

# Freedom of speech vs. censorship on the internet



Freedom of Speech Vs. Censorship: Children on the Internet The internet is a very controversial communication device in today's society. If desired, one could find information on nearly any topic they choose. Censorship and free speech is a widely discussed topic when dealing with the current freedom of the internet especially when dealing with young minds.

Should the internet have censored topics which would be illegal to post and/or view freely by children? Should the internet be a free-for-all arena in which anyone could do as they wish without judgment of others opinions and views imposing on their own? So far in class and in the text Gift of Fire by Sara Baase we have seen many issues dealing with Freedom of Speech and the internet. Dealing with issues such as access of children to controversial material like pornography hate speech, and weapons making has increased the debate in society today. I pose to look into this debate and explain my thoughts and opinions on each side of the issue. Freedom of speech has been an integral part of the United States since the ratification of the Bill of Rights in 1791.

The First Amendment states, " Congress shall make no law... abridging the freedom of speech or of the press..." (Mount, 2007). However, this does not protect speech that harms the wellbeing, security, or welfare of people in society (Leonard, 2008). Therefore, should certain regulations be lawful to stop communication that encourages violence, obscenity, defamation, or possibly harmful outcomes still be protected under the First Amendment? This question has been posed in the many different forms of communication throughout the history of the US. With the relatively recent rise and evolution of the internet, freedom of speech is closely being looked at to make out

what is legal and ethical. The internet currently is a grey area when it comes to free speech in America and much of the world. While in the physical world people are usually wary of freely sharing controversial ideas due to social norms and community standards, the technological world of the internet allows people to anonymously share these ideas with little fear of consequences.

Anyone with a connection and a computer can freely set up websites devoted to the topic of their choosing. With the current boom in free social networking sites, personal blogs (short for web logs: personal diaries or journals posted by individual users hosted by a third party website), vlogs (video logs much like blogs), and podcasts individuals are able to communicate and exchange their thoughts and ideas on any topic they wish. The number of blogs alone passed 50 million in 2006 and some are being as widely read as newspapers (Baase, 145). These new mediums are allowing people to reach large audiences easier, faster, and cheaper than ever before. From print to television, the First Amendment is continuously being looked at to distinguish the limitations and freedoms allowed by the government in particular mediums.

This is accomplished through regulations and licenses based on government standards. Licensing boundaries are held to a range of degrees in different mediums. Due to the various types of mediums and the differing problems between them, each medium must be examined as unique (Rotenberg, 2002). While printed word such as books and newspapers have relatively few regulations in the U. S. (with government restraints in decline), other forms such as television and radio have many more regulations on content.

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For example, the Federal Communications Commission (FCC) which regulates communication by radio, television, wire, satellite, and cable in the U. S. , set standards citing that cigarette advertisements are illegal in electronic mediums (Baase, 146). Seeing that these mediums are covered under the FCC we can look closer into the attempts to censor material on the internet. Internet regulation has been attempted many times.

Due to the nature of the internet it is hard to classify it under any of the mediums covered by the FCC. It has broadcasting capabilities, such as audio and video similar to radio and television, but it is mainly text based like books and printed word (which are the most highly protected mediums under the First Amendment) (Baase, 146). As a result of this and the international span of the internet, it is hard for the FCC to be an overseer of the medium. Certain controversial laws have attempted to set in place regulations that censor ethically and socially dubious materials from publication on the web. The topic that has been at the forefront of debate deals with obscene materials. This is a heated topic because the definition of obscenity is very vague and subject to interpretation.

What is considered to be “ obscene” can be viewed very differently depending on ones personal morals, beliefs, and values. For example, a parent who is highly religious and living in the United States may view nudity on cable television as obscene and pornographic for their child to view, while a person with the same religious beliefs living in Europe or another part of the world may just view this as art or entertainment. This is due to the difference in societal views on obscenity. To get to the root of what is

considered obscene, a test for judging obscene material was set in the case of *Miller v. California*.

