Filtering in Public Libraries

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Abstract

Public libraries use filters to comply with the Children’s Internet Protection Act (CIPA). However, the use of sites and keywords as filtering criteria results in over-blocking of access to constitutionally protected information. Filters create a situation of unequal access to information for library users, as some library systems must comply with CIPA in order to receive much-needed Federal funding. Filtering companies often have ideological and arbitrary criteria for applying filters. Relying on such companies to control access to information effectively removes the selection process from libraries and also effectively imposes a labeling system, which is antithetical to the Library Bill of Rights.
Introduction

Public libraries often employ Internet filters to ostensibly protect children from objectionable materials online. In addition, filters are legally mandated under the Children’s Internet Protection Act (CIPA) that requires schools and libraries that receive Federal funding to install such filters. However, filters are imperfect in that they often block users from accessing legal, constitutionally protected speech, and that users are not always able to request that the filters be disabled in a timely manner, or sometimes at all.

How Filters Work

Zittrain (2002) describes filters as a network-based technology that removes the responsibility for tracking and monitoring Internet content from individual users. Filters are provided by services to which users subscribe. Net Nanny (2009) and True Vine Online (2009) are examples of filtering companies that provide services for individual users who want to protect their children from pornography, with True Vine Online being geared towards Christian users.

The two basic types of filters in use today are site-based and keyword-based. Site-based filters add specific websites to a “blacklist” of sites that is maintained by the filtering company. According to Peacefire (2009), a user often has to rely on trial-and-error to discover whether or not specific sites are blocked. Peacefire also discusses situations in which sites are blocked deliberately, often due to political or ideological reasons, or out of retaliation for bad publicity. Examples of this include a case in which a filtering site called CYBERsitter blocked the website for Time Magazine due to a critical piece about it that Time had published. Peacefire also cites the anti-blocking software
BESS which has blocked anti-hate speech sites, yet allowed conservative organizations’ sites to be accessed freely.

Keyword-based filters look for specific keywords. An example, again cited by Peacefire is that of the website for a youth soccer league that was blocked as it contained phrases such as "Boys under 12", which refers to the age of players on the teams. One of the main problems with keyword blocking is that it used by filtering companies to identify sites that are placed on blacklists. Once a site has been blacklisted, it will still be blocked even if keyword filtering is disabled.

Over-blocking

This results in one of the major problems posed by filtering, which is that of over-blocking. In its report on filtering by the Cooperating Libraries Automated Network (CLAN – known since 2007 as Ocean State Libraries), a consortium of public libraries in Rhode Island, the Rhode Island Affiliate of the American Civil Liberties Union (2005, hereafter referred to as “Rhode Island ACLU”) discusses the filtering of websites by Websense, which was the filtering company used by CLAN at the time the report was written. Websense provides users with the option to choose which sites it wants filtered by subscribing to certain categories. According to the report, among the categories subscribed to by CLAN were “gambling”, “sex” and “tasteless”. However, some of the sites blocked based on these categories were rather hard to explain. An autism site was blocked as “gambling”, the Jewish Federation of Northeastern Pennsylvania was blocked as “sex” and a religious ministry was blocked as “tasteless”.
Filters and the Children’s Internet Protection Act

One of the main incentives for libraries to apply Internet filters is that of Federal funding. In 2000, congress passed, and President Clinton signed the Children’s Internet Protection Act (CIPA), which requires that any school or library receiving Federal funding installs Internet filters. There are many library systems throughout the United States that depend on Federal funding to be able to meet their operational needs and provide services to the local population. CLAN/Ocean State Libraries is one such system and the Carnegie Library of Pittsburgh (Penn.) are two such systems. The Carnegie Library (2005a) explains that it is bound by CIPA to install filters, as it is part of a consortium of libraries in Alleghany County in Pennsylvania that receives Federal funding (eiNetwork, 2009).

Filtering and the Challenge to Intellectual Freedom

The use of filters to in public libraries pose a challenge to intellectual freedom in that filtering often denies library users complete access to information that is constitutionally protected. In addition, users often do not have recourse to request that filters be disabled in a timely manner. Oder (2005) notes that users often do not request that filters be removed due to embarrassment, particularly when the sites in question have been blocked due to “sex” or “adult content”, even if the material contained therein is not obscene or pornographic. Librarians often refuse to disable filters as they state that they are following the policy of the library, even if the information they are refusing to unblock is constitutionally protected.

