

Question 2

In an effort to “clean up Columbia County,” the County Board of Supervisors recently passed an ordinance, providing as follows:

“(1) A Review Panel is hereby established to review all sexually graphic material prior to sale by any person or entity in Columbia County.

(2) Subject to subsection (3), no person or entity in Columbia County may sell any sexually graphic material.

(3) A person or entity in Columbia County may sell an item of sexually graphic material if (a) the person or entity first submits the item to the Review Panel and (b) the Review Panel, in the exercise of its sole discretion, determines that the item is not pornographic.

(4) Any person or entity in Columbia County that fails to comply with subsection (2) or (3) is guilty of a misdemeanor, and is punishable by incarceration in jail for one year or by imposition of a \$5,000 fine, or by both.”

Videorama, Inc., a local video store, has brought an action claiming that the ordinance violates the First Amendment to the United States Constitution.

What arguments may Videorama, Inc. reasonably make in support of its claim, and is it likely to succeed? Discuss.