Abstract: The problem of minors accessing the internet
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Since 1996, Congress has tried to enact laws to restrict minors’ internet access, ostensibly to prevent harm to minors. Though the first two attempts were declared unconstitutional, the Children’s Internet Protection Act (CIPA) was held to be constitutional en facie by the Supreme Court in 2003. Essentially, the CIPA ties certain federal funds, disbursed to public schools and libraries, to installation and use of a technology prevention measure which blocks internet users from accessing images that are obscene, child pornography, or harmful to minors. Only public school and libraries which use a technology prevention measure are eligible to receive these funds. (CIPA, 2001).

CIPA could still be challenged based on its implementation (because it was only challenged on its face in 2001). However, it has stood as law for over two years without any serious legal challenges, despite the fact that both proponents and critics agree that current technology can only imperfectly fulfill CIPA’s aims. The ALA, ACLU, and other First Amendment watchdogs have rapidly and vociferously challenged previous laws restricting minors’ access. Further, many legal scholars question the constitutionality of CIPA on several different bases. Given these factors, the lack of challenges to CIPA is puzzling. Why has this law been accepted and implemented, with very little protest?

From a policy analysis perspective, problem definition can be utilized as a conceptual framework that can offer one explanation for the lack of challenges to CIPA. The concept of problem definition offers four aspects particularly relevant to examining the issues around CIPA: problem definition is an ambiguous process, it is built upon implicit assumptions, it can constrain solutions, and it can quiet opposition (Dunn, 1994; Stone, 2002). From this point of view, CIPA has not been challenged because it is an effective solution to the problem of dangerously unfettered internet access by minors. Arriving at this conclusion involves an examination of how this problem was identified. By examining how Congress members, the media, and researchers talked about minors, the internet, and potentially harmful images, we can uncover some of their underlying, unspoken assumptions and see that the problem became defined as one of minors having dangerously unfettered internet access. Once this definition became accepted, only actions which restricted access could be considered as possible solutions. When a problem is cast as harming minors and a solution as protecting minors, dissenting is likely to be politically untenable. Thus, problem definition provides a conceptual framework to explain why CIPA has been accepted and implemented.

References

