

US group sues over new attempt at Internet censorship

David Walsh
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A coalition of civil liberties groups has challenged a new federal law that would restrict access to the Internet in the supposed interest of combating material 'harmful to minors.' The group of seventeen plaintiffs, headed by the American Civil Liberties Union (ACLU) and the Electronic Freedom Foundation, an organization devoted to civil liberties' issues on the Internet, filed suit in U.S. District Court in Philadelphia Thursday and asked for a preliminary injunction blocking the Justice Department from enforcing the law

The Child Online Protection Act (COPA) was signed into law by President Bill Clinton October 21 as part of the \$500-billion budget deal. The new measure takes the place of the Communications Decency Act (CDA), which the Supreme Court ruled unconstitutional in June 1997. The CDA attempted to criminalize 'indecent' on the Internet as a whole, while the new bill applies only to commercial web sites and uses the phrase 'harmful to minors' instead of a broader obscenity standard. An attorney for the ACLU, Ann Beeson, commented, 'Just like the CDA, this bill will once again criminalize socially valuable adult speech and reduce the Internet to what is considered suitable for a six-year-old.'

The alliance opposing the measure, in addition to the ACLU and the EFF, embraces the Internet Content Coalition, a member group including Time, Inc., Warner Bros., C/NET and the *New York Times*; an international online resource for professionals in obstetrics and gynecology; Salon Magazine; booksellers; gay rights groups and others.

Opponents have noted that the unrestricted posting of a variety of materials, including the Starr Report, would be illegal under the new law. Mark Segal, editor of the Philadelphia Gay News, told the press, 'We once published in newspapers in Philadelphia and on web sites, (former Surgeon General) C. Everett Koop's

complete report on AIDS. If this law was active at that time, those of us who published that could go to jail.' He added, 'It is life-threatening,' noting that information banned from web sites could save lives. A spokesman for booksellers described the 'chilling effect' the measure would have on distributors who sold works with sexual content, including fiction, poetry, art and photography, and works on health and sex education.

The new law, authored by Rep. Michael Oxley, Republican from Ohio, was introduced as negotiations on the budget bill entered their final stages. When the Clinton administration raised objections to the law, following an analysis by the Justice Department that concluded it was probably unconstitutional, right-wingers raised a hue and cry. Oxley declared, 'The White House is fighting our efforts in Congress to protect children from Internet porn.' Clinton gave in, as is his wont, and agreed to the inclusion of the bill October 15. 'They were not in a very strong political position,' said Oxley, 'to be seen out in the open or even behind closed doors as facilitating pornographers.' Senate Majority Leader Trent Lott, Republican from Mississippi, declared pompously, 'Decency on the Internet has been agreed to.'

The Justice Department memo makes some fairly pointed comments about the COPA. It notes considerable ambiguity in the criteria for 'material that is harmful to minors.' The statute defines this as material 'the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest.' The memo asks 'Which 'contemporary community standards' would be dispositive? Those of the judicial district (or some other geographical 'community') in which the expression is 'posted'? Of the

district or local community in which the jury sits? Of some 'community' in cyberspace? Some other 'community'?

The Justice Department lawyers ask, 'Must the material, taken as a whole, 'lack ... serious literary, artistic, political, or scientific value' for all minors, for some minors, or for the 'average' or 'reasonable' 16-year-old minor?' They also note that there are many news groups and chat channels 'on which anyone can access pornography,' as well as a myriad of overseas sites, none of which apparently fall under the provisions of the COPA.

The renewed attempt by the Republican right-wing to impose censorship on the Internet, with the acquiescence of Clinton and the Democrats, is another serious attack on democratic rights. No doubt there is an element of pre-election posturing, but that doesn't detract from the reactionary intent of the legislation.

At issue here is neither pornography nor the protection of children. The obsession with sexual material may reflect disturbingly on the psychology of the right-wing politicians, but the anti-smut crusade is largely a pretext. It is intended to generate public support for attacks on freedom of speech and expression on the Internet. What disturbs Republicans and Democrats alike is the potentially subversive nature of the new medium.

In its opening passages the COPA notes that 'the widespread availability of the Internet presents opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control.' If the bill's authors had replaced the words 'minors' and 'parental' by 'citizens' and 'government,' their real concerns might have been more honestly represented.

It should be noted that the same politicians who agitate for the government to 'get off the back' of business and eliminate any restrictions on profit-making, support measures that build up the repressive powers of the state against dissent or the potential for such dissent. The authors of the COPA describe the proposed censorship of the Internet as 'a compelling governmental interest.'

The passage of the COPA coincides with a variety of other attacks on access to the Internet, both in the US and abroad. On Wednesday a California superior court judge threw out a lawsuit, backed by the right-wing

Pacific Justice Institute, that called for mandatory filters to be installed on library computers having Internet access. Fundamentalist groups have made the installation of such filters a major political issue. Mike Millen, a lawyer for the Pacific Justice Institute, remarked, 'Parents don't understand how dangerous the library has become for children.'

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