protect the public and the children from its most outrageous incursions and violations? If the people are indeed sovereign with their interest the near equivalent of the general good, then the media must not inadvertently do them harm. Yet with an excess of profanity, sex and violence so common these days on the TV, the game box and the Internet, this is more than an idle question.

Here we are asked to confront the 21-century dilemma that technology in some arenas of life may threaten to harm mankind! The very idea that the application of reason to the physical world leads to science and science leads to technology and

technology leads to progress and progress is good for business and business is good for the people is neither self-evident nor necessarily always true in all cases. In fact social, cultural, political and environmental factors may dictate that a modified course that limits the growth and excesses of media — enough to allow these other aspects of human life to remain vital — should be taken. Such an approach could herald in a more sensible people-centric way of looking after the future, including the role of the family and the institutions that support it.

Consider for example the fact that the great progress made in the agricultural sciences the past fifty years has also led to another round of unbridled population growth. Put another way is there good in the fact that the population of China is now approaching 1.4 billion souls and that India now weighs in at over 1.0 billion? How do these consequences of better agriculture correspond to further global warming, air pollution, a growing energy shortage and a Far East that is arming itself with nuclear weapons? Similarly, recent advances in modern surgery are so costly as to portend in time to threaten to bankrupt a large part of the American economy. Is it really necessary to have old Uncle Louie undergo open heart surgery at the age of 83, just months before he passes away, and do so for \$185,000 in a way that explodes the cost of health insurance for working

“...not even such powerful US senators as Joseph Biden...and John McCain...are able to stop these intrusions into the private lives of the citizenry.”

age folks? Would it not be more sensible to have his grandson attend Harvard, or his married grandniece in a position to afford to buy a house with the same monies?

In recent years science and technology enabled by big business may in a few key sectors have bumped into the wall of practicality regarding what is sensible and workable for humanity and the human family. Such an assertion may appear a fit bit far fetched or anti progress until one considers a few examples, such as the following:

- An ever-growing use of advanced pesticides and food additives causing cancer rates already in a pandemic state to rise even further.

- The idea of storing plutonium waste, with a 100,000 years deadly half-life, as a reasonable approach to solving the growing energy problem.

- The SST supersonic airplane program including the Concord that had to be cancelled as it made little economic or environmental sense to the population at large.

- Strategic missile defense and ever more sophisticated weapon systems as an approach that is so costly as to threaten to undermine economies and do little to benefit national security.

- Feeding antibiotics to farm animals to overcome the poor state of their health that is caused in the first place by inhuman and unhealthy factory farming practices.

- The vain attempt to advance survival for aged persons beyond the point where life has some quality by means of ever more expensive and exotic surgery.

- An unbridled use of electronic media that limits privacy, violates the sanctity of the home and diminishes the rights of parents to manage their children.

“At this point we have an ungainly conflict that matches big business especially big media with the interests of the public.”

And the list goes on. As a consequence, the time may come when the public will have to insist that the government put their culture, their mores, their needs and their way of life first and foremost. Especially when it comes to how advanced media is managed by the FCC and the Department of Commerce of the US Government. That is to say that the Information, Communication and Entertainment systems of the nation should be made to conform to standards that place the family at home and its needs first. Herein reaching for some I, C and E should not entail risking a breach of one or another of the basic standards of conduct that families choose for themselves.

At this point we have an ungainly conflict that matches big business especially big media with the interests

Send a question or comment by e-mail: info@cmsnewsline.com

of the public. After all, as enshrined by law and an evolving jurisprudence, big business too has its rights — and it also has many of the PACs in Washington to guard and expand its domain. On the surface that seems okay, until you dig a bit and ask how it really works in practice. That is begin to question whether the right to own a thing and profit from it stands on a par with the citizen's right to life, liberty and the pursuit of happiness. Unfortunately, as soon as you do so all is no longer well with the system.

The fact that the US Supreme Court in the 1884 ruled that US corporations will have the

legal rights of persons is at the heart of the problem. Due in large part to this ruling, corporations may go to court to file for equal rights to human persons on all matters, including the media. Consequently,

corporate rights today are very much on a par with the individual rights of citizens. Therein is a good part of the problem between media and the family, and how the family may be monitored, manipulated and even controlled by the media. In these circumstances it is difficult to protect citizens and the family with laws that limit the access of media and technology to the home. The solution is to institutionalize the idea that the citizens and their families have unique rights that go beyond what corporations enjoy when it comes to

“Therein is a good part of the problem between media and the family, and how the family may be monitored, manipulated and even controlled by the media.”

ICE and its usage. Here we have a battle royal in the making, to put the public in command once again — so that the family can be shielded from the media excesses of government and corporations. When this battle is joined the great corporations with their powerful law firms, great lobbies and clients in the Congress will fight like Banshees to preserve their underserved rights vis-à-vis the public.

