

The Voluntary Use of Filtering and Other User Empowerment Tools is the Most Effective Way to Protect Children in the Online Environment



Congress is currently considering two highly problematic proposals aimed at regulating speech on the Internet. Both would be unconstitutional, and neither would be an effective way to protect kids online.

Mandatory labeling. Congress is considering at least three bills that would allow Web site operators to be imprisoned for failing to attach government-mandated "sexually explicit" labels to a broad range of online content. As written, the provisions would sweep in a great deal of constitutionally protected Internet content, including web pages that depict no nudity or sexual acts (including even some PG-rated content) and those that already carry an array of voluntary ratings and content labels. CDT supports voluntary efforts to label content and has long endorsed the voluntary use of parental control tools to protect kids online. A mandatory federal statute, however, would do nothing to protect children and would plainly violate the Constitution as "forced speech."

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Deleting Online Predators Act of 2006. DOPA (H.R. 5319), which passed the House with no hearings, would force the schools and libraries that receive federal "e-rate" funding to block virtually *all* interactivity on their Internet-enabled computers. Chat rooms and social networking sites on the Internet – including many blogs – would be off limits to the young people who rely on schools and libraries for their Internet access. DOPA requires that schools and libraries block forms of free expression that are not only completely legal, but in many cases appropriate and even valuable for minors. In addition to violating the constitutional rights of both speakers and listeners, DOPA would also exacerbate the serious "digital divide" between children whose parents can afford personal computers and children who must use the Internet through their school or library.

A better approach – education: In any consideration by Congress of the issues surrounding protecting kids on the Internet, we believe that the starting point should be the two blue ribbon panels that Congress itself directed to investigate how best to protect children in the online environment. Under the mandate of the Child Online Protection Act, the COPA Commission issued its report in 2000 (at <http://www.copacommission.org>). Congress also instructed the National Academy of Sciences to undertake a study of "computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet." A committee headed by former Attorney General Richard Thornburgh released "Youth, Pornography, and the Internet," in 2002 (at <http://books.nap.edu/books/0309082749/html/index.html>).

The most critical two conclusions of the Thornburgh Committee are (A) in light of the global nature of the Internet, criminal laws and other direct regulations of content inappropriate for minors will be ineffective, and (B) education and parental empowerment with filtering and other tools are far more effective than any criminal law. The COPA Commission reached the same conclusions. Both of those independent, non-political comprehensive evaluations concluded that protecting children online requires a three-part approach: public education, use of technologies, and parental involvement.

The Thornburgh Committee determined that there are hundreds of thousand of sexual web sites located overseas, which means that U.S. criminal statutes will be ineffectual in protecting minors from sexual content on the Internet. Simply put, even if it were possible (and constitutional) to somehow make all U.S.-based sites completely inaccessible to minors, minors would still have hundreds of thousands of overseas sexual sites available to them. In contrast, a parental decision to use filtering technology has two critical advantages over criminal laws. First, such technology avoids a one-size-fits-all solution, places the locus of decision for how best to protect kids where it should be: with parents able to tailor protection to their particular children. Second, such technology is equally effective in protecting children from domestic *and* overseas content. Overall, filtering tools are a more effective – and less constitutionally restrictive – way to protect kids online.

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