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Coping with CIPA: A Censorware Special

Most every reader must know the story here: The Supreme Court of the United States (SCOTUS) upheld CIPA by a fractured 6:3 decision—on June 23, just as ALA and CLA were meeting in Toronto. The decision didn't get as much press attention as it might have, because SCOTUS also overturned Texas' specifically anti-gay sodomy law (and all comparable laws, apparently). Not that the decision was ignored—literally hundreds of newspaper articles and editorials appeared.

You could look at the outcome and say, "SCOTUS said filters work. Install them and get over it." A number of pro-filtering triumphalists seem to be saying that, some going so far as to assert that a national consensus has been reached and libraries that don't use censorware—even in cities where the local sentiment strongly opposes them—are failing to "serve the public." It's almost impossible to argue rationally with the triumphalists, so I won't bother. As for the "Get over it" response, it's wrong on several counts, as has become increasingly clear since the decision came down. (I do *not* include Skip Auld in the triumphalist category. His stance is considerably more nuanced.)

The title of this essay is deliberate. Libraries need to cope with CIPA—and that does not mean slapping Bess or WebSense on every library computer, raking in that big federal subsidy, and moving on. This is an evolving story of some complexity. What's here is a checkpoint written over two weeks in June and July. I include quite a few newspaper editorials and articles because CIPAS is as much 9,000 local stories as it is one national story.

As always, my comments are intermixed with quotations from other material. For those new to *Cites & Insights*, block-indented smaller-type ragged-right paragraphs are quoted material.

For convenience, I use "CIPAS" frequently within this essay. That's shorthand for "CIPA as rewritten by the Supreme Court of the United States on the advice of the Solicitor General." CIPA is the

written law; CIPAS is what libraries need to work with.

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The Decision

If you follow LISNews, you could skip the next few paragraphs: Blake Carver did an excellent job of extracting "the good stuff" from the CIPA decision and Justice Souter's eloquent dissent. Look for "CIPA Quotable Quotes" or June 23, 2003 in the LISNews archives (www.lisnews.com).

A few key quotes from the syllabus in the published SCOTUS opinion:

Because public libraries' use of Internet filtering software does not violate their patrons' First Amendment rights, CIPA does not induce libraries to violate the Constitution... To fulfill their traditional missions of facilitating learning and cultural enrichment, public libraries must have broad discretion to decide what material to provide to their patrons...

The Government has broad discretion to make content-based judgments in deciding what private speech to make available to the public... Internet terminals are not acquired by a library in order to

create a public forum for Web publishers to express themselves. Rather, a library provides such access for the same reasons it offers other library resources: to facilitate research, learning, and recreational pursuits by furnishing materials of requisite and appropriate quality.

The decisions by most libraries to exclude pornography from their print collections are not subjected to heightened scrutiny; it would make little sense to treat libraries' judgments to block pornography any differently.

Concerns over filtering software's tendency to erroneously "overblock" access to constitutionally protected speech that falls outside the categories software users intend to block are dispelled by the ease with which patrons may have the filtering software disabled.

Especially because public libraries have traditionally excluded pornographic material from their other collections, Congress could reasonably impose a parallel limitation on its Internet assistance programs. As the use of filtering software helps to carry out these programs, it is a permissible condition under *Rust*.

Public libraries have no role that pits them against the Government.

Justice Kennedy concluded that if, as the Government represents, a librarian will unblock filtered material or disable the Internet software without significant delay on an adult user's request, there is little to this case. Given...the failure to show that adult library users' access to the material is burdened in any significant degree, the statute is not unconstitutional on its face. If some libraries do not have the capacity to unblock specific Web sites or to disable the filter or if it is shown that an adult user's election to view constitutionally protected Internet material is burdened in some other substantial way, that would be the subject for an as-applied challenge.

[From Justice Breyer's opinion:] The statute contains an important exception that limits the speech-related harm: It allows libraries to permit any adult patron access to an "overblocked" Web site or to disable the software filter entirely upon request,

As in a game of three-card monte, you have to watch the cards carefully...and you probably can't win even if you do:

- Because "most" public libraries don't collect "pornography" (the casual term used to signify "harmful to minors" material as in CIPA)—a conclusion based on the unfortunate testimony of two so-called expert witnesses—therefore *all* libraries can reasonably be *required* to reject online "pornography."

- After you say "most" once, you can just change that to "libraries" as a whole—after all, why worry about the minority?
- *Rust* (*Rust v Sullivan*) was another unfortunate SCOTUS decision, the one that upheld Congress' right to require that family planning services receiving federal funding eliminate any abortion counseling. Thus, bad law is used to support bad law.
- I threw in the "Public libraries have no role..." because it's used to dismiss a parallel to a case in which a Federal content restriction *was* overturned, since it involved funding for lawyers whose role is typically to challenge the Federal government. The declaration that public libraries have no such role is potentially chilling. I know of no good public library collection that does not include materials that challenge practices of the current administration—no matter which "current administration" you choose to name. I would argue that any healthy public library *does* challenge the Federal government within its active collection, almost by definition. Would it be legal for Congress to say that libraries receiving Federal funds must not collect books and other resources that take issue with the current administration?
- Do libraries have First Amendment rights? That's not clear: Justice Stevens leaves it at "assuming again that public libraries have First Amendment rights" without asserting the truth of that assumption. In general, governmental agencies do *not* have First Amendment rights, apparently.

The comments from Kennedy and Breyer, such as the paragraph beginning "Concerns over...", are critical because they distinguish CIPAS from CIPA as written: SCOTUS upheld a law that allows for complete disabling on request.

It's tempting to include many more quotations from the lengthier decision and supporting opinions. "Libraries...have found that patrons of all ages, including minors, regularly search for online pornography." Two thousand supposed incidents in a concerted nationwide survey of the nation's 9,000 public libraries: David Burt's success at building a mountain from so little sand is nothing short of remarkable. The majority decision happily quotes 1930 guidelines for material selection and Donald Davis' more recent claim that universal access would be detrimental to users. A footnote seems to say that it's really America's libraries that are desperate to prevent patrons from viewing "pornography"—Congress is just helping out. Thus, the 7% of librar-

ies with universal filtering morph into most, then all, public libraries.

“The Solicitor General confirmed that a ‘librarian can, in response to a request from a patron, unblock the filtering mechanism altogether’...and further explained that a patron would not ‘have to explain...why he was asking a site to be unblocked or the filtering to be disabled.’”

Where do we get the absolute assertion that “Public libraries do not install Internet terminals to provide a forum for Web publishers to express themselves, but rather to provide patrons with online material of requisite and appropriate quality”? The decision states it at least twice and possibly three times—and what SCOTUS tells you three times is true. How is it that open access or even “filtered” access could ever be justified as “providing patrons with online material of requisite and appropriate quality”? Perhaps some guru of librarianship will reveal this mystery.

Justice Breyer’s concurring opinion includes this important language: “The adult patron need only ask a librarian to unblock the specific Web site or, alternatively, ask the librarian, ‘Please disable the entire filter.’” Not stated but clearly implicit is that librarians are *obliged* to carry out such requests, immediately, and that no reasoning is needed.

Justice Stevens’ Dissent

While agreeing with the plurality that the 7% of public libraries using censorware on all terminals did not act unlawfully, Stevens notes, “Whether it is constitutional for the Congress of the United States to impose that requirement on the other 93%, however, raises a vastly different question.” (The 7% figure is almost certainly overstated: How many of those libraries used censorware on *staff* computers, as CIPA requires?) “Rather than allowing local decisionmakers to tailor their responses to local problems, [CIPA] operates as a blunt nationwide restraint on adult access to ‘an enormous amount of valuable information’ that individual librarians can not possibly review... Most of that information is constitutionally protected speech. In my view, this restraint is unconstitutional.”

Stevens notes the *unchallenged* finding of fact that “Image recognition technology is immature, ineffective, and unlikely to improve substantially in the near future.” No censorware currently on the market attempts to use image recognition technology—even though CIPA relates *only* to images. “It is inevitable that a substantial amount of [sexually explicit material] will never be blocked. Because of this ‘underblocking,’ the statute will provide parents with

a false sense of security without really solving the problem that motivated its enactment. Conversely, the software’s reliance on words to identify undesirable sites necessarily results in the blocking of thousands of pages that ‘contain content that is completely innocuous for both adults and minors, and that no rational person could conclude matches the filtering companies’ category definitions’... In my judgment, a statutory blunderbuss that mandates this vast amount of ‘overblocking’ abridges the freedom of speech protected by the First Amendment.

Stevens concludes that less restrictive alternatives *are* available, notes “scholarly comment” arguing, “Local decisions tailored to local circumstances are more appropriate than a mandate from Congress.” He doesn’t find unblocking to be reassuring, noting “A patron is unlikely to know what is being hidden.”

Stevens notes one interesting danger in CIPA: “The message conveyed by the use of filtering software is not that all speech except that which is prohibited by CIPA is supported by the Government, but rather that all speech that gets through the software is supported by the Government”—including “some visual depictions that are obscene, some that are child pornography, and some that are harmful to minors, while at the same time the software blocks an enormous amount of speech that is not sexually explicit.”

There’s much more in this 12-page dissent.

Justice Souter’s Dissent (with Justice Ginsburg Joining)

Souter and Ginsburg agree with Stevens’ dissent—and go further. Souter is not convinced that “an adult library patron could, consistently with the Act, obtain an unblocked terminal simply for the asking,” noting that the FCC’s implementing order “pointedly declined to set a federal policy on when unblocking by local librarians would be appropriate under the statute.” Souter and Ginsburg find that CIPA “simply cannot be construed...to say that a library must unblock upon adult request, no conditions imposed and no questions asked.”