As seen above, smaller library systems with fewer financial resources are forced to accept CIPA as the price to be paid for being able to provide library services.
However, the users of such systems, which tend to be in poorer or rural communities therefore have greater restrictions placed on their ability to freely access information than do users of more well off communities that do not accept Federal funding, and which are therefore not required to provide filtering under CIPA.

An example of this is seen in the case of Sarah Bradburn, Pearl Cherrington, Charles Heinlen and The Second Amendment Foundation, v. North Central Regional Library District (2009), the outcome of which is still pending in the United States District Court for the Eastern District of Washington. The plaintiffs brought suit against the North Central Regional Library District (hereafter referred to as NCRL) for refusing to unblock filters when requested to do so by adult users seeking to access constitutionally protected information. Again, the librarians of whom the requests were made refused to unblock the filters as they were following library policy on Internet usage that states

“NCRL believes the definitions [blocked categories defined by the filter software vendor] place reasonable and appropriate parameters on the category described.” (North Central Regional Library, 2008)

A study cited by the plaintiffs’ brief (Pew Internet & American Life Project, 2006) notes that only 24% of people who live in rural areas have Internet access at home, meaning that they are dependent on public libraries for Internet access. By refusing to unblock filters, the populations of such areas have their intellectual freedom rights involuntarily curtailed. An argument can be made that they are not provided equal protection under the law in that they are denied access to constitutionally protected information that is available to users of libraries who are not subject to CIPA rules.
Filtering and Labeling Systems

Another problem with Internet filtering in public libraries is that it creates a situation in which a public institution relies on a private company to block access to information. As filters often over-block, this means that libraries as public institutions become complicit in denying users access to constitutionally protected information. As seen above, filtering companies also categorize materials to be blocked based on either ideological biases, or based on arbitrary definitions as to what is or is not objectionable, such as “nudism” being labeled as “adult material” (Oder, 2005), or the above-mentioned case of the religious ministry being labeled as “tasteless”.

Relying on private companies to filter Internet access means that libraries are in effect outsourcing selection policy, by relying on private companies to determine what library materials users will – and will not – be allowed to access. In addition by subscribing to categories of blocked materials, libraries are inadvertently relying on labeling systems, which goes against the American Library Association’s interpretation on Labels and Rating Systems (Office for Intellectual Freedom, 2006), particularly as the categories involved (such as “sex”, “adult materials” and “tasteless”) are quite prejudicial.

Library Responses to CIPA

Some libraries that are bound by CIPA to install filters often do their best to inform users of their rights under CIPA, and what action they can take when confronted with filters. The Carnegie Library of Pittsburgh (2005a and 2005b) maintains a separate page on its website devoted to frequently asked questions about CIPA, including what it is, the legal background behind it, such as challenges to by library organizations and the
The subsequent ruling by the United States Supreme Court in 2003 that CIPA is not unconstitutional. The pages also inform users that filters do not always work, and what they can do when they feel a site has been improperly blocked. More importantly, states that it is the responsibility of parents to monitor their children’s Internet use, just as they would monitor the use of other materials available in the library. The library also provides users with a resource to provide feedback about CIPA (Carnegie Library of Pittsburgh, 2009).

Summary

Though libraries use Internet filters, primarily to comply with CIPA, filters are imperfect in their ability to allow access to constitutionally protected material, which is often over-blocked due to the technological processes of filtering which in many cases block web sites based on keywords, regardless of the context in which these words are found. Filtering also has the effect of removing the process of materials selection from libraries and placing it in the hands of private companies that often categorize materials based on their own prejudices.

Conclusion

Filtering in public libraries is antithetical to intellectual freedom in that it has the effect of restricting access to constitutionally protected materials by adults at the same time that it supplies an imperfect technological solution to a problem that is the responsibility of parents, namely that of monitoring their children’s Internet use. Libraries who must use filters to comply with CIPA end up placing restrictions on access to information that users of libraries that do not filter are not subject to, resulting in unequal access to information.
References


