Social Networking Under Attack

“This is Your Brain on DOPA”

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Slides available at
http://www.cdt.org/speech/20080630alaconf.pdf
Social Networking Under Attack From All Sides

- Federal Legislation
  - DOPA, KIDS Act, etc.
- State Legislation
  - DOPA, parental permission, anti-cyberbullying
- State Attorneys General
  - 49 AGs/MySpace Age Verification Task Force
  - NY AG/3 ISPs - Blocking Usenet Newsgroups
- Other venues & challenges
  - FCC - Nationwide filtered wireless network
  - Federal Prosecutors - Drew case
Definition: “Social Networking”

- “KIDS Act” definition:
  - “(A) allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users; and
  - “(B) offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger.”

- Sweeps in vast majority of blogs, web & content hosting, and other sites that allow communication (even eBay and Amazon)
- “Google Friends”: “social networking” on any site
- But … SNs are valuable for kids …
Federal Legislation - DOPA

- DOPA - “Deleting Online Predators Act”
  - Would build on the CIPA e-rate/library filtering obligation
  - Libraries/schools must block access to social networks

- Major constitutional & policy problems
  - Completely blocks access to *lawful* content (vs. CIPA)
  - Prevents minors from speaking - blocks creation of speech
  - Exacerbates digital divide

- Up and down history
  - Originated with Sen. Stevens (S.49 in this Congress)
  - Sen. Stevens saw the light >> S. 1965 >> H.R. 6145
    - Encourage Internet safety education
  - DOPA now pushed by Rep. Mark Kirk (H.R. 1120)
  - Recent attacks on Second Life (but SL requires install)
Federal Legislation - Other

- KIDS Act - Keeping the Internet Devoid of Sexual Predators Act (Schumer/McCain)
  - Sex offender E-mail registry
  - “Voluntary” screening by “social networks” -- broad pressure on SNs to comply
  - Ineffective, burdensome
  - Library-run s.n - pressure to comply
  - H.R. 719 diverged >> focused & effective

- SAFE Act - Securing Adolescents From Exploitation Act (McCain/Schumer)
  - Gov’t blacklist of child porn sites
  - “Voluntary” screening by ISPs, SNs
  - Unconstitutional - but could apply to library filtering
State Legislation

- Be aware of anti-cyberbullying laws:
  - Some urge ban on anonymity
  - Some reach beyond school focus

- “State DOPA acts” would have prohibited minors’ access to social networks

- Evolved into parental permission laws
Example: Illinois House Bill 4874

- Illinois H.B. 4874:
  - Written parental permission required for all minors accessing social networks
  - Parents must be given full access to profile, info
  - SNs sites must age- and identity-verify ALL users
  - SNs must verify parental status
  - Sex offenders may not use any SN site (AA, etc.)

- Serious constitutional, policy issues
  - Free speech of minors
  - Free speech of adults
  - Privacy of minors
  - Privacy more broadly
  - Sex offenders issues
State Attorneys General

- “Internet Safety Technical Task Force”
  - “Agreement” between 49 AGs & MySpace
  - Assess “age verification” & other technologies to protect kids
  - Open meeting 9/23 in Cambridge, Mass.
  - http://cyber.law.harvard.edu/research/isttf

- NY AG - Blocking Usenet Newsgroups
  - “Agreement” between AG & 3 ISPs (after threats of prosecutions)
  - ISPs discontinue some/all Newsgroups
  - Constitutional concerns
Other venues & challenges

- Federal Communications Commission
  - Free nationwide wireless network
  - Mandated network-level filtering
  - Must block technologies that cannot be filtered by network (P2P, Usenet, Second Life, many others)

- Federal Prosecutors
  - Drew indictment - arising out of MySpace suicide
  - Criminalize terms of service using hacker statute
  - Under theory of the indictment, any minor using Google is committing a federal crime
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