Long-standing precedents say that courts should not interpret statutes in ways that “render language superfluous.” If CIPA’s language that access may be unblocked for “bona fide research or other lawful purposes” is not superfluous, then “it must impose some limit on eligibility for unblocking.” That restriction is “surely made more onerous by the uncertainty of its terms and the generosity of its

discretion to library staffs in deciding who gets complete Internet access and who does not.”

We therefore have to take the statute on the understanding that adults will be denied access to a substantial amount of nonobscene material harmful to children but lawful for adult examination, and a substantial quantity of text and pictures harmful to no one. As the plurality concedes...this is the inevitable consequence of the indiscriminate behavior of current filtering mechanisms, which screen out material to an extent known only by the manufacturers of the blocking software.

...The statute could simply have provided for unblocking at adult request, with no questions asked. The statute could, in other words, have protected children without blocking access for adults or subjecting adults to anything more than minimal inconvenience, just the way (the record shows) many librarians had been dealing with obscenity and indecency before imposition of the federal conditions... Instead, the Government’s funding conditions engage in overkill to a degree illustrated by their refusal to trust even a library’s staff with an unblocked terminal, one to which the adult public itself has no access.

The question for me, then, is whether a local library could itself constitutionally impose these restrictions on the content otherwise available to an adult patron through an Internet connection, at a library terminal provided for public use. *The answer is no.* [Emphasis added.]

The Court’s plurality does not treat blocking affecting adults as censorship, but chooses to describe a library’s act in filtering content as simply an instance of the kind of selection from available material that every library...must perform... But this position does not hold up.

That statement is followed by an eloquent discussion of why public libraries select and how censorship differs from selection, with a footnote noting that ILL undermines the plurality’s reasoning on selectivity. Souter does not accept the analogy between blocking software (censorware) and selective book acquisition. “The proper analogy therefore is not to passing up a book that might have been bought; it is either to buying a book and then keeping it from adults lacking an acceptable ‘purpose,’ or to buying an encyclopedia and then cutting out pages with anything thought to be unsuitable for all adults.” Souter, it seems, understands libraries, at least a little, and that libraries have evolved since 1930. And he also understands that the plurality doesn’t get it.

The plurality thus argues, in effect, that the traditional responsibility of public libraries has called for

denying adult access to certain books, or bowdlerizing the content of what the libraries let adults see. But, in fact, the plurality’s conception of a public library’s mission has been rejected by the libraries themselves. And no library that chose to block adult access in the way mandated by the Act could claim that the history of public library practice in this country furnished an implicit gloss on First Amendment standards, allowing for blocking out anything unsuitable for adults.

Institutional history of public libraries in American discloses an evolution toward a general rule, now firmly rooted, that any adult entitled to use the library has access to any of its holdings. [A footnote glosses this as *content-based* restrictions; rare and valuable materials may have limited access, but that has nothing to do with suppressing ideas.]

Souter examines the literature and finds that, at least since World War II, there is no “record of a library barring access to materials in its collection on a basis other than a reader’s age. It seems to have been out of the question for a library to refuse a book in its collection to a requesting adult patron, or to presume to evaluate the basis for a particular request.” Examining ALA’s many policy statements, Souter notes, “One subject is missing. There is not a word about barring requesting adults from any material in a library’s collection, or about limiting an adult’s access based on evaluation of his purposes in seeking material.” Given ALA’s role as “the nemesis of anything sounding like censorship of library holdings,” Souter concludes that the lack of such policy statements is strong evidence that public libraries do *not* carry out such limits.

Thus, there is no preacquisition scarcity rationale to save library Internet blocking from treatment as censorship, and no support for it in the historical development of library practice. To these two reasons to treat blocking differently from a decision declining to buy a book, a third must be added. Quite simply, we can smell a rat when a library blocks material already in its control, just as we do when a library removes books from its shelves for reasons having nothing to do with wear and tear, obsolescence, or lack of demand. Content-based blocking and removal tell us something that mere absence from the shelves does not.

“There is no good reason, then, to treat blocking adult enquiry as anything different from the censorship it presumptively is.” So says Souter, who would appear to be a fine choice for an ALA keynote speaker—but Souter’s in the minority. (There’s a *lot* more good reading in this 14-page dissent.)

All things considered, however, the plurality only gets past four members by rewriting CIPA into CIPAS—by asserting that any adult *can* get censorware

removed simply by asking, with no reason, no delay, and no identification other than proof of age. It seems clear that two of the justices in the plurality would reverse their positions if that reading proved to be false or unworkable. That may not be much of a silver lining, but it's considerably better than nothing.

Summaries and Glosses

Various groups involved in the CIPA case released early summaries and glosses, as did others.

American Library Association

ALA's one-page summary noted that the opinion was a very narrow plurality. "Five justices plainly agreed with the lower court that filtering software blocks access to a significant amount of constitutionally protected speech... Justices Breyer and Kennedy joined in the judgment that the law should be upheld on the ground that the disabling provision of the statute can be applied without significant delay to adult library patrons and without the need for the patron to provide a reason for the request to disable... There is *no doubt*...that libraries that refuse to disable filters at the request of an adult patron or that impose substantial burdens on a patron's ability to have the filter disabled risk an individual litigation in which the library will be a defendant." [Emphasis added]

Another ALA press release, issued as an ALA-WON (ALA Washington Office Newsletter) edition, is headed "ALA denounces Supreme Court Ruling on Children's Internet Protection Act." A few excerpts:

We are very disappointed in today's decision. Forcing Internet filters on all library computer users strikes at the heart of user choice in libraries... [The Court's failure to understand age differences in library use] flies in the face of library practice of age-appropriate materials and legal precedent that adults must have access to the full range of health, political and social information...

[ALA] again calls for full disclosure of what sites filtering companies are blocking, who is deciding what is filtered and what criteria are being used. Findings of fact clearly show that filtering companies are not following legal definitions of "harmful to minors" and "obscenity." Their practices must change.

To assist local libraries in their decision process, the ALA will seek this information from filtering companies, then evaluate and share the information with the thousands of libraries now being forced to forego funds or choose faulty filters. [ALA] also will explain how various products work, criteria to consider in selecting products and how best to use a given prod-

uct in a public setting. Library users must be able to see what sites are being blocked and, if needed, be able to request the filter be disabled with the least intrusion into their privacy and the least burden on library service.

Electronic Frontier Foundation

The Electronic Frontier Foundation noted that the decision "damages free speech of library patrons and web publishers," in a statement including this quote from EFF attorney Kevin Bankston: "The Supreme Court today dealt a tremendous blow to the free speech rights of child and adult library patrons and Internet publishers by supporting Congress' mandate that libraries must install faulty Internet blocking software to obtain federal funding or discounts."

Also on June 23, EFF released a study "documenting the effects of Internet blocking, also known as filtering, in U.S. schools." The report concludes that "schools do not and cannot set [censorware] to block only the categories required by the law...the software is incapable of blocking only the visual depictions required by CIPA," that censorware "does not protect children from exposure to a large volume of material that is harmful to minors" and "cannot adapt adequately to local community standards," and that censorware "damages educational opportunities for students." Perhaps most damning, "After testing nearly a million web pages related to state-mandated curriculums, the researchers found that of the web pages blocked, 97-99% of a statistically significant sample were blocked using non-standard, discretionary, and potentially illegal criteria beyond what CIPA requires." A breathtaking finding on the "other half" of CIPA, the school part that ALA wasn't in a position to challenge.

Kevin Bankston seems to have taken a few potshots at librarians in later comments, for reasons known only to him and possibly EFF. He's quoted in an AlterNet piece from July 1, "Sex in the library," saying that the problem is "overzealous librarians" might set up blocking software to censor [catalogs such as Melvyl] without realizing what they'd done. He also asserts in that piece that libraries are *not* required to unblock sites—and, "Moreover, there may be libraries that won't mention to patrons that they can request that the librarians unblock sites." [See "Key Points as I See Them" and "Coping Mechanisms" later in this essay, and particularly the ALA FAQ.]

American Civil Liberties Union

While ACLU's press release says the organization was "disappointed" in the ruling, it also "sees limited

impact for adults.” According to Chris Hansen of ACLU, “Although we are disappointed that the Court upheld a law that is unequivocally a form of censorship, there is a silver lining. The justices essentially rewrote the law to minimize its effect on adult library patrons.” The release stresses this: “The Court today essentially rewrote the rules, saying that librarians can disable the software entirely on request and that patrons do not have to provide a reason as to why they want a site unblocked. The ruling also implies that patrons would not have to identify themselves to request unblocking.” The next paragraph sounds a clear warning for libraries:

What is clear, as Justice Kennedy wrote, was that “on the request of an adult user, a librarian will unblock filtered material or disable the Internet software filter without significant delay.” That distinction leaves the door open to additional challenges if libraries do not adopt an adequate unblocking system, Hansen said, and *the ACLU will explore that possibility*. [Emphasis added]

Free Expression Policy Project

Marjorie Heins posted a three-page commentary on June 24, “Ignoring the irrationality of internet filters, the Supreme Court upholds CIPA.” (www.fepproject.org/commentaries/cipadecision.html). She notes that Lawrence Lessig warned of the problems with filters as early as 1998, specifically that censorware—then touted by some as a “less restrictive means” than criminal bans to shield minors from presumably harmful materials—could wind up restricting *more* speech.

