

Internet Filtering in the Workplace

Professional Perspectives—Tools and Techniques of the Trade. The Professional Development Committee encourages members to continue to explore topics after presentations at the local, regional, and national levels. We welcome your comments and article suggestions. Please contact Susan Siebers at 312/902-5675 or susan.siebers@kmz.com.

Filtering is a divisive topic for libraries. Public and school libraries have been dealing with the issue in print materials for a long time. Attempts to ban books or remove them from library shelves are ongoing. Print book removal usually involves one title. When the practice moves to the Internet, it becomes an issue involving a lot of information. The issue is emotional. Jobs have been lost, careers ruined, and communities polarized since the appearance of the Internet and Internet filters. Librarians have gone from defending against moves to take a book off the shelves to defending access to the broad spectrum of materials on the Internet. The ALA Freedom of Information Office is busy providing assistance to librarians and working to address the issue at the national level. AALL has joined ALA in selected circumstances on the national level. It is clear that filtering is an issue in law libraries. As is typical for librarians, there is not a complete consensus on the issue. *American Libraries* lists libraries that have accepted filtering as well as those individual librarians fighting attempts to install filtering programs. Academic and law firm libraries are rarely involved in filtering issues at this time. Corporate, government, and some firm libraries are beginning to face filtering as networks with ports for access to the Internet become more prevalent.

There are two steps involved in installing an Internet filter. The first is the decision to install the filter. This decision is problematic, especially when there is no discussion within the organization prior to installing the filter. In these situations, misunderstandings are created and morale and productivity suffer. Part of the problem lies in the perceived or *de facto* separation of libraries and technology departments. Top management with inadequate communication and limited management skills will usually approve filtering as a reaction to a report or specific problem. This is especially true when the top managers are convinced

they know nothing about technology. These people, when confronted with any question that may involve a computer, will blindly follow any technology department suggestion without understanding the process or recognizing the potential loss of efficiency in other parts of the organization. The technology people, on the other hand, do not understand all the information needs in the organization, nor should they. Their responsibilities to keep networks and hardware running are time consuming and require special expertise. Library and Information department staff are responsible for content. These responsibilities are also time consuming and require special expertise. Technology departments usually do not share with library staff the plethora of reports about Internet use by employees. Filtering proposals frequently come from the Technology Department's interpretation of the reports. Technology proposes filtering to help the organization handle apparent inappropriate use of the Internet by employees.

Detailed reporting about the use of the Net by employees is a routine matter. Reports are based on the same elements as those in Internet filtering software. The reports do not usually detail the specific sites accessed by each employee, a breakdown of specific sites in each category, or a list of metadata or key words that are the basis for categorizing sites. In most organizations, an additional full time department would be required to review all the sites accessed, make a determination about the appropriateness, and create and maintain categories. It is not realistic or cost-efficient to set up a department. Instead, someone buried in a software company, whose qualifications are unknown, uses secret criteria to determine which sites deal with sex, shopping, gambling, and so on. For some reason, all the carefully worked out policies about information and communication are put to one side when management is presented a list of employees accessing "inappropriate"

categories. The knee-jerk reaction: install a filter and assume the problem will go away. This form of decision-making does not involve speaking to the employees to determine if they are accessing non-work-related sites.

There are instances when the employee was confronted by the supervisor and asked about accessing non-work-related sites. The employee admitted that he/she was accessing these sites and was directed to stop. Assurances were given that it would not occur again. It did, and the incident was used as part of the filtering decision. The option of having the employee closely supervised or limiting access on one workstation was not considered. Each case of perceived abuse must be handled individually because employee information needs differ. The justification for filtering an entire organization is hard to understand in courts and law firms, where cases involve sexual deviance, violence, gambling, murder, torture, and other offensive behavior. Clearly those working directly with case information in these organizations should not be filtered. Concern about potential liability and/or poor publicity is being used as a tool to avoid dealing with the real issues. Internet filtering is a facile solution to a complex problem.

If selected factoids are used in the decision-making process, it is possible to see where a decision to filter could be viewed as the optimal choice. The Internet has become a commercial venture. The following facts, based on commercial needs, have been widely distributed: Nielson/NetRatings found that U.S. Internet users spend more than twice as much time online at work as they do at home even though they make up less than half of the cyber population. Financial sites reach more work users, who spend nearly double the amount online as home users. Shopping sites reached 18% more users in the workplace than at home. MSNBC reported that one in five men and one in eight women admitted using their

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work computers as their primary lifeline to access sexually explicit material online. Greenfield Online reports that 9% of employees earning under 35K surf the Net for a new job and 11% of workers earning 75K–100K do the same. The top three word searches on the Internet as reported by www.wordtracker.com are MP3, sex, and hotmail. Librarians involved in discussions on filtering should be prepared to address these factoids in relation to local information needs. They should check business literature for the latest discussion and generalizations about employee use of the Internet at the workplace.

When the policy is open to discussion before implementation, it is possible to make a presentation to provide a balanced picture for decision makers. In one instance, the librarians gathered information about all the errors involved in filtering. They worked through an organization structure that supported informed decision-making. The librarians were successful in stopping Internet filtering because they knew the organization and how to create an effective presentation.

