CURRENT STATE OF INTERNET FILTERING: WHAT CAN AND SHOULD WE DO NOW

http://nd.edu/~jarcher/Filtering2.pdf
HOW FILTERS WORK - 1

• OPTION A. PEOPLE review sites

• Individuals block sites with sexually explicit images or other criteria
  • Often poorly trained – non library professional
  • Often with no commitment to Intellectual Freedom

• Individuals approve sites without sexually explicit images or other criteria
  • Is cost prohibitive
  • Is sometimes combined with blocking software (see option B).
HOW FILTERS WORK - 2

• OPTION B. COMPUTERS review sites using search software (automated)
  • Often set up by people who are highly trained technically.
  • Often set up by people who have no professional commitment to Intellectual Freedom
  • Most block digital text (full text, keywords, metadata, etc.)
  • Some block ISPs providing blocked sites (“guilt by association?”)
  • A few attempt to block digital images (percentage & location of certain colors in an image)
MANY -- if not most-- VENDORS

- Are for profit companies,
  - private
  - not public (government) entities.
- Are primarily concerned with
  - making a profit
  - not protecting constitutional principles.
- Often have their own mission in addition to profit making
  - E.g., political, social, religious, etc.
- Often maintain secret standards for individual choices and for search algorithms
A LITTLE LEGAL HISTORY – THE 90’S

• CDA – Communications Decency Act -- unconstitutional
• COPA – Children’s Online Protection Act -- unconstitutional
• CIPA – Children’s Internet Protection Act
  • Each more focused and with narrower mandate
  • ALA & Others Filed **Facial** Challenge to CIPA (facial = “on the face of it”)
  • SCOTUS – found it to be constitutional in a 5 to 4 split opinion
    • Swing vote, Justice Kennedy
      • Ease of *unblocking* constitutionally protected speech for adults
CIPA REQUIREMENTS -1

• **Install** an Internet protection device (software aka filters)
  • That blocks specific kinds of sexually explicit **images**:
    • Obscenity
    • Child pornography
    • Images defined by law as harmful to minors IMAGES
  • That can be unblocked for adults seeking constitutionally protected content and
• **Have** an acceptable use policy
• **In order to receive federal Internet funding**
CIPA REQUIREMENTS - 2

- That’s all

- no mention of alcohol, drugs, smoking, marijuana, violence, hate speech, sexual language, political opinions, sexual orientation (including GLBT) or anything else that some member of our communities might find offensive or objectionable (the slippery slope).

- Specific categories of sexually explicit Images only.

- Many ignored CIPA & go without the $$$.
ALA’S REACTION

- **Commitment** (Resolution) to seek repeal or modification
  - Because filters don’t and can’t do what they claim
  - Unblocking constitutionally protected speech can place a burden on user
- Filters both
  - **Over block** and **Under block**
- Collection “building” (“weeding”) is turned over to non library people.
- We **abrogate our professional responsibilities** by delegating to the unqualified and the biased.
- **ALA recommended and continues to recommend** -- forego the money, don’t filter
- But some have felt that they had no choice – what about them?
A few “as applied” court cases

- U.S. District
  - Missouri – Salem Public Library, southern Missouri, 2014

- No U.S. Circuit Court or SCOTUS rulings.
  - Therefore no regional or national precedents exist.

- Libraries that filter
  - Remain open to court challenges if they do not make constitutional protected content available to adults.
  - Remain subject to $ penalties (unspecified) if they underblock.
PAST DECADE - 2

- Wide spread use of filtering

- Wide spread rejection of federal funds

- Lack of up to date research

- Claim of further development of filters

- Time to review filtering and public libraries
WHITE PAPER by KRISTEN BATCH


Findings

- Filters still over block – the slippery slope to blocking anything objectionable or offensive
- Filters still under block – they provide a misleading sense of security
- Filters still can’t identify and block “sexually explicit images” – they fail at their purpose - No better than flipping a coin
- Filters undercut Libraries’ message, mission and values in eyes of the public
- Filters waste money – they are not free and they fail at their mission.
WHAT TO DO – 1

• Become familiar with what CIPA requires
  • Internet use policy
  • Internet filtering device that claims to block sexually explicit images
  • If and only if you want federal Internet funds
• FCC enforces (civil nor criminal)
  • does not specify level of accuracy or completeness of blocking
  • has never set up standards.
  • never sought to enforce.
• The worst penalty for failure is to pay back federal money already received.
WHAT TO DO - 2

• ALA recommendations
  • for those who have chosen NOT to filter - Don’t start now
  • for those who have chosen to filter – Just say no – **OR**
  • If you feel you must (e.g., financial or community pressure or both)
    • Use least restrictive, most flexible filtering software available.
    • Set filtering levels at their least restrictive – only sexually explicit images
    • Insist the vendor provide easy unblocking of constitutionally protected speech
    • Avoid temptation to filter the merely “objectionable.”
WHAT’S NEXT

• ALA OIF / IFC may try to come up with list of least objectionable filters
  • Will not use “recommended” – simply can’t.
• Develop a policy statement for ALA Council
  • A Filtering Interpretation of the Library Bill of Rights?
• Q & A
  • With practical advice
• Suggestions?
RESOURCES

• Batch, Kristen R., “Filtering Out Knowledge: Impacts of the Children’s Internet Protection Act 10 Years Later,” ALA OITP & OIF, Policy Brief No. 5, June 2014

  - [http://go.galegroup.com/ps/i.do?id=GALE%7CA323144875&v=2.1&u=nd_ref&it=r&p=EAIM&sw=w&sid=51954083079284091e3d402059866833](http://go.galegroup.com/ps/i.do?id=GALE%7CA323144875&v=2.1&u=nd_ref&it=r&p=EAIM&sw=w&sid=51954083079284091e3d402059866833)

• Pre-CIPA ALA Resolution on Filtering
  - [http://www.ala.org/offices/oif/statementspols/ifresolutions/resolutionuse](http://www.ala.org/offices/oif/statementspols/ifresolutions/resolutionuse)

• Pre-CIPA ALA Resolution on Federally Mandated Filtering
  - [http://www.ala.org/offices/oif/statementspols/ifresolutions/resolutionopposition](http://www.ala.org/offices/oif/statementspols/ifresolutions/resolutionopposition)

• The Children's Internet Protection Act (CIPA) – ALA OIF
  - [http://www.ala.org/advocacy/advleg/federallegislation/cipa](http://www.ala.org/advocacy/advleg/federallegislation/cipa)
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