Heins offers clear summaries of the plurality opinions and dissents, then goes on to argue that CIPA should have been struck down under the *loosest* First Amendment scrutiny because “the very operation of filters is irrational.” She also points up an issue largely ignored elsewhere (and in this essay), concluding:

Perhaps the most disheartening aspect of the various opinions in the *ALA* case was the proposition expressed by all the justices, including the dissenters, that if CIPA only applied to minors, there would be no constitutional problem at all. The assumption that minors of all ages are so harmed by access to sexually explicit content as to justify broad censorship laws remains unexamined in judicial decisions, despite some attempts by litigators and friends of the court in previous cases to raise the question. No justice even noted the harm to junior high and high school-age minors when they cannot complete research reports on drugs, AIDS, or many other controversial topics because of filters in their schools

and libraries, or when they cannot get needed information on sexual orientation and sexual health.

CIPA was Congress’ third attempt at an Internet censorship law, and perhaps it was inevitable that at some point, one would be upheld—at least so long as the “harm to minors” rationale remains unexamined.

Want to examine that rationale? You can find a 13-page white paper, “Identifying what is harmful or inappropriate for minors,” also by Marjorie Heins and also on the FEPP website. It dates back to March 5, 2001, and is **recommended** if you want to think about the harm that CIPA seeks to prevent. I won’t add commentary to the eight text pages (the rest is extensive documentation); it’s fair to say that Heins makes a strong case that no such harm has ever been established objectively or scientifically.

Other Early Commentaries

Anick Jesdanun, AP

Jesdanun prepared a reasonably good “questions and answers on Internet filtering” on June 23. For example:

Q. Why are librarians making such a fuss?

A. Although obscenity and child pornography are illegal, other forms of pornography are protected under the First Amendment. In addition, filters often make mistakes and block health- and science-related educational sites. A Web site for House Majority Leader Dick Armey, for example, had nothing that could be construed as pornographic but was blocked at various times. Critics say they have found sites on art, human rights, sexual education and sexual orientation similarly blocked by filters. Seth Finkelstein, a leading filtering expert, terms it “electronic book burning.”

This Q&A doesn’t take SCOTUS’ rewriting of the law at face value and uses “may” rather than “will” to describe librarians’ response to a request to override censorware, also noting the embarrassment problem. Jesdanun notes the problem of secret and proprietary censorware criteria and notes the possibility of later lawsuits based on difficulties with unblocking. The piece ends by reassuring people that patrons shouldn’t start worrying about “libraries monitoring and recording their activity”—quoting EFF’s Bankston that, although censorware generally logs usage and blockage patterns, that can be done anonymously, and “Librarians have shown a willingness in the past to resist government efforts at surveillance and record-keeping.”

Joanna Glassner, *Wired News*

“Filter-Bashing Alive and Well” may try too hard to offer “balanced” opinions (unlike the AP story). While Glasner quotes Rick Weingarten of ALA’s Office for Information Technology Policy, she goes on to quote David Burt contending that censorware has improved substantially. As you might imagine, Burt “believed the occasional erroneous block does not present a grave problem so long as librarians can disable filters when requested.” Does N2H2’s Bess have such a one-touch “unblock” button that works at the terminal level?

The story offers another piece of EFF’s study: A conclusion that “for every Web page correctly blocked as advertised, one or more was inappropriately blocked.” That’s not quite as shocking as the “97 to 99% blocked using non-standard, discretionary, and potentially illegal criteria” finding, which suggests at least a 30-to-1 ratio of inappropriate to appropriate blocking.

Morgan Wilson, explodedlibrary.info

As part of this *Salon*-hosted blog, Wilson posted a one-page essay on June 24. “It almost goes without saying that I think that this decision is wrong... I hope that history judges the Rehnquist Supreme Court as harshly as it judges *Dredd Scott*.” Wilson acknowledges that the issue is difficult.

I don’t want weird people viewing porn and wanking over the keyboards where I work! It horrifies me how the most innocuous search term in a search engine—or mistyped URL—can lead to some very nasty results. This may sound like heresy to some librarians, but I don’t think the status quo was working well. Something needed to be done, but I think CIPA went way too far.

She raises “digital divide” issues, then goes on to “call on all adult library patrons to thwart this paternalistic Supreme Court decision to demand that filters be turned off when they visit their public library.” But then, although she assumes “any librarian worth his or her salt” will be happy to disable the filter “so that you can use the Internet that hasn’t been filtered or dumbed-down or bowdlerized,” she adds: “Don’t expect such a positive reaction if you actually are planning on looking at porn in a public library.”

That last sentence raises issues that can’t be dealt with easily—since “looking at porn” is legal for adults, and CIPAS calls for unblocking for any legal purpose. I must be lucky: It continues to be the case that I’ve never had unexpected “nasty results” when using search engines or typing URLs.

Julie Hilden, FindLaw’s Writ

“A recent Supreme Court decision allowing the government to force public libraries to filter users’ internet access is less significant than it might at first appear” was posted July 1. Oddly, Hilden asserts that the decision “means the filters will stay in place”—but 93% of American libraries did *not* have censorware on all computers, since CIPA enforcement was stayed during the 3-year legal action.

Hilden also says “The filters were installed to prevent patrons...from accessing obscene or pornographic materials online. But patrons—and, indeed, libraries themselves—complained that the filters violated their free speech rights, for several reasons.” Again, this is faulty history: Most libraries did *not* install censorware, and the case against CIPA was *primarily* brought by libraries and library associations.

It gets even stranger: “These federally-funded public libraries were thus denying their patrons access to legal materials simply because they disapproved of their viewing them”—a statement that’s false unless “they” refers not to libraries but to the Government.

Hilden also says that “the government promised” in the course of litigation “that the libraries could, *and would*, remove the filters if users asked them to do so. It also promised that users would not have to explain why they were making the request.” While the Solicitor General may have made these statements, it’s hard to see that this constitutes a “government promise”—but I think CIPAS should be read that way, and ALA seems to agree.

Hilden does proceed to offer a suggestion, similar to Wilson’s, that would be more impressive if Hilden’s grasp of the actual situation in libraries seemed firmer:

I would advise anyone who believes in the First Amendment to march into his or her public library as soon as possible, ask for any such filters to be disabled, and then search the Internet. After all, it’s much less embarrassing if everyone does it as a matter of free speech principle—instead of a few people doing it because their favorite porn site (or sexual health site, for that matter) won’t appear on the screen.

Hilden bases almost her entire “it’s not so bad” case on the assertion that the law has been rewritten—and, unfortunately, she’s probably right that “Libraries that don’t hop to it when patrons ask for unblocking may be in serious trouble—and may quickly find themselves in court.” But now, of course, the onus is on the libraries.

Editorials and Local Stories

There *should* have been editorials and local stories in every town with a library and a newspaper. That probably wasn't the case, given the higher-profile cases of that week, but the decision wasn't ignored. The following *brief* annotations cover a few of the early editorials and local stories, divided into groups by general approach.

Hurrah for the Supreme Court!

I was ready to head this section "Cities I wouldn't want to live in," but that's not fair—except where librarians themselves are quoted as happy over the decision. After all, the editorials may not reflect the community, and who ever said that newspapers should be concerned about other people's First Amendment rights or should check their facts?

- The *Christian Science Monitor* headed its editorial, "The Internet's greatest moral challenge remains its spread of pornography" and applauded the decision. "The entire court rightly acknowledge the severity of online smut, and took an appropriately hard line against Web porn"—although neither "smut" nor "porn" are illegal. "Libraries, though, do have some leeway in implementing the law," a finding that may surprise libraries. Wording is interesting: the court "rightly acknowledge" how awful Web smut is, but ALA "claimed" that filters block legitimate websites. Finally, "For now, the ruling should help protect kids from porn and still ensure the free flow of useful information at public libraries."
- The Cincinnati *Post* reported that local libraries are "happy with 'Net filters." The director of Kenton County Public Library says, "We filter every public terminal now and we're glad the courts are allowing us to continue to do that." Ditto several other library systems—although it's not clear that these systems also use censorware on staff computers, as CIPA requires.
- The *Morning Call* (somewhere in Pennsylvania) called filters "a common-sense approach to Internet" and leads its editorial, "Anyone with computer access to the Internet knows about the smut that is available," one of those wonderfully absurd sweeping statements. "Although [ALA] objects to the law as a form of censorship, the fact is that about half of the libraries in the country use filters"—a possibly true but highly misleading statement. Kathryn Stepanoff, director of Allentown Public Library, defended censorware as "upholding the library's

policy not to collect obscene or pornographic material."

- The Arizona *Republic* agrees that the Internet is not a book—but that makes it *more* appropriate to censor the Internet, apparently: "Books—even, say, *Lady Chatterley's Lover*—do not invite children into the explicit world of Pamela Anderson's sex life." Although the editorial agrees that censorware forbids "access to Web sites that everyone accepts as legitimate," it dismisses that objection:

But the protection of children in libraries is not a matter to be written off as a technical difficulty. The Internet is a vastly more effective research tool today than it was just a few years ago, and the system of filters necessary to restrict prurient locations has improved, too.

The systems will improve in years to come. You don't have to be a technophile to believe the grail of effective porn filtration is within reach.

In the meanwhile, librarians and adults performing research will be inconvenienced. Adults will have to ask librarians to turn off filters, which brings its own set of challenges.

But the alternative is just irresponsible. Children must have access to libraries and all they provide. At the same time, they require sensible protection from a cyberworld that knows no limits.

