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## Protecting Children's Online Privacy

Most people would agree that their privacy is important to them.

Everyone wants to know who has access to their personal information and what they are doing with it. Unfortunately, in schools other technological ethic and legal dilemmas like copyright and filtering have overshadowed the problem of children's privacy on the Internet. The issue that this paper will address is that of children's privacy on the Internet and why it should become a top priority to both educators and parents. The following topics will be discussed as they relate to children's privacy online: current laws and policies that regulate online privacy, the perspectives of those who violate children's privacy, the viewpoints of those who wish to protect the privacy of themselves and their children, and solutions for protecting your individual and children's privacy.

There are currently two laws in place that are intended to protect children while they are using the Internet. In 1998, the Children's Online Privacy Protection Act (COPPA) was passed to protect children less than thirteen years of age from infringement of their privacy by commercial web sites. This act also requires that parents provide permission for their children to provide web sites with personal information. In 2000, a second act was passed called the Children's Internet Protection Act (CIPA), which intends to protect minors from being exposed to pornography and other inappropriate material (Larson, 2002). In an effort to protect not only children but adults as

well the Federal Trade Commission began asking that companies voluntarily provide privacy policies on their websites in 1998. The FTC's practices involve providing notice of information practices, giving customers a choice regarding the uses of their information, having the ability to access information collected about them, providing security of their user's personal information, and having enforcement measures available that are designed to ensure adherence with information practices (Bozman & Pettit-O'Malley, 2002).

Although all of the above policies and acts have good intentions, implementation and enforcement of them has proven to be difficult. The FTC has yet to require that all web sites post a privacy policy. There are also problems with the way these policies are written and displayed. Many are hard to find and difficult to read as they contain made up almost entirely of legalese. It is often not unusual to find a subject to change at any time statement within the policy meaning that what you are reading today maybe different tomorrow (Duberman & Beaudet, 2000). Compliance with COPPA is difficult as it is setup so that parents cannot give consent online but must phone, write, or fax their approval to the site. An organization called WiredKids has developed a Central Site Registry (CSR) help with this problem. Wiredkids has professionals in the industry review and compile sites that comply with COPPA. Parents can then grant permission for their children to access all of these member sites at one time and for a small fee. They are considering removing the fee that is small in comparison to the estimated \$60,000 to \$100,000 it costs companies to comply with COPPA (Wolinsky, 2000).

Reading about the laws regulating children's online privacy, may prompt questions about who would want to violate their privacy and why. In the cases

of children, there are primarily two groups of people who are trying to reach them online: advertisers and criminals. Children are especially vulnerable to advertising because they are targeted due to how easily they become absorbed in online activities. Advertising has different effects on them than it does on adults, and they are easy to attract but unaware of the consequences of giving out personal information. One study found that children are more likely than adults to provide personal information in exchange for a free gift (Aidman, 2000). Teachers should be taking care to guide research activities and select appropriate educational sites so that children receive limited exposure to banner advertising (Larson, 2002).

A much more alarming issue than advertisements is the exploitation of the web by criminals to gain access to children. A surprising survey on the Internet habits of 376 middle school students asked the question "Have you ever met a stranger online then later met them in person?". 54 of the students said they had and 29 said that they eventually plan to. In 1999, 3000 cases were opened for Internet predators and this number is expected to continue to climb. Many parents and educators worry about children accessing pornography when in reality people are the real danger. Children are meeting strangers online and this is a frightening fact because children are trusting individuals who listen to adults (Wolinsky, 2000).

There are probably as many or more people who would like to see children's privacy protected than those wish to violate it. The reasons for this are obvious; children are innocent and more often than not too young to know better. People are not only concerned for children's privacy but also are worried about protecting their own privacy. Both adult individuals and

companies are taking steps avoid sharing too much information online. Companies wish to promote their products without giving away so much information that the competition is given an unwelcome edge (Duberman & Beaudet, 2000). Individuals wish to have control over who has information about them and what happens with it. It is rare to find an individual who is not fed up with the pop-up ads and unsolicited emails that have become common place on the Internet today.