This modern test for obscenity consists of three parts: “(1) the proscribed material must depict or describe sexual conduct in a patently offensive way, (2) the conduct must be specifically described in the law, and (3) the work must, taken as a whole, lack serious value and must appeal to a prurient interest in sex. (Linder, 2007). ” This illustrates that material considered obscene is set to the judgment of a “ community standard” and there is no clear-cut definition for the term. This “ community standard” presents many problems when attempting to censor subject matter of the internet. There are some topics in which nearly everyone would consider to be obscene like child pornography in consequence of its long history of illegality.

Other topics however are not as obviously defined. In what situation would people nude or involved in relations be deemed obscene? Through the *Miller v. California* ruling we can use the community standard to be the judge of what is obscene and what is not. Adults in society are generally permitted to view just about any material they choose. However, with the ease of access to vast amounts of information provided by the internet, controversy has arisen over the information and materials that can be obtained by children. Some of the main laws passed include that have attempted to censor this material for children (considered 18 years and younger) include: the Communications Decency Act (CDA) of 1996, the Child Online Protection Act (COPA) of 1998, and the Children’s Internet Protection Act (CIPA) of 2000. These laws all dealt with censoring minors from obscene and potentially harmful materials.

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The Communications Decency Act of 1996 was the first controversial law attempted by the Supreme Court to censor free speech on the internet. The CDA attempted to restrict lewd and “patently offensive” material from web pages, chat rooms, and many other public medium of the internet (Harris, 2008). Even though the CDA had the best of intentions it was still found to be unconstitutional because it was very vague and did not use the “least restrictive means of accomplishing its goal” (Baase, 152). In this case the Supreme Court ruled that the internet should be entitled to the “highest protection under the free speech protections of the First Amendment...” (Harris, 2008). The Child Online Protection act was much like the CDA, but more limited.

This act made it illegal for anyone on the internet to communicate information “harmful to minors” as deemed by community standards without restricting access through the use of credit card numbers (Harris, 2008). Meaning sites with adult content were now required to use the credit information as age verification. This act was also soon followed the same road as the CDA and was also found unconstitutional. Restricting access of information “harmful to minors” based on community standards would be restricting all information to the standards of the most conservative community in the U.

S. (Baase, 154). This act did not use the least restrictive means necessary for protection. It actually restricted all adults from viewing information without providing some sort of information and was deemed unenforceable. The Children’s Internet Protection Act was the third act in line to be passed after CDA and COPA. This act required only that schools and libraries that receive  
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federal funding for technology install filtering software to restrict access to material “ harmful to minors” (Baase, 158).

CIPA is the only act of the three that passed to be seen as constitutional and does not infringe upon the First Amendment and is still in use today. These attempts at censorship of obscene material on the internet are good in many ways. There is a large amount of information provided by internet users which many of us would see as indecent for children’s eyes and minds. Government censorship of internet material could greatly improve the safety of the internet.

It is hard for parents to be aware of all the things their children do on the internet. Many children spend countless hours chatting with friends, using social networking sites, and playing games in which it is nearly impossible for parents to monitor. However, internet filters can help parents decrease the amount of harmful information a child is able to obtain. Protecting children could be of great benefit by sheltering young children from the indecencies of the world. Young children searching the internet for educational or entertainment can easily stumble across pornographic sites, sites with excessive violence, drugs, racism, or any number of harmful topics.

An overexposure of this material at young enough ages will lead to a corruption of our youth and may have lasting effects on the psyche of children. While government censorship of the internet for children or parental internet filtering can be seen as a good thing, there are many aspects of this idea that are troubling. For governments it is hard to create

an act or law that will protect children without hindering the freedoms of adults. This is where the least restrictive means issue is brought to light. Under the First Amendment it is illegal for government to interfere with free speech to some extent.

Parents need to be in the forefront of the battle between the harsh realities of the world and their child's naive mind. This is very hard to achieve and no one can fully censor all the information and materials a child obtains, but a big difference can still be made. In addition to being hard to accomplish, censorship can also impede in the growth and maturity of children. At some point young adults need to be exposed to all of these topics considered to be harmful to minors under community standards.

This is a pivotal time in the evolution from child to adult in everyone's life. Learning the dangers, oddities, controversies, and obscenities helps people grown into contributing members of society. If children are kept sheltered for too long they may not learn the realities of the world we live in today. The line between censorship of the internet and Freedom of Speech is very controversial, but it is a line that needs to be closely watched to make sure both sides hold their appropriate ground.

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