I'd suggest that you *can't* be a knowledgeable technophile and believe that "the grail of effective porn filtration"—that meets First Amendment requirements—"is within reach." Otherwise, this reads as "We must protect the children no matter what the cost," and that's probably the way it's intended.

- The Austin *American-Statesman* heads its editorial "Web filters welcome, but kids will find holes." They applaud the ruling as a "welcome gesture" but say "it's not much more than a gesture." "Children should be shielded from Internet pornography at public libraries. But the ruling applies only to libraries that receive federal money. Filters, moreover, are easily circumvented." In other words, this newspaper is calling for ways to force *all* libraries to block pornography. The Austin Public Library "can afford to do without federal money." The editorial says that *any* filter won't "keep young people from getting to the Web sites they want," using oddly ignorant examples to make its point. Here's the closing sentence, which I find difficult to parse: "No one should argue that every effort should be made to protect children from Internet pornography, but that effort

should not be left solely to librarians and software.”

- It’s clear enough to the Indianapolis *Star*: “Libraries’ duty: Put clamps on porn sites.” Here’s an interesting assertion: “Public library patrons don’t peruse *Playboy* in the reading room. Now, they won’t call it up on the Internet either, unless a librarian flips a switch.” There are surely *some* public libraries where patrons may peruse *Playboy*. A little later we read that CIPA “requires libraries to block pornographic and sexually explicit Internet sites,” which is simply false: It only requires blocking of images. Indianapolis-Marion County Public Library uses censorware “to block unseemly material”—and the *Star* says that libraries that don’t are “flat-out irresponsible” and that “Libraries unwilling to protect youth from mature material don’t deserve federal funds—or the public’s trust for that matter.” Mature material? And who will protect youth from the *Star*?
- The Pittsburgh *Post-Gazette* finds the ruling “important and useful in protecting children from the wilder regions of the World Wide Web.” Opponents are pictured as worrying that the law was “the thin edge of the wedge of federal censorship” and note “a concern” about legitimate sites. The editorial underplays the problems but is one of the less extreme of the pro-CIPA editorials.
- The Tampa *Tribune* talks about “filtering smut in public libraries,” affirms that “the ruling does not infringe on library patrons’ First Amendment rights” but does suggest that it raises “questions about local autonomy.” “*To their credit*, many local libraries already have taken steps to protect children from pornography.” Judith Krug’s suggestion that some libraries may turn down federal funding receives this response: “That would be a mistake.” But the next sentence is just plain wrong: “Public libraries get \$1 billion a year in federal technology subsidies...” The numbers I’ve seen say \$1 billion *since 1999*, not \$1 billion a year. Here’s the final paragraph, which pretty much disregards any problems with CIPA as it stands and puts ALA in its place (certainly not in Tampa!) [emphasis added]:

While computer filters have been known to block legitimate data, the biggest potential downside of this law would be congressional screening of what local libraries offer and threatening to withhold funding if material was found not to Congress’ liking. Then, *and only then*, would the American Library Association have a legitimate gripe

- The Wichita *Eagle* goes for a short editorial head: “Smut-free.” It calls the decision “a necessary move to protect children from these graphic sites.” Further, “this is not an assault on the First Amendment... This ruling is a sensible extension of [library selection processes] to the vast, unregulated content of Internet sites.” We’re also told, “the technology is getting better,” and “at least provides some baseline protection against the worst of this stuff.” The final paragraph begins “Public libraries aren’t for porn.” And, of course, we all know what porn is—don’t we?

Hold the Applause

Depressing as I find the previous array of editorials, there may have been more editorials on the “other side”—and articles about local libraries that are having none of it. A few examples, in no particular order (except for the last and possibly best):

- The Lancaster *Eagle-Gazette* proclaims, “Our library is standing up for democracy,” and continues that the Fairfield County District Library will lose \$9,000 a year because of it. That’s out of a \$3 million budget. “Its administration and its board feel it’s a small price to pay to stand up for what is right for its patrons. The library has never put filters on its Internet computers, and still has no plans to do so. ‘In a democracy, we do trust our public will be able to decide for themselves which information they should or should not have,’ said Barbara Pickell, director of Fairfield County District Library.” The editorial closes: “The whole issue takes the focus away from who the ultimate porn filter should be—parents. They should be the ones monitoring their child’s use of the Internet, not a computer program.”
- “Court’s restrictions on libraries wrong,” said the Wheeling *News-Register*. “The court’s ruling this week chips away at the First Amendment.” Later: “In effect, the high court has opened the door to allow Congress to restrict access to information that a majority of lawmakers deem to be offensive.” And, of course, “the ban will strike disproportionately at low-income Americans who rely on libraries for Internet access.”
- I was astonished by the *Christian Science Monitor*, but unsurprised by the *New York Times*, although they’re awfully free with ALA’s money. “The Supreme Court dealt a blow to free expression and put librarians in a serious bind... [Librarians] should also consider bringing another challenge to the law.” Will the *Times*

cough up the \$1.8 million? This editorial says “as many as 15 percent of blocked Web sites have no sexual content” and “libraries insist [unblocking] will be difficult, if not impossible” because censorware works at the building or system level. Libraries are advised to “use their clout as consumers” and should “see if filters can be created that can be turned off at the terminal level.”

- Clarksville, Tennessee’s *Leaf-Chronicle* headlines “Filter mandate not necessary” and says the local library “is able to handle porn issue without feds.” Clarksville-Montgomery Public Library receives about \$5,000 a year from Washington—and censorware would cost \$20,000 to \$30,000. “Beyond the cost concerns, when the federal government sticks its nose into one aspect of how a local library is run, what’s to stop it from moving on to another area?” The editorial says that parents should be responsible for minor children. Finally, “If it’s a question of our library forgoing the \$5,000 in federal funding or installing costly Big Brother software to comply with Congress’ requirements, then it may be well worth it to do the former and stay off the slippery slope that leads to more federal dictates over our library.”
- “Don’t censor libraries,” said the Des Moines *Register*, adding that the justices “don’t seem to know much about libraries and filtering software.” Say that again: “justices...betrayed a fundamental misunderstanding of the role of public libraries in America.” The editorial says the plurality opinion reflects a world where “libraries are places where the government is free to choose what materials are suitable for adult patrons. This is not the world most American librarians would recognize.” This editorial gets the difference between buying books and offering Internet access—and not in the bizarre Arizona *Republic* sense. “Fortunately, most libraries—including most in Iowa—do not accept the federal money and are thus not affected by this regrettable ruling.” But Iowa’s attempting to pass a state censorware requirement. “Libraries and defenders of free inquiry should resist. There is much on the Internet that is unsuitable for children, but the answer is to put terminals in visible locations and leave it to parents—not librarians—to supervise their children.”
- “Inventing a software filter that effectively shields Internet users from pornography in public libraries without violating their First Amendment rights is a formidable challenge

that has yet to be met. But it’s not nearly as daunting a task as devising a filter that can block [SCOTUS] from issuing flawed rulings such as this week’s decision...” That’s the Eugene *Register-Guard*, which calls the ruling “hopelessly broad” and notes that it could cost Eugene Public Library “thousands of dollars” if it sticks with user-optional filtering. I wonder about this assertion: “[ALA] estimates that 95 percent of libraries that provide Internet access may decide to reject the technology grants rather than install the costly and ineffective filters.” It’s a long, thoughtful, solidly pro-free-speech editorial.

- GoMemphis.com (unclear what newspaper) noted that most libraries in the area already used censorware—but that the decision reflects “a troubling disdain by the federal government of both local control and free expression.” The editorial notes that libraries using censorware “concede the software isn’t perfect,” and states that such trade-offs should be local decisions. The last paragraph: “Libraries are, or should be, public forums of learning and free inquiry. Grandstanding by Congress doesn’t advance those values.”
- I can’t imagine that Milwaukee librarians are overjoyed by the headline on the Milwaukee *Journal Sentinel*’s editorial: “Let librarians play nanny.” The rest of the editorial is fairly sound, beginning with this paragraph:

What a bossy know-it-all Congress is. Rather than allow local libraries to work out their own solutions to the problem of pornography on the Internet, Capitol Hill has dictated a corrective: Public libraries shall buy and install on all their accessible computers software that tries to filter out porn.

That’s not quite right: CIPA requires censorware on *all* computers, accessible or not. The rest of the editorial includes appropriate quotes and comments, ending: “The best course, however, is for Congress to rescind this one-size-fits-all law. Washington is not the children’s nanny. The locals can better safeguard the welfare of local children.”

- Another Minneapolis outlet, the *Pioneer Press*, noted that Minneapolis Public Library may forgo up to \$160,000 rather than add censorware. Kit Hadley noted that the Library Board strongly feels that filtering “is a serious barrier to free and full access to information, which is at the heart of the library’s mission.” Since we hear so much about libraries that are awash in pornographic displays, it’s interesting to read how often Minneapolis libraries invoke their policy of asking patrons viewing pornography

to log off: About once a week systemwide—“That’s from tens of thousands of users.” St. Paul, on the other hand, seems likely to add censorware (which it doesn’t currently use).

