Cockfighting on Web Enters Legal Arena
Broadcaster's Suit Challenges Anti-Cruelty Law

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MIAMI -- One evening last week, two roosters in a ring surrounded by cheering spectators pecked and clawed one another in a fight to the death. With each lunge, feathers flew, then floated to the ground. Finally, one bloodied bird, its eyes plucked out, lurched and faltered.

"Red is blinded," shouted the announcer. "Red goes down. . . Now he's really hurt. . . A tremendous blow by Blue!"

Every state in the nation has a law banning cockfighting. But this match was held in Puerto Rico, where the fights are legal, and transmitted to the States by the Web site ToughSportsLive.com.

The Web site's backers defend it as an exploration of cultural traditions. But the site has also triggered a federal lawsuit in Miami that asks whether Internet feeds of cockfighting can be sold legally in the United States, to people in places where cockfighting has been banned.

The change in the focus of the debate -- from live fights to video depictions of them -- has expanded the argument over cockfighting's cruelty into one that involves the First Amendment and, its defenders say, cockfighting's cultural significance in other countries.

"It's a historical sport; they've been practicing it for thousands of years, and I'm just documenting it," said Jason Atkins, whose Hollywood, Fla., company is behind the Web site.

On one side is his company, Advanced Consulting and Marketing, which argues that cockfighting is a venerable tradition in many countries, including the Philippines and Thailand, and that stifling it is a violation of the First Amendment. The company has sued to overturn a 1999 law that prohibits interstate sales of images depicting cruelty to animals. If it is unable to achieve that, it wants the law interpreted to allow coverage of cockfights.

On the other side of the legal divide are animal rights groups that see the activity as disgusting and cruel.

"It's an indefensible form of staging fights -- watching these animals hack each other to death," said Wayne Pacelle, president of the Humane Society of the United States, which has led the campaign against the contests.

Drawing a comparison to child pornography, Pacelle argued that the cockfighting Web site should be considered illegal.
"Any sensible person can see there is no socially redeeming aspect of cockfighting," he said.

At the heart of the dispute is a law signed by President Bill Clinton that makes it illegal to create, sell or possess a depiction of animal cruelty with the intention of selling the depiction -- across state lines or internationally -- for commercial gain.

The law was aimed at videos that show women harming animals to appeal to sexual fetishists.

In signing the law, Clinton said it was important that the law not be construed so broadly as to "chill protected speech."

Toward that end, the law offers an exception for depictions of animal cruelty that have "serious religious, political, scientific, educational, journalistic, historical or artistic value." But the law does not spell out which depictions qualify.

Atkins's company argues that the exception for serious value applies to cockfighting. The lawsuit quotes St. Augustine of Hippo writing about a cockfight in "De Ordine": "Why do all cocks behave this way? Why do they fight for the sake of supremacy of the hens subject to them? Why did the very beauty of the fight draw us aside from this higher study for a whole, and onto the pleasures of the spectacle?"

The company's Miami lawyer, David Markus, dismisses the child pornography comparison, instead comparing cockfighting to bullfighting, hunting and fishing.

"There is no cockfighting exception to the First Amendment as there is for child pornography or hate speech or violent speech," he said. "You can watch bullfighting, hunting, fishing and any number of activities that some would call cruelty to animals on TV. Some would call those sports."

Atkins said he considers cockfighting "natural" because the birds fight on their own. Not so in dogfighting, which he said he opposes. Dogfighting is in the news now because of pro football player Michael Vick's recent indictment on charges related to his alleged operation of a dogfighting ring in Virginia.

But Pacelle scorned the appeal to history, tradition and nature, describing the allure of cockfighting in more mundane terms.

"There is a dark place in the human soul that is expressed in a small number of people in violence toward animals," Pacelle said. "There's nothing artistic about the presentation. . . . They're selling plain old cockfighting videos."