

Which freedoms do we want online?

We can't take an all or nothing approach to online expression, argues Bill Thompson.

The idea that the internet is an unregulated space where free expression is the guiding principle and we can all talk openly took another blow last week with the latest report on net filtering from the Open Net Initiative.

Their study found many countries were filtering websites and email, and some were blocking new services such as net telephony.

China, Burma, Tunisia and Iran were among the countries mentioned, and the overall message was that things are getting worse for the open internet.

I had been discussing many of the same issues just a few days earlier at a seminar at Wolfson College, Cambridge, where I am spending a term as a Press Fellow.

My colleague, Chinese journalist and blogger Michael Anti, pointed out that although political expression is tightly controlled in China the government is not really interested in other aspects of people's lives, while here in the UK we can talk about democracy but other forms of speech are restricted for legal and commercial reasons.

He has a point. The ONI report only looked at official, state-sanctioned filtering, and it did not consider the situation in the UK or US where most controls are imposed by companies trying to protect their reputation or achieve competitive advantage.

Limits on free speech

My ability to say what I want on private forums is limited.

Here we see numerous examples of limits on free speech.

Apple has repeatedly sued journalists for revealing details of its product plans.

A Romanian blogger has been threatened with prosecution by a US internet radio station for revealing how to link directly to its audio streams and bypass the media player it wants you to use.

Respected online publisher Jon Newton has been sued over the comments added to an article he posted on the popular p2pnet news site.

Yahoo! has been roundly criticised for removing comments made on the Flickr photosharing site it owns after photographer Rebekka Gudleifsdóttir complained that a commercial company was selling prints of her photos without permission.

Unreasonable restrictions

And we recently saw the fiasco that resulted when the group that manages copy protection for the new generation of high capacity disks tried to use the US Digital Millennium Copyright Act to stop people

publishing a code that with the right software can be used to decrypt some HD-DVD titles.

These sorts of restrictions happen all the time, and rarely involve direct government action, as we can see on the Chilling Effects website where there are copies of thousands of 'cease and desist' letters from lawyers trying to remove web content, including some from the BBC.

Most of us recognise that there are limits on what we can say or do, limits imposed to benefit the wider society and which serve us all, even if they sometimes seem onerous.

The point is not that speech is controlled but the openness with which it is done, the way that limits are discussed and agreed on and the ease with which unreasonable restrictions to freedom of expression can be challenged.

There is also a difference between censorship imposed by governments and the restrictions put in place by people or organisations for themselves.

Yahoo! says that it made a mistake in taking down Rebekka Gudleifsdóttir's posting, but in fact if the discussion went against the terms of use and included abusive comments then it is under no obligation to host them.

Just as I can't expect to be allowed to wander into your home and shout at you because you spend your time watching trash TV instead of reading improving books, so my ability to say what I want on private forums is limited.

The same principle applies to Slashdot, Digg, The Guardian or any other organisation that hosts content. Every day I delete dozens of spam comments from my blog and I don't consider that to be unreasonable censorship.

If the controls are too onerous then the discussion will move elsewhere. If the policy is inconsistently applied or seen to be biased then that will itself form the basis of public discussion, perhaps in other forums.

I'm happy to allow anyone to decide for themselves what they will or will not publish on their own site or service, but it gets a lot more dangerous when we allow individuals or governments to use legal remedies to stop other people speaking out, as with the furore over the HD-DVD key.

Nuanced approach

And the limits on speech that are acceptable when imposed by private companies as part of their terms and conditions would not be acceptable when imposed by governments.

In an open society we want to be as permissive as possible, limiting free expression only when it is absolutely necessary, and debating such limitations openly.

But we should not expect the rules to be straightforward or universal.

We need to take a more nuanced approach to this fundamental issue, one which allows that different nations, cultures and groups will have different standards, and one which also respects the difference between public and private provision of spaces for publication and debate.

Unfortunately, as I've pointed out in the past, nearly all of the open spaces we occupy online are in fact privately controlled and managed.

The real danger in the coming years might not be that governments look at what China has achieved with its 'Great Firewall' and decide to emulate it, but that the companies behind our online gathering places become more conservative, more limiting and more repressive, while we find we have nowhere else to go.

Perhaps it's time for the Open Net Initiative to have a look at filtering policies at Facebook, Bebo and MySpace as well as Burma, Iran and Saudi Arabia.