- *Newsday* came out squarely in favor of libraries: “Public libraries already do their best to protect children from pornography; they don’t need Internet laws to force them.” It calls the ruling “a disappointing infringement of free speech,” calls for libraries to “work with software companies to develop filters that work,” and recognizes the “poor get poorer” effect of the ruling: “What a shame that disadvantaged public library patrons will be denied freedoms enjoyed by the better-off.”
- I admit to unfounded regional parochialism: I was surprised by the Salt Lake *Tribune*’s editorial and the state of affairs in Salt Lake City libraries. The editorial quotes Justice Stevens’ dissent and calls CIPA “an example of a largely computer-illiterate Congress trying, for political reasons, to hype, and then calm, fears of an Internet chock full of naked people.” After noting that libraries “with limited space and finite budgets” don’t usually stock porn “for a lot of reasons,” the piece continues:

But while it would be wrong for libraries to spend taxpayers money on paper stocks of sexy magazines, it would also be wrong for libraries to be compelled to spend taxpayers money on software blocks that robotically keep adults from making their own decisions about what information to log onto.

Local library systems make their own decisions, on Internet policy as well as their physical collections, based on their own criteria.

What are those decisions? Salt Lake County uses censorware “but will turn [it] off if adult patrons request it for themselves or authorize it for their children.” Davis County has a mix, with censorware primarily for children’s sections. Salt Lake City libraries “don’t spend federal money” and don’t use censorware. “The folks who run that system, correctly, not only trust their patrons, but also, more correctly, don’t trust the filters.” Hooray for Salt Lake City!

- As I remember La Crosse (from a Wisconsin Library Association conference in 1992), it’s a charming town with a fine public library. According to the La Crosse *Tribune*, that library would rather give up \$4,000 in erate subsidies than install censorware. Kelly Krieg-Sigman, director, notes that the board decided against censorware years ago “because they often block access to educational sites.” “They don’t work.

Our policies and procedures are as effective, if not more effective, than software filters.” On the other hand, La Crosse County libraries have censorware on most terminals—and two branches get Internet access through school districts, which means they’re stuck with censorware that probably can’t be unblocked on request. How tough is La Crosse’s policy? About as tough as it should be for an institution devoted to intellectual freedom:

Inappropriate or illegal use includes, but is not limited to, infringement of copyright laws and transmission or reception of text or graphics which may reasonably be construed as obscene.

- The San Francisco *Chronicle* reacted as you might expect—not because it’s a Hearst paper but because it’s San Francisco’s daily. “Congress’ nostrum of filters on public library terminals, now blessed by the U.S. Supreme Court, is the wrong approach.” The editorial goes on to note that “many Bay Area systems” will abandon the federal subsidy to keep operating without censorware, including SFPL.
- Similarly the San Jose *Mercury News*, a Knight Ridder paper. A June 23 article notes that “libraries may reject filters, forgo funds.” “From Los Gatos to Livermore, library directors throughout the Bay Area vowed to continue upholding their patrons’ First Amendment rights to free speech and freedom of information.” Susan Gallinger, Livermore Public’s director, said “We just don’t feel we as librarians need to be in the position of telling people what they should read, see or hear.” Notably, Livermore Public has been sued repeatedly by a few committed prudes for failing to censor—and doesn’t take federal money. San Jose Public does, but may give up the \$20,000 (out of a \$20 million budget), given that the City Council has reaffirmed a policy allowing “unrestricted access to all library materials and services.” My own library, Mountain View, uses censorware on five computers in the children’s room—but leaves the other 32 computers unblocked, and doesn’t require proof of age to use those computers. Alameda County uses censorware in children’s areas; Linda Wood says “Filters are far from perfect. They filter out more than really needs to be filtered, and don’t get out everything that really needs to be, if you’re thinking about age-appropriate information.” Palo Alto is buying software that supports smart cards, so that children will have blocked or unblocked access depending on pa-

rental decisions. Watsonville decided against erate subsidies a couple of years ago, “fearing that federal funding would mean blocking certain Internet sites in the future.” The next day’s *Mercury News* carried an editorial headed “Court unwisely endorses government censorship at libraries.”

It’s a wrongheaded decision that deals a blow to the First Amendment and will disproportionately affect the poorest individuals, in the nation’s poorest communities. Perversely, it will do little to protect children from the flood of smut available on the Internet.

Scores of studies have shown that filters don’t work. They fail to filter about 10 percent of porn sites, leaving enough unblocked sites to satisfy anyone’s appetite for porn...

It goes on to note that most Bay Area public libraries won’t be affected because they don’t receive or will give up the federal funding—but that the ruling “deepens the digital divide,” since poor and rural communities *need* the federal aid.

- Mark Glaser’s *Online Journalism Review* column for June 26, 2003 discusses the case and reporting on it, noting that Google News showed 554 stories as of June 25. Glaser notes some extreme cases of “compliant” libraries, such as Washington County Library in southern Utah, which apparently has 24 censorware categories active including alcohol, gambling, hate, lingerie...and which receives request to unblock “every week.” (There’s a library just waiting for a lawsuit.) This article quotes David Burt as suggesting that the EFF study cited earlier “might have taken an overly broad view.” Burt keeps pointing to the Kaiser study, of course. Glaser includes a variety of viewpoints and states bluntly that “the filtering issue is too complex for the federal government to comprehend.”
- J.R. Labbe of the *Dallas Star-Telegram* wrote “Look up under ‘library nanny’” on June 29. The first three paragraphs in full:

The highest court in the land decided last week that libraries can lose government funding if they don’t make it harder for patrons to view constitutionally protected material.

Say what?

The Supremes ruled that the federal government—translation: Congress—can withhold money from libraries that choose not to install porn blocking computer programs. Attorneys for the libraries had argued—rightfully—that the law will turn their cli-

ents into censors. They lost anyway. The First Amendment be damned.

Labbe goes on to discuss Congressional social engineering over the years, points up the usual problems with censorware, and asks a couple of pointed questions: “When did intellectual curiosity become a scourge to Congress?” ... “Is there a right that guarantees you’ll never be offended by anything you read or see in a public library?”

- Still later—fittingly, on July 4—Lance Dickie published “The best information filter is your local librarian” in the *Seattle Times*. He begins:

Trust your local librarian.

That is my starting point for sorting through the controversy over Internet access from library computers, and protecting children from online pornography.

Dickie pulls no more punches than Labbe: “Moralistic Pecksniffs in Congress, with a misplaced trust in computer nannyware, salacious imaginations and no appreciation for how libraries are managed, have caused a needless fuss.” Dickie talked to a bunch of Washington (state) librarians and learned that “online porn is not causing a lot of trouble or generating complaints.” The piece notes some specific policies currently in place and says that librarians have a “keen sense of their own communities and strongly held professional values. I respect their reluctance to surrender their duties and responsibilities to a piece of software.”

- Finally, there’s Steve Chapman’s wonderful June 26 column, syndicated by Creators Syndicate; I downloaded it from the *Washington Dispatch*. The title is a gem: “The Law no one Missed.” It begins:

In 2000, Congress identified a grave national problem and took firm action to squelch it. Alarmed that some youthful library patrons had gained access to online pornography, it passed [CIPA]. The problem was solved, the panic subsided, and we all went on to other worries, serene in the knowledge that children were no longer being exposed to vile smut.

In fact, though, the measure never took effect, thanks to a court challenge that held it in abeyance. So for the last two and a half years, American kids have had none of the protection that Congress thought so essential—namely, federally mandated software filters that block access to inappropriate sites.

Children and parents have had to rely purely on the common sense and professional judgment of the people who run our public and school libraries. Given the lack of concern evident among the Ameri-

can people during that period, this approach apparently has been something short of a disaster.

Chapman goes on. “From listening to advocates of the law, you would assume that American libraries are an exclusive property of Larry Flynt.” “Those who run our libraries were always free to use filters, but until Congress butted in, they chose not to... Librarians had discovered what even the Supreme Court admits: These filters are crude instruments that often censor innocuous material while letting in bad stuff.” It’s a strong column, pointing up an aspect of the CIPA fight that’s largely gone unnoticed. I found it at www.washingtondispatch.com/printer_5911.shtml; with luck, you’ll find it there.

Confused and Upset

A handful of articles discussing the effects of CIPA on local libraries:

- The Charleston (W. Va) *Gazette-Mail* quotes a West Virginia library official, “We are really in the position of trying to kill a mosquito with a tank.” J.D. Waggoner calls censorware “an expensive nightmare” that won’t achieve Congress’ goal. “The most frustrating part of this is realizing that even though we are being instructed to do this and they’re holding the pocketbook, on the back side ... once we invest the money and invest the time, it won’t work.”
- The Deerfield (Il.) *Review* notes that Lincolnshire’s Vernon Area Library doesn’t use censorware—and doesn’t receive federal funds. Gurnee’s Warren-Newport library gets \$15,000 a year in aid, but “the cost of installing filters could exceed that amount.” People from both libraries questioned Justice Rehnquist’s assertion that unblocking a filter is simple. How often do Warren-Newport users ask for censorware? “Less than one person a year... In the last year, I haven’t had one.”
- The Bennington (Vt.) *Banner* reports mixed feelings. Ellen Boyer of Manchester’s Mark Skinner Library has a charmingly simplistic view of censorware: “Filters only block out pure pornography and we don’t have any business offering that.” Julie Chamay at McCullough Library in North Bennington isn’t so pleased: “I don’t want the government telling what you can and cannot read.” But Gene Rudzewics of Bennington Free Library doesn’t see a big problem: “We’re against censorship, but this is not the same as censorship.” And the State Librarian, Sybil McShane, makes an excellent point: “Some libraries will be nervous about being

sued by adults because the filtering wasn’t turned off.”