One area of law that impinges on this question is the management of copyrights to do the job originally intended by the founding fathers, instead of simply protecting corporate rights to make even more profit. In

fact many persons today seem to think that copyright is a property right, it is not. The fact that in somewhat careless language it is known as a form intellectual property only enhances this false impression. The idea of

copyright was instituted in the early days of this republic as a way of ensuring, via a limited right, that authors could earn a fair reward for their writings and artistic creations for a limited time. The objective was to stimulate such creativity for the benefit of the public, as in *Gone with the Wind* and *Call of the Wild*. After a limited time, now expanded by act of Congress, this material was to enter the public domain for all to enjoy and share equally. In recent years the power of the corporations, their PACs and the support of members of

Congress have driven a great wedge into this idea. Today many companies, such as The Disney Company, seem to think that they can buy unlimited control over such things as Mickey Mouse, Donald Duck and the like. The net result is far less free access by the public to brilliant old content in films, books and the like.

There you have it, media and its drumbeat at times placed in advance of the public good creating a bit of a problem for the family. In addition the violation of privacy in matters great and small and media intrusions into the private lives of people causing real concern. All the while media access to I, C and E brings great entertainment and pleasure to society. At the center of this dilemma are the children whose very perception of reality and the values they internalize thereby being formed and at times distorted by the public media. The Sarbanes–Oxley Bill and other remedies to societal problems that employ advanced media, however useful and necessary they may be, do cause social problems of their own. By their very nature these remedies empower the state and big media to look over the fence that guards the private domain of the people. All in all the public media are a wonder and a joy for mankind and also a source of concern for the future of private lives in the presence of public media.

“By their very nature these remedies empower the state and big media to look over the fence that guards the private domain of the people.”

(Leo Willner and Greg Kalsow contributed to this issue. In order to discuss any of these points with the authors, please e-mail them at: leo@cmsnewsline.com and greg@cmsnewsline.com)

[CMS NewsLine frequently publishes the works of contributing writers. The views expressed are strictly those of the contributors. CMS NewsLine makes no endorsement of their opinions.
—Georgia Pech, Editor]

Send a question or comment by e-mail: info@cmsnewsline.com

About CMS NewsLine

CMS NewsLine is published monthly by CMS Derfler Associates, a Media and Technology Services company, which specializes in assisting corporations with:

- Full Life Cycle Marketing Support
- Advertising Targeting and Audience Measurement
- Branding and Positioning
- Business Development and Strategic Alliances
- Communications, Launch and Deployment Plans

At CMS Derfler Associates, senior partners personally manage every engagement.

Contact us today at:

info@cmsnewsline.com or +1.831.325.5008

CMS Derfler Associates

(Formerly Alvairi-Derfler Associates)

Better Marketing Execution

CMS Derfler Associates is a Media and Technology Services company situated to help your company navigate through its most challenging marketing problems. It is also there to assist you sort through and exploit the marketing opportunities your company now faces. CMS Derfler partners, each with twenty or more years of direct field experience, can help prepare broad-based, professional, time-tested alternatives for action by you and your team.

Working hand-in-glove with your in-house corporate team, CMS Derfler partners can:

- Assess New Product Opportunities
- Gauge Competitive Threats to Products and Markets
- Refine Specific Pricing Tactics
- Determine How to Reposition Products and Services
- Provide Comprehensive Analysis of Advertising Relevance
- Optimize Advertising Campaigns and Promotional Programs

Better Marketing Tools

Clients of CMS Derfler Associates enjoy the confidence gained from thorough analysis, meticulous preparation and crisp execution leading to:

- Better Targeting of Products and Messaging
- More Effective Branding
- Sharper Pricing
- Improved Sales Promotions
- Better Communications
- More Effective Advertising
- More Efficient Distribution Systems
- Crisper Command and Control

CMS Derfler partners also participate in business development activities involving new marketing relationships with third parties to help create advantageous alliances, organize licensing and joint development agreements and the like. When needed, its senior staff can help facilitate a client's outside business relationships in new markets at home or abroad.

Please contact CMS Derfler today for an informal chat, to discuss a business situation, or to get advice on a new product or a changing market.

Silicon Valley: +1.831.325.5008

Los Angeles: +1.949.584.0989



CMS NewsLine
CMS Derfler Associates
RSM, CA 92688
Tel: +1.949.584.0989
www.cmsnewsline.com
info@cmsnewsline.com

Subscribe to CMS NewsLine

CMS NewsLine is available only by subscription, and is e-mailed to our subscribers at no additional charge.

To subscribe using your credit card, please visit:

<http://www.cmsnewsline.com/>

Send a question by e-mail: info@cmsnewsline.com

Every month you will enjoy thought-provoking analysis of the significant issues driving the growth of new media, technology and entertainment.

Georgia Pech, Editor
CMS NewsLine