Employees are also concerned about how much their actions at work are being monitored. Currently in the private sector, almost all electronic interactions can be observed and employers have policies in place that allow them to do so. This is also beginning to occur in schools. According to Van Horn (2000), there is currently at least one school that will allow teachers to make phone calls home but prevents them from sending emails home . In general there is more workplace privacy in academia than in the private sector. Policies for acceptable use exist at colleges and university but surveillance is not occurring. Academia is behind when it comes to complying with the FTC's privacy policy standards. It is rare to find a university website with a privacy policy and Earls (2000) suggests that it is important to develop one which upholds similar standards as in the physical world of locked files and dorm rooms .

Fortunately, several solutions exist for protecting both the privacy of both children and adults. The range of options available is wide varying from education to advocacy to software. Education is probably the most important solution especially for children. Teachers and parents should be both serving as examples to their children and students while also teaching them that

relationships in virtual world are no different from those in the physical world.

They should also talk to their kids about not giving out their personal information and discuss the intentions of advertisers who target children.

Teachers should also take care when selecting sites for instruction. Larson (2002) suggests not only evaluating the education content of the sites but also observing the commercial contents of the site. She feels that the banner ads and privacy policy should be reviewed and found to be acceptable prior to using a site in a classroom . Outside of the classroom, awareness of current privacy laws and a variety of software titles can help both adults and children.

This paper discussed the two sides of the issue of online privacy. It presented the current laws on privacy and the limitations of these laws. It then explained the viewpoints of those who violate the privacy of both children and adults and those who wish to protect people's privacy. Finally, several solutions for protecting privacy while still allowing companies to gather some of the information they need were addressed. As often is the case, communication and education are the keys to solving the issues addressed in this paper. Neither children nor adults should be cut off from the information available on the web. The most valuable thing to remember are statements by Wolinsky (2000), "The greatest danger with the Internet is to deny students access to this extraordinary resource". "Protect children not by isolating them but by teaching them how to deal with information and people. Armed with the right information, they can protect themselves and forge a bright future" (Wolinsky 2000).

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## The Copyright Controversy

The controversial issue that this paper will address is the need to continue to adapt copyright laws to account for rapidly changing technology specifically in the area of educational technology. The following topics will be discussed as they relate to copyright: current laws and policies that regulate copyright, the perspective of those who own copyrighted materials, the viewpoints of those in the public who would like to use copyrighted materials, and solutions for maintaining a balance between owner control and the public's rights.

There are currently several laws governing the use of copyrighted materials in educational settings. Copyright was such an important issue that it was included in the original draft of the United States Constitution. In Article I, Section 8, Clause 8 it states that "Congress shall have the power to promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". The most recent revision to the entire Copyright Law occurred in 1976 and included for the first time the fair use doctrine (Rupp-Serrano, 1997). The fair use doctrine is very important to educators as it allows for copying for the purposes of criticism, comment, news reporting, teaching, scholarship, and research. Fair use also provides a four factor test to determine if the use is fair: (a) the purpose and character of the use; (b) the

nature of the copyrighted work; (c) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (d) the effect of the use on the potential market for the copyrighted work.

The 1976 Copyright Law also includes another section that is important to educators, which is referred to as the Classroom Exemption. The Classroom Exemption provides for the classroom use of copyrighted materials if: (a) the use occurs at a non-profit educational institution; (b) the teachers and students are present in the same place at the same time; (c) the use occurs in the classroom or area devoted to instruction; and (d) if the work is an audiovisual work, the copy used must be legally obtained. This extremely narrow definition of a classroom creates obvious problems for the "classrooms" that are currently used to deliver online instruction and distance education. The Technology, Education, and Copyright Harmonization (TEACH) Act, which was written as an amendment to copyright law in 2002 addresses, for the first time, the relationship between distance education and the internet. The TEACH Act allows Educators to transmit portions of copyrighted works over distance learning networks without receiving permission if: (a) the work was legally acquired; (b) the use of the work is under the direction of an instructor; (c) the work is only transmitted to students enrolled in the course; (d) technological measures prevent unauthorized access to the work; and (e) copies are kept only for the time needed to complete the transmission (Walther, 2000).