- Cleveland’s 380 computers will remain free of censorware, says the Cleveland *Plain Dealer*, as will most of Cuyahoga County’s 484 computers. Cleveland doesn’t take the federal discount; Cuyahoga County *does* restrict Internet access to adults, but the director says “free access to our information is our first priority.” In Akron-Summit County, however, most computers already use censorware and the rest will soon: \$40,000 a year is too much to give up.
- Librarians in Northwest Indiana and Illinois aren’t sure what to do, according to a Northwest Indiana *Times* story. Lake and Porter County libraries don’t currently use censorware; the Lake County director, Larry Ascheff “[Doesn’t] think the justices had a good grasp of the technicalities of the filters.” The flood of pornography that inundates every public library seems to have missed Lake County as well: “I can count on less than two hands the number of problems we’ve had.” Ditto Porter County, where James Cline says the system “has not had problems with people accessing pornography from computers in quite some time” and says “There’s no way for a technical entity to look at things and determine what should and should not be filtered.” But Gary, Indiana will add censorware—and Lansing Public’s had it for more than three years.
- Most Kentucky libraries don’t currently use censorware, according to an article in the Louisville *Courier-Journal*: “Only about 10 to 15 percent” according to Terry Manual. The same article says about half of Indiana’s public libraries use censorware—including 30% that filter all computers. Lexington Public Library doesn’t now—and says that problems “have been rare.” An 18-year-old Lexington patron finds the ruling “very alarming” and continues that his high school computers often block sites he needed for research. “Louisville uses censorware—but its current practice doesn’t satisfy CIPA: “Patrons who want to view a blocked site can ask a staff member to view the site from an unfiltered staff terminal.” CIPA doesn’t allow for unfiltered staff terminals.

Discussion within the Field

Library lists have had lengthy discussions about CIPA since the ruling; the Web4Lib and Publib archives in particular may be worth browsing. (As may the ALA Council list, for that matter.) As a rule, I

don't quote list postings, but a few paraphrases and quotes may give some of the flavor.

One librarian worries about consequences such as *more* filtering and expansion of CIPA. Another wonders what constitutes a CIPA compliant filter. It's pointed out that what the Court said differs significantly from the language of the law—a major issue for the future. A correspondent noted that the decision itself implies that censorware must come with an “instant off” feature and that the decision seems to imply that librarians must always unblock upon any adult request. Seth Finkelstein and others noted that image searching and blocking (the only blocking required by CIPA) is particularly problematic: That's not how existing censorware works. (Bess, from David Burt's employer, has an easy solution: *All* Google Image searches are blocked as “pornography.”) One wondered whether someone will realize that “you can't block the images if the software isn't looking *at the images*.”

Karen Schneider, a long-time expert on censorware, noted that SCOTUS agreed that all censorware blocks access to constitutionally protected speech, that all major products encrypt their blocking lists, and that deciding to use a filter “does not lead ipso facto to the reality that some filters are “good.” Some are better than others, but none of them are “good.” She goes on to make distinctions between reading and viewing, urges that people consider the larger picture, and ends “Do what you have to do. But remember who we are. ‘Books are for use.’” Eli Naeher (did I spell it right this time?) responds with an affirmation and a tough follow-up: “I don't think that anyone who takes the Library Bill of Rights (or the 1789 one) seriously—and I would hope that that's all of us—can implement the requirements of CIPA in good conscience.” He notes that this isn't a “go to jail” issue, only a funding one: “I think that the entire CIPA issue can be reduced to one blunt question: how cheaply can your library's professionalism be bought?”

Finally, Ross Riker (Goshen Public Library, Indiana) gave me permission to quote some of his comments. He forwarded a question to ALA, noting the difference between CIPA's language (“*may* disable”), the Solicitor General's language (“*can* unblock...and would not have to explain why”), and Justice Kennedy's opinion (“*If* on the request of an adult user, a librarian *will* unblock filtered material or disable the Internet software filter without significant delay, there is little to this case.”). [Emphasis added—by Riker—in all cases.] His question:

To me, “may,” “can,” and “If...will,” are not the same as “must.” Consequently, I would like clarification about whether or not libraries/library employees

have any discretion in whether or not to unblock filtered materials or disable the Internet software upon the request of an adult user (without explanation), or, if they are, in fact, obligated to do so.

That question may be the direct antecedent to some of the forceful answers in ALA's FAQ, noted later. Riker went on to post a message to Indiana lists about Goshen's investigation of options to comply with CIPA, excerpted here. “One option would appear to be blacklisting, either by compiling a list of sites on our own, or by subscribing to (or using) a 2nd party's list. One question that comes up, is how can our library legally compile such a list or verify a 2nd party's list for accuracy? In either case, it would seem to require actually visiting the site(s) in question. If the site is obscene or child pornography, will not the library or its agents have broken the law by visiting it?” “Another question is, how does the library determine if a site is obscene or child pornography...? Is this not a legal determination?”

When he copied the posting to me he asked, “Are you aware of any sites that have been legally declared obscene?” I responded, “No, I don't know of legally-obscene sites, but then I'm not really an expert in this field, and *certainly* not on the lookout for such sites. I'd guess that U.S. sites get shut down pretty rapidly if they can be demonstrated to be obscene. But what do I know?” He responded in part, “My suspicion is that, while there are many potential candidates, few have been declared legally obscene.” He's waiting to see whether he gets interesting responses; he'll pass them along, and I'll excerpt them as appropriate.

How likely is it that *any* operational U.S. Internet site is obscene or contains child pornography? Not very, in my ignorant opinion. At a minimum, the ISP for such a site would shut it down instantly on hearing from the authorities. If there are such sites, they are almost certain to be housed on non-U.S. systems, where the laws are different or unenforced.

Key Points as I See Them

Caveat: I'm neither a lawyer nor a professional librarian. What appears here is what *I believe* to be the case based on SCOTUS' decision and accompanying opinions, the actual text of CIPA, and everything else I've read. I could be wrong on much of this.

- CIPA *never* called for blocking of text, only images—a point that's more important after the decision.
- The Supremes and Attorney General effectively rewrote CIPA in the process of upholding it, substantially weakening its effect on adult us-

ers, turning it into CIPAS. The key “revisions” are that any adult may request that censorware be disabled *throughout* a search session, without giving a reason or providing identification other than proof of age—and a CIPAS-compliant censorware installation must make it trivially simple for the library to carry out that request. Without those provisions, it appears, CIPA would fail by a 5:4 decision.

- Wealthier libraries that don’t use censorware can turn down erate and LSTA subsidies and ignore the whole issue—for now. That may not be the best way to proceed, particularly if it means disengaging from the issue. Some state legislatures will pass or have already passed similar requirements—and wealthier libraries should consider how they can help the rest of the nation’s libraries to cope.
- Libraries that already have censorware in place should not assume that they’re covered. For one thing, most such libraries don’t block staff computers that aren’t available to the public (a CIPA requirement). For another, few existing programs (if any) are tailored to CIPAS requirements—which include blocking images only, *very* narrow blocking criteria for adult users, and instant unblocking capability at the individual computer level. Libraries that use typical commercial censorware on computers used by adults, or that fail to disable such software immediately upon request, should expect legal challenges to that use. In other words, Mainstream Loudon is as relevant as ever.
- Libraries can and probably should work to find (or develop) censorware that meets CIPAS requirements, preferably from companies devoted to intellectual freedom—and that may be feasible, if not trivial. “May be” is a key phrase: This is the most unclear aspect of the whole situation.
- If minimalist CIPAS-compliant censorware doesn’t exist and can’t be created, and if someone could come up with the funding, a new challenge to CIPA would seem likely to result in a 5:4 decision going the other way.
- A library with strong local support and enough backbone could make a strong case for taking a *truly* minimalist approach to CIPAS. That approach would include installing an open-source blocking program (existing or new) configured to block *illegal* sites (child pornography and obscenity) on all computers, to block *images* only based on URLs for sites *adjudged by government authorities* to be harmful to minors, and to

block those images on computers in use by adults with explicit warning of the blocking, a one-button “unblock this” function, and a similar one-button “don’t filter this session” function for the search session as a whole. The truly minimalist approach: The URL blocking lists would be populated when governmental agencies provide lists of illegal sites (which are all presumably outside the U.S., or they’d be prosecuted and shut down) and sites *adjudged* to be harmful to minors. Such lists don’t exist? Then don’t block anything. The burden of proof should be on those wanting to prevent access, not on librarians or web publishers.

- I honestly don’t believe that any library is ready to take such an assertive and minimalist approach. If the local community has that sort of support, the library won’t be using federal funds and won’t be using censorware on adult computers anyway.
- Three or four justices either don’t understand public libraries and intellectual freedom or don’t care—and at least two of those names would come as no surprise to any knowledgeable reader.
- It may be possible to tailor a CIPAS-compliant mechanism that does little to damage First Amendment rights of those 17 and older. It’s quite possible that those 10 and under *should* either use computers that access only whitelisted sites, or should use filtered computers—although that possibility isn’t backed by convincing factual evidence. (See Marjorie Heins’ white paper, noted above). That leaves tweens and teens. CIPAS appears to *substantially* damage access to the Internet by teens, people aged 13 to 16, and I am essentially unwilling to believe that teens stand to be harmed by any sexual images found on legal sites. Tweens are a little tougher, but even for that age group “save the *children*” is a misleading cry.
- What’s “harmful to minors”? CIPA’s definition is a modified version of the same tortured definition used for obscenity, with “as applied to minors” added. In some ways, it’s a self-defeating definition.

Coping Mechanisms

CIPA only deals with images. CIPAS appears to call for blocking that can be instantly undone for any adult and for any (or no) reason. To request unblocking, it is first necessary that patrons be aware of blocking. If no reason is required, then it would seem perfectly acceptable for librarians to deputize

the unblocking action to the computer itself, as long as the user is 17 or older.