Some organizations require employees to review monthly telephone bills and provide reimbursement for any personal calls. Long-distance lines are limited to one or two telephones and logs are maintained. Mail may be opened, even if marked "personal." In government, lists of files in desks and cabinets are maintained to comply with the *Freedom of Information Act*. A citizen or anyone who files the appropriate forms can examine the files. Government librarians will recognize the reduced "expectations of privacy" because they are in public service. This expectation may have a legal impact if the issue of filtering goes to litigation.

Caselaw is scarce on the topic. Many firms monitor employee e-mail and Internet access. Government entities must pay attention to the Fourth Amendment's search and seizure provisions. *O'Connor v. Ortega* (480 U.S.709 [1987]) addressed the question of government employees' expectations of privacy. The expectation of privacy is influenced by activities already in place in the organization. If a company

has a policy of monitoring e-mail or telephone calls, the employee should not expect to be successful challenging the filter.

Some corporations install filters in a reverse manner. The Internet is installed but access is limited to "acceptable sites." Instead of blocking, the issue is identification of sites to be added. The difficulties in this approach are evident. It is not likely that any human or robot will be able to identify all the "acceptable sites" from the millions of sites on the Net. The changing nature of the Net and the fact that the best search engines can review only a portion of the sites mean that employees are probably missing information that could help them do their jobs.

Employer liability is another factor in the filtering world. Since filtering broad ranges of information based on unknown criteria is comparatively new, caselaw is scarce. Each day laws at all levels of government change. Existing caselaw (at this point at the Circuit or state level) identifies a filter as a proactive step. The rationale is that criminal liability generally focuses on the employee's intent. Negligent policing on the part of the employer can give rise to civil liability in areas such as intellectual property infringement (patents, copyright, trademarks), discrimination, or sexual harassment. Any presentation against filtering should offer alternatives that help the company address liability issues. Policies, changes in requirements for supervisors, employee education and training, and alterations in dismissal policies are potential activities to protect an employer.

If the decision is a *fait accompli* and the filter exists, the second step in the process should begin. What is being filtered? What criteria are being used to block access? Working closely with the technology department, some mechanism should be identified that will permit employees access to the information they need.

Librarians can adjust the impact of filtering by working with the technology department. It is technically possible and relatively easy to modify the filtering

software to reduce the instances of errors due to blocked information. Work with the technology department to modify block lists and add specific sites to the access lists quickly and effectively. The arrangement works best when there is a cooperative relationship between the library and the technology department. It works when technology recognizes it does not need to spend time on content and the library relies on technology for hardware and network support. Librarians identify blocked sites and words that create problems for workflow and the technology department changes the blocked list to permit access to these locations. Again, the librarians are concerned with information content and technology is concerned with information tools. It can work.

To bring about change and focus on the need for action, librarians need to gather information and use succinct reports to encourage organization-wide management discussions. Anyone can "test" the software used for filtering and find egregious errors. Visit www.peacefire.org. This site has a daily report of sites blocked as well as detailed information about the search software used in filtering programs. On the day this article was written, the blocked site of the day was "The Ontario Center for Religious Tolerance." The Peacefire site is up to date and explains a lot of the activity in the filtering world. For example, hotmail blocked all messages from members to the Peacefire site for approximately two months. E-mail sent to peacefire by hotmail members was returned with a message that the site was not accessible. Internet users should try to access sites that return a "site not available" message on another system not on the Network. The site may be blocked due to filters. Almost every stop list contains many words necessary for legal research. Filters do not think; they rely on pattern recognition; errors are inevitable. In Criminal and Family work, for example, the courts have been known to deal with questions of rape, incest, child pornography, deviant sexual acts, and other topics that will not pass a filter.

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Lawyers, judges, librarians, law students, and the public will find it difficult to do research if sites that discuss matters involving any of these topics are blocked.

The Internet is a commercial venture. Decisions about investments and where to shop are based on reports of "hits" and the demographic characteristics of users. A commercial site must do everything possible to make sure that it is the first one on the list of major search engines when common search terms are used. To make this possible, some Web sites report word use and help the developer create Meta tags. If the originator of the site is clever about the subject headings that a robot may search or the pattern in pattern recognition, he or she can avoid filters. Hits may increase, but slightly skewed Meta tags will perpetuate inaccurate reports and filters. The tools used in this decision-making process can be very misleading. A request for desirable Meta tags for a site dealing with online legal research produced a suggestion that the Web creator use the term "Lexus."

Internet filtering is a topic to monitor. It is a good example of the new complexities to be handled in the process of providing adequate information to users. It is also one of the many examples where librarians need to work within an organization and understand how and where decisions are made. Librarians in organizations that are considering Internet filtering on employee workstations should become actively involved in the discussions. They should alert management about the problems associated with filtering software and provide specific illustrations about how the filtering software will affect employee information. If Internet filtering exists, the librarians should work closely with technology to modify the software to alleviate the adverse affects of the process.

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