Finally, educators should also be aware of two other recent amendments



to copyright law both of which took effect in 1998: the Digital Millennium Copyright Act (DMCA) and Sony Bono Copyright Term Extension Act. The DMCA is particularly controversial because it is believed to shift the balance of copyright control in favor of the copyright owners and takes away some fair use abilities. Its main purpose is to prohibit the circumvention of technological measures that effectively control access to a copyrighted work . The DMCA attempted to address the issues involved in placing copyrighted works in a digital format, but it ended up giving owners additional control and was not written to adapt and account for services like Napster (Russell, 1999). The Sony Bono Copyright Term Extension Act has also faced criticism. This act extends the term of copyright protection for an additional twenty years, which means that in most cases works will enter the public domain 70 years after the authors death. This act has been said to benefit corporations over creators and the public (Clark, 2001). A question that this act raises is what will prevent the continued extension of the term of copyright protection because according to the constitution the time of protection is to be limited. Unfortunately, this act has withstood recent challenges in court.

The perspective of copyright owners is relatively clear. They wish to retain control over how their work is being used and to receive the appropriate credit and compensation for their work. Copyright holders do not want to have their works placed in a digital format without revisions to the law prevent piracy and to control access and use (Russell, 1999). A group called the Creative Incentive Coalition (CIC) is representing the interests of copyright owners and is in favor of strongly protecting intellectual property. It argues that fear of

electronic piracy is discouraging creators from allowing the availability of their works in a digital environment. This group estimated that 8 to 20 billion dollars were lost due to copyright piracy in a year (1997) and want to include transmission over computer networks as an exclusive right of copyright owners. They feel that their position does not limit fair use (Rupp-Serrano, 1997). The competing view is that Copyright owners should be able to profit from making works accessible, but their profit should not restrict the public's right to use copyrighted works.

The viewpoints of those in the public who wish to use copyrighted materials is that owners have been given too much control over their works at the detriment of activities with only the best intentions. An organization called the Digital Future Coalition (DFC) is representing the interests of business, library, education, consumer, and technology organizations. It believes that revisions to copyright law must "balance intellectual property protection and fair use access" (Rupp-Serrano, 1997). This group feels that if transmission over computer networks is added as an exclusive right of copyright owners then fair use should also be expanded. It also hopes to add transmissions for the purposes of distance education to the list of exempt educational uses of copyrighted materials. Switzer and Switzer also suggested that the 1976 Copyright Act should be revised and clarified in light of the new technology involved in education today (1994). The DFC members are additionally concerned that with the proposed revision to copyright law simply viewing a web page could be considered a copyright violation because it a copy is stored in the computer's cache temporarily.

A variety of solutions for re-balancing copyright privileges have been proposed. There are also various problems with revising copyright law: it is complex; technology is changing so rapidly that the revision could be immediately out-of-date; and it is difficult to enforce. It has taken a long time to make previous revisions to copyright law because congress brings in special interest groups, and it is difficult to bring their competing interests into an agreement. Three policies are under currently consideration: keep the current Copyright Act of 1976 and maintain the status quo; adopt the revisions outlined by the Information Infrastructure Copyright Act that is supported by the CIC; or uses the alternative revisions proposed by the Digital Future Coalition (Rupp-Serrano, 1997).

Other more "radical" solutions have also been suggest following the new "Open Content" movement. This movement parallels development of Linux and other open source software. According to Clark, the almost unrestricted dissemination of "OpenContent creations (for commercial as well as other purposes), their modification and improvement by the original and subsequent creators over time and the tracking of contribution for proper credit are allowed" (2001). Open software is protected by a form of copyright often called GPL, General Public License or copyleft (Lyman, 1999). In keeping with this open theme is MIT's development of their distance education strategy, they are considering making the course material available to anyone on the Internet (Clark, 2001).

This paper discussed the two sides of the issue of the copyright controversy. It presented the current laws on copyright and the limitations of

these laws. It then explained the viewpoints of those who are copyright owners and those who wish to use copyrighted materials to conduct activities like learning and research. Finally, several solutions for revising copyright law while maintaining a balance between owner control and the public's rights were outlined.

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