To my mind, this calls for age-sensitive computers (requiring smart cards) and for software on “adult computers” with the following characteristics:

- When an Internet session carried out by an adult user begins, the censorware should bring up a message noting that (a) some images may be blocked, (b) that blocking can be removed at your request either on a site-by-site basis or for the duration of the session, and (c) offering a button “Please unblock this session.”
- If that button is used, the censorware stays out of the picture until the smart card is removed, at which point the screen reverts to a neutral image (which, by itself, would solve some of the supposed problems of ‘walk-by pornography’).
- Otherwise, when sites on a specific blacklist are requested, the *text* of the site should appear, with notes replacing the images and offering to unblock those images on request.
- Can CIPA be read to require anything more than an actual blacklist—that is, the “keyword” or string-filtering that helps to make most commercial censorware so bad? I don’t believe so.

I formulated this set of suggestions—really only part of a minimal-compliance solution, but the part that seems most plausible—in early July. A few days later, I found support for this notion from more knowledgeable folks.

The ALA FAQ

For some time, Robert Bocher has maintained a CIPA FAQ for Wisconsin, at www.dpi.state.wi.us/dltcl/pld/cipafaq.html. He’s been updating that FAQ as needed. It’s an excellent resource. He notes that the FCC has declined to define “protect” or how effective a filter must be—and that if a filter fails, that does *not* provide a basis for legal action against the library: Complaints go to the FCC, and the only penalty allowed is forfeiture of federal funds.

ALA has also posted an FAQ based largely on questions received from librarians. I won’t even attempt to provide the URL, but a CIPA image should still be on the www.ala.org homepage, and the page it links to should get you to the FAQ. It’s even possible that searching for “CIPA FAQ” will work. The version of the FAQ I’ve seen is dated July 8; it runs six printed pages and includes a substantial amount of useful notes and interpretations. Among them:

In cases like this, where no single opinion has the support of a majority of the Justices, the narrower

concurring opinions typically govern future interpretations.

It appears that, under the Supreme Court’s decision and the government’s interpretation of the statute, libraries must turn off the filter upon request by an adult, without inquiring into the adult’s “purpose” for disabling the software. In fact, both concurring opinions made clear that any library that burdens patrons’ rights through an improper or restrictive application of CIPA’s disabling provision could face a future lawsuit.

Minors undoubtedly have constitutional rights to receive information, but the Court did not address those rights at length in its decision. It is nonetheless clear that CIPA permits minors to request that a library unblock specific websites.

The Supreme Court’s various decisions in the CIPA case certainly suggest that a library that imposes filtering requirements without disabling faces a risk of litigation if adult or minor patrons cannot access constitutionally protected speech.

There is no obligation to use any particular filter in the library. ... Because the inherent flaws of blocking software make it impossible to ensure that [covered materials] are filtered, a library will be deemed CIPA-compliant as long as it makes a “good faith” effort to block these categories of online materials.

...There are steps public libraries can take to minimize the First Amendment harms of using blocking software, while still complying with the statute. [Notes that libraries must consult their own legal counsel.]:

Now I’m paraphrasing for brevity—but the two-page answer that follows is, in many ways, comparable to the suggestions I make above, and it comes from people far more knowledgeable than I am:

- **Inform the public:** Post signs in hard copy and/or on the computer screens informing patrons that:
 - a. Because the library receives federal funds, federal law requires blocking software
 - b. The blocking software is inherently imprecise and flawed—it will block access to a “vast array of constitutionally protected material” and is also “incapable of protecting against access to Internet material that is obscene, child pornography, or harmful to minors”
 - c. The library can unblock individual websites that have been blocked erroneously and “will disable the entire filter for adult patrons 17 and over upon request. The requesting patron will not have to explain why he or she is asking that the site be unblocked or that the entire filter be turned off. *The library encourages patrons to*

request that the filter be disabled.” [Emphasis added]

- **Facilitate disabling of the filter:** In addition to the signs, suggestions include:
 - a. Segregating computers for unfiltered access by adults, who would sign a form or display identification showing that they’re 17 or over and seek unfiltered access “for lawful purposes.”
 - b. Adopt a smart card system—and have the *computers* “offer adult patrons the option of Internet access with the filter enabled or disabled,” at the welcome screen with a “click to declare you will use the Internet for lawful purposes” button.
- **Amend Internet use policies** to reflect changes or responses to CIPA.

Thus, ALA—at this point—agrees that CIPAS makes it feasible for librarians to delegate the actual unblocking of individual sites or sessions as a whole to computer software, as long as the computer software has indication of legal age and boilerplate about “lawful purposes.”

An Open Source Solution?

Edward Felten offered “A modest proposal” at Freedom to Tinker (www.freedom-to-tinker.com) on June 25:

Suppose you’re a librarian who wants to comply with CIPA, but otherwise you want your patrons to have access to as much material on the Net as possible. From your standpoint, the popular censorware products have four problems. (1) They block some unobjectionable material. (2) They fail to block some material that is obscene or harmful to minors. (3) They try to block material that Congress does not require to be blocked, such as certain political speech. (4) They don’t let you find out what they block.

He calls (1) and (2) “facts of life” but notes that (3) and (4) are solvable: “It’s possible to build a censorware program that doesn’t try to block anything except as required by law...[and] to reveal what [a] product blocks. But of course it’s unlikely that the main censorware vendors will give you (3) or (4).”

So why doesn’t somebody create an open-source censorware program that is minimally compliant with CIPA? This would give librarians a better option, and it would put pressure on the existing vendors to narrow their blocking lists and to say what they block.

Felten admits he’s not entirely convinced but thinks the idea deserves discussion.

Before I read Felten’s weblog, I posted a Web4Lib “naïve question” making pretty much the same sug-

gestion—an open source “filter” that only blocks images from “bad” sites, only blocks *illegal* sites for adults (if there are any), or at least offers an “unblock this now” button, and “for those poor 15-year-olds whose tender minds must be protected at all costs, uses an actual blacklist rather than keyword filtering, with the blacklist readily available to librarians.” After a paragraph of blather, I say, “I’m sure this is a hopeless idea, but maybe worth poking at?” (Interesting: Neither Felten nor I can convince ourselves that it’s plausible, but maybe...)

I’ve already said this, but it bears repeating. One absurdity of CIPA or CIPAS is that eight-year-olds and 16-year-olds are treated identically. I may buy into the need to shield sub-teens from “nasty” images (although I’m not sure) but cannot, for the life of me, imagine that 13- to 16-year-old library users will be exposed to anything on open Internet computers that they can’t get as easily on the street. Or that such teens are likely to be damaged for life by seeing Pamela Andersen naked or any form of “kinky” sex. (Well, the teens might swear off sex for a few years after seeing some of the pictures—but that’s relatively minor damage.)

Months before the CIPA decision, Cindy Murdock (Meadville Public Library) had posted an article on “open source filtering” at Schoolforge (opensourceschools.org, posted April 1). She notes that there *are* open source filters; Meadville uses squidGuard and DansGuardian. Both are server-based, making them problematic for CIPAS compliance. SquidGuard blocks based on URLs; DansGuardian is a keyword filter that can also block based on file extensions. DansGuardian might be configurable so that it only blocks images. Neither meets the need—but either might represent a start. (I only know about the Schoolforge posting because Cindy Murdock responded to my Web4Lib posting; I don’t read weblogs *that* widely!) Murdock and colleagues are poking at the set of CIPA issues and may offer a conference, maybe even their own solutions.

Some browsers can block images on a site by site basis, apparently—specifically, Mozilla/Phoenix (according to George Porter). That functionality combined with a cooperatively maintained image blocking list might be one step in the right direction.

Seth Finkelstein notes Felten’s idea and raises some questions. As he notes, a library that wanted to challenge CIPA could say, “Give us the specific, *judicially-decided*, URLs to be banned, and we’ll ban them—but not one URL more.” [Emphasis added] For those not wishing to challenge the law, he thinks that a library-maintained minimal solution would be asking for trouble: “You mean the library is going to stand up to a constant barrage of bad PR like this?”

He notes Robert Mapplethorpe and NAMBLA as prime examples, and suggests that the idea of an open-source blacklist “falls apart on any close examination.” He closes: “Don’t tell me this is such a great idea. Find *libraries who will use it* who agree it’s such a great idea.”

In a follow-up message, Finkelstein grumbles that this idea is a “classic ‘Big Picture’ Talker” leading to proposals, conferences, pilot projects, and mostly talk. “Action is a detail.” He notes that evaluating the child pornography list is difficult, since mere possession is a serious crime, and says he’s trying to “cut down on the recycling of discussion” with his challenge—to find libraries who *want* to take an absolute minimalist approach. He notes my reference to Meadville—but, of course, their current configuration isn’t entirely minimalist. Finkelstein’s points are, as always, well taken and worth considering, and may explain why neither Felten nor I are convinced that this is workable—particularly since the reasonably-wealthy, strongly pro-freedom libraries most capable of carrying out such a minimalist approach are also libraries that can just jettison the federal money and ignore the issue.

Will this all lead anywhere? Stay tuned. The more I look at Finkelstein’s arguments, the more I review the back-and-forth on the ALA Council list and elsewhere, the more I’m inclined to believe that it’s *not* likely to work, particularly for terminals used by those under 17—but I’m not entirely ready to give up on the possibility.

