

WHAT DOES THE LAW SAY ABOUT INTERNET FILTERING?

By Wendy Bay Lewis and Charles F. Williams

Today's youngsters are growing up with the Internet much as today's adults grew up with television. However, the Internet is very different from other television. First of all, it is much more like books and newspapers than TV because it provides access to limitless information and allows users to search for specific knowledge. Second, unlike television, which broadcasts information to its viewers, the Internet makes it possible for individuals to create and exchange information with everyone else online. Third, thousands of new web sites are added to the Internet every day without any restrictions on the content they deliver. Not only do some sites contain obscene content, which is not protected by the First Amendment, but others may intentionally disseminate materials that are harmful to children.

Legislative efforts to control information on the Internet, even if intended to protect children, have failed because they ran afoul of the First Amendment's prohibition against "abridging the freedom of speech." In 1996, Congress passed the Communications Decency Act (CDA) to prohibit anyone from disseminating obscene or indecent materials to young people under 18. However, the Supreme Court struck down the CDA because it would have interfered with adults' rights, essentially by reducing Internet content to materials appropriate for children.

There is no doubt that government has a compelling interest in protecting children from harmful speech and the risks of being lured into situations that could threaten their lives or well-being. However, as a practical matter, it is difficult to control their access on the Internet. The primary vehicle for protecting children is the installation of filtering software on computers in schools and libraries. Filters block prescribed sites based on keywords and phrases. However, they also block access to sites that provide information about topics ranging from safe sex to religious beliefs.

A growing number of children "surf" the Internet for information and entertainment. Can adult filters protect them? Unlike channel surfing on television, where adult programming is restricted to late-night hours, children could surf the Internet 24 hours a day. But is surfing likely to lead them to a place where they should not go? As Justice Stevens noted in the Court's opinion striking down the CDA, "the risk of encountering indecent material by accident [on the Internet] is remote because a series of affirmative steps is required to access specific material." Therefore, opponents of filters argue it is more important to give children the skills they need for safe surfing.

Congress is considering legislation that would make it mandatory for libraries and schools that receive federal aid for their Internet connections to install filters. While it is clear that the courts will strike down filters that interfere with adults' rights, the issue of filters on computers used by children is not yet resolved. Even if filters are used in schools, children need skills for surfing when they are using home computers, and, therefore, everyone agrees it is important to teach them skills for surfing safely, cautioning them about online activities that may be dangerous and involving their parents in monitoring their online activities.

Answer Questions Such as These

1. Does the First Amendment apply to the Internet?
2. What is an Internet filter?
3. Why do people support or oppose Internet filters in schools and libraries?

Use These Links

For debates about Internet filters, visit these two sites:

- Justice Talking
justicetalking.org/season_one_shows/web_censorship.html
- National Constitution Center
constitutioncenter.org/sections/work/procon.asp

Select Activity Ideas

1. **Stage a simulation.** Tell students to suppose they have been assigned a research paper about the likelihood that humans could survive on another planet. The teacher has told them not to use the Internet for research because there are too many offensive and inaccurate science fiction sites. A student's parents tell the school board that the teacher violated the student's First Amendment rights. The school board votes to place Internet filters on all computers. Assign students to all the different parts and hold a school board meeting to discuss the issues raised by the actions of the teacher and the school board.
2. **Write a policy statement.** Instruct students to write a Personal Research Policy Statement and then discuss students' statements in class. Each statement should include a statement of students' rights to pursue knowledge, including unrestricted access to the Internet; their expectations for guidance from their teachers, such as learning how to find and evaluate credible sources; the role of their parents in monitoring the materials they select; how they will make personal choices about selecting electronic and print materials; and if and how they should monitor the selections of their peers.
3. **Conduct a survey.** Ask pairs of students to conduct a survey of people in different age groups to determine (a) their sources of information and entertainment, and (b) their attitudes about censorship. Students should interview people in the four age groups 14-19, 20-39, 40-60, and over 60 by asking them which sources of information and entertainment they most often view or listen to: television, the Internet, newspapers, radio, movies/videos, CDs/cassettes. Also, have students ask people in each age group whether they have experienced censorship in their lifetime and whether they believe the censored materials should have been protected by the First Amendment or would have been protected at a different time in history. Compare and contrast students' results.