As a sideshow, Bennett Haselton of Peacefire has an answer—and a program that I haven’t tried (and probably won’t try), at www.peacefire.org/winnocence/. The press release is a classic, with all the great buzzwords you’d expect from a censorware maker and a few acronyms that suggest something else is going on, including Directed User Management Blocks® and Inappropriate Network Access Neutralizing Environment® methodology—assuring us that WINnocence is both DUMB and INANE. And it’s free for schools and libraries! “Peacefire is the premier developer of responsible internet filtering products for schools and libraries.” Given what I expect Peacefire’s definition of “responsible” to be, that’s almost certainly a true statement. Is the whole thing a joke? Well, I’m not ready to try it out on any production computer. (Related postings suggest that WINnocence 2 is nothing more than a prank from a vehemently anti-censorware party.)

The Blacklist Problem

The problem with building an open source filter isn’t the software itself. As Finkelstein notes and several others have demonstrated, that can be trivial, particularly when the only blocking is URL-based. The problem is the blacklist: Who provides and maintains it, and how do libraries demonstrate that it’s a good-faith attempt to meet CIPAS requirements?

An existing commercial censorware company could improve its image within libraries and quite possibly pick up some substantial contracts by doing two things, one of them presumably easy:

- Prepare a CIPAS-nominal version of the software that eliminates keyword, internal phrase, and other “loophole” blocking, only blocks images, and has the age-related “turn it off now” features needed for libraries—and that has two *and only two* categories for blocking lists: Sites illegal in the U.S. (obscenity and child pornography) and sites deemed to be “harmful to children” as defined by CIPAS.
- Provide some form of certification that the first list is approved by the courts or, at least, by the FBI—and make the second list available to librarians for inspection and modification.

The common argument against decrypting censorware lists, other than the silly notion that the censorware company would be publishing a “pornography catalog,” is that these lists represent valuable proprietary information. But most of that value must *surely* be in the dozens of blocking categories for business and home use above and beyond “harmful to children.”

If that doesn’t happen (and maybe even if it does), the blacklist problem can’t be overlooked or minimized. Seth Finkelstein says, “The key part is the blacklist. Squidgard and Privoxy already do all or almost all of the code requirements. Simple banning isn’t hard, technically.” While I’m not a code expert, the first and third sentences are right on the money.

The problem with the illegal-sites list is that these sites are *illegal* within the United States, and a librarian checking out sites on the child pornography portion is committing a fairly serious crime. A couple of years ago, David Burt sent Laura Morgan a note that N2H2 “sends about 100 new child porn sites each month to the FBI.” Burt further notes that U.S. sites “do usually disappear pretty quickly once they are reported. However, most of this stuff is from overseas. Enforcement is particularly bad in Russia.” This presumes (falsely) that what’s called “child pornography” in the U.S. in the current century is either defined as pornography or considered illegal throughout the world. But that’s not the is-

sue. This is: How is it that N2H2 isn't admitting to the FBI that it's committed about a hundred crimes each month, by checking out the child porn sites? If N2H2 has an exemption, then so should any library-approved agency. (Burt also refused to send a list of such sites on the ground that doing so is illegal. That's questionable: While the *sites* may be illegal by U.S. law, surely a set of URLs can't, in and of itself, be illegal?)

The problem with the "harmful to minors" list—setting aside the expense and difficulty of building and maintaining a comprehensive list, given the size and dynamic nature of the internet—is defining what's harmful to minors. Here's the applicable text of CIPA:

HARMFUL TO MINORS.—The term 'harmful to minors' means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion,

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable to minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

Now think about those "and"ed criteria carefully. First there's the problem with what "as a whole" means, particularly since CIPA only covers images—is "the whole" one image, or is it all images on a page, or is it all images on a website?

Since this language is basically the definition of obscenity with "with respect to minors" or "with respect to what is suitable for minors" or "as to minors" thrown in, it carries with it the fundamental paradox of the obscenity definition: Material must *simultaneously* appeal to a prurient interest *and* be patently offensive. It has to turn you on and disgust you at the same time, a tough act for people with reasonably healthy sexual attitudes.

Finally, of course, the "as to minors" language defies rational application. What minors? 16-year-old single mothers? Four-year-old toddlers who've just learned to use a keyboard? (I started my freshman year at UC Berkeley while I was still 16—not all that unusual—so I'd assert that, *for some minors*, the final clause could simply omit the last three words.)

Does the government offer a list of sites that fall into this category? Have courts made such findings?

If not, how are libraries or censorware companies supposed to make coherent findings?

You know my belief: I'm not convinced that there are *any* websites that fit the "harmful to minors" definition that don't also fall into the illegal categories, at least not as long as "minors" means "anyone under 17." I think that a 16-year-old college frosh or high school senior could use clause (iii) to knock out most candidates. The broad brush of CIPA may be so broad as to be useless when critically applied.

Better Commercial Alternatives?

Marylaine Block's *Ex Libris* 182 (July 4, 2003), "If we must have filters...", is an exchange of correspondence between Marylaine and Jay Currie, who maintains www.libraryfilter.blogspot.com. You'll find the issue at marylaine.com/exlibris/xlib182.html.

Here's how it starts:

Hi, Marylaine,

Like it or not SCOTUS has ruled that any library which has internet access and receives federal funds is required to comply with [CIPA]. Which means installing filters on every internet enabled computer in the library. I work with a company which provides Internet filtering solutions to individuals, organizations and companies [IF 2003]. One to 5000 seats or full on server side filtering.

We would love to get feedback from librarians on what they really need and want in filtering technology. It would be great if you could mention our need for feedback in your newsletter. And it would be even better if you could give me your thoughts on making filtering less obnoxious in the library setting.

Cheers, Jay Currie

Go read the whole interchange. Is Currie trying to sell libraries a bill of goods and getting free advertising through this message? Only time and results will tell. As I look at the company's website, I wonder whether there's a real blacklist—which is, as already noted, the key problem in producing minimally-damaging censorware. (It's an odd website, www.internetfilter.com, worth a quick look.)

Block offers a six-point list right off the bat, asking for control, an advisory role, "no agenda," human oversight for all blocked sites, workstation-specific options, and additional text for blocking-announcement screens.

Currie responds that the company's product does or can meet all of the requirements—and, to some extent, admits that the definition of compliance is the big problem. (I think there's a suggestion in there that the company does not have exhaustive

blacklists, but I may be reading that into the commentary.) The conversation continues from there.

Currie has set up his own weblog at www.libraryfilter.blogspot.com, “a blog about a possible internet filtering solution for libraries.” Currie and the company talk a good line.

Will Currie’s company provide the basis for a minimally damaging solution? Will some other company tailor software and hack away at their massive blacklists to make their censorware meet library needs? One can only hope. I play no real role in this process other than to provide commentary and pointers; don’t look to me for advice on whose censorware to buy.

Additional Resources

In addition to the two FAQs already noted, the ALA web site’s CIPA section points to a wide range of source documents and commentary. That may be as good a starting point as any—noting that EFF and the Free Expression Policy Project should both have useful pointers and documents on CIPA. The “filtereality” site is being revised as I write this; once it’s back in shape, it should be a key location to find perspectives on all sides of censorware-related issues—CIPA and otherwise.

I won’t provide a long list of URLs here, if only because they don’t do much good in a printed zine. I will note previous commentaries on CIPA in *Cites & Insights*. I’ve mentioned CIPA in fourteen issues, nine of which include substantial coverage:

- **July 2001 (1:7):** “For the Children,” the essay that got me into the whole subject—including my proposed law, the Children’s Sharp Things Protective Act. (The next issue, Midsummer 2001 (1:8), includes a lengthy letter from Steve Weaver assailing this essay and convincing me to withdraw six words of it.)
- **October 2001 (1:11):** “The Filtering Follies” offers miscellaneous items on the “ongoing CIPA and filtering fights.”
- **December 2001 (1:13):** “The Filtering Follies” discusses Benjamin Edelman’s expert report for the Multnomah County portion of the CIPA suit and an excellent report from Marjorie Heins and Christina Cho.
- **Early Spring 2002 (2:6):** Portions of “The Filtering Follies” discuss Edelman’s expert rebuttal and some other CIPA-related items.
- **June 2002 (2:8):** “The Filtering Follies” included three pages of notes on events in the CIPA case. (The July issue included a one-paragraph follow-up noting that the district court found CIPA “grossly unconstitutional.”)

- **August 2002 (2:10):** “The Filtering Follies” includes another three pages on CIPA—the district court opinion, analyses, and commentary.
- **Silver Edition (2:11):** This “all-commentary edition includes “Filtering: Why it Matters,” what I thought about the issue at that point.
- **January 2003 (3:1):** “The Filtering Follies” is entirely devoted to CIPA (on its way to the Supreme Court) and the Kaiser study.
- **April 2003 (3:4):** “The Filtering/Censorware Follies” is primarily *eleven pages* of commentary on briefs in the CIPA case and the SCOTUS oral hearing. (The Spring issue, 3:5, includes a long and first-rate letter on the topic from Eli Naehar.)

If the decision had been 5:4 to overturn CIPA as an unreasonable restraint on free speech, I wouldn’t have given the situation quite as much space. If *Cites & Insights* was a paid print publication, or a traditional print publication of any sort, I probably *couldn’t* give it this much space: production costs wouldn’t permit it. If you’re tired of the whole mess, I can sympathize, but not agree.

And if you’re a librarian concerned with CIPA who’s never seen *Cites & Insights* before, welcome! Try a couple of other issues: They’re free. The next regular issue will appear somewhere around the end of July or beginning of August. I do not expect it to include anything about censorware, unless feedback from this issue makes its way into that one.

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