Internet Filtering Trends in Western Liberal Democracies
French and German Regulatory Debates

Yana Breindl, Joss Wright
yana.breindl@sowi.uni-goettingen.de
joss.wright@oii.ox.ac.uk

Georg-August-Universität Göttingen

Oxford Internet Institute, University of Oxford
Censorship around the World

- A global norm, not an exception.
- Much study focuses on China, Iran, Syria, and other dramatic cases.
- Western democracies should not be ignored.
Western Europe

- Stable countries with strong traditions of free-speech and human rights.
- Democratic.
- Strong rule of law.
- Strong internet penetration.
Motivation

- ‘Perverse learning’ taking place – democracies adopting techniques from authoritarian states.
- Understand the nature of the debate surrounding trends in internet filtering.
- What arguments are made by opponents and proponents?
- What has worked and what hasn’t?
Internet Regulation

- 1990s: Can states regulate the internet?
- 2000s: How do states regulate the internet?
- Three trends (McIntyre, 2012)
  - Technical solutions for political problems. (Lessig’s ‘code as law’)
  - Indirect enforcement through intermediaries.
  - Preference for self-regulation.
Blocking Attempts in Europe

- UK: Self-regulatory mechanisms imposed under threat of regulation.
- France: LOPPSI2 broad security bill, including censorship of ‘obvious’ child pornography without a court order.
- Germany: Initial self-regulatory agreement led to calls for a specific blocking law.
- EU-wide: CIRCAMP\(^1\) project producing CSAADF\(^3\) filter on UK model.

---

\(^1\)COSPOL Internet Related Child Abusive Material Project
\(^2\)Comprehensive Operational Strategic Planning for the Police
\(^3\)Child Sexual Abuse Anti Distribution Filter
Details of Blocking

- DNS filtering is the *de facto* standard
  - Cheap and easy, with bypass not considered a major problem.
  - Debate shifts from prevention to protection of innocent users.
- ISPs typically have ‘common carrier’ status.
  - Filtering deputises to ISPs, brings in notions of intermediary liability.
  - Governments can avoid some level of political backlash.
  - Raises concerns of transparency and democratic accountability.
Study

- Analyse the debates surrounding filtering in two key European states.
- France and Germany both recently considered internet filtering legislation, with opposite results.
- What can be learnt from the claims surrounding the filtering attempts?
Political Discourse Networks

- Discourse constrains political action. (Schmidt, 2008)
- ‘Frames’ of the debate are key. (Snow and Benford, 1992)
  - “... [an] interpretative schemata that simplifies and condenses the ‘world out there’ by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one’s present or past environment.” – Leifeld, P & Haunss, S. 2012
- ‘Discourse coalitions’ form around shared narratives. (Hajer, 2002)
Successful Discourse Coalitions

- Wide constituency.
- Internal ideational congruence.
- Dominate core frames.
- Consistent narrative.
- Broad, but not too diverse, ‘frame bundling’.
- Stability over time.
Examine Media Debates

- 'Quality' newspapers analysed for policy debates.
  - Five newspapers in Germany, three in France.

- Social media and blogs not analysed – policy makers don’t read them.
French and German Context

- Civil, as opposed to common law, legal systems.
- Right of free speech, but more restrictive than US 1st amendment.
  - Ban on religious, sexual, racial hate speech.
  - Holocaust and, in France, Armenian genocide denial illegal.
Background to German Blocking Legislation

- Considered self-regulatory mechanism in early 2009.
- Resistance by ISPs and Social Democrats – lack of a legislative basis.
- Agreement for self-regulation by 5 ISPs.
- Extended to a legislative approach in 2009 but revoked, without ever coming into force, in the 2011 elections by the liberal coalition.
  - Major electoral issue.
Background to French Blocking Legislation

- Blocking proposed as part of the LOPPSI2 broad security law package in 2011.
  - Buried in a larger bill.
  - Far from the most controversial article – complementary punishment for foreign criminals, forced evacuation of illegal settlements.
  - 13 articles ruled unconstitutional, but not internet filtering.

- An agreement to block child abuse images was signed by ISPs in 2008, but actual measures were first discussed in 2009.
Analysis

- **Germany**
  - 270 articles
  - 1780 statements
  - 16 categories
  - 5 newspapers

- **France**
  - 76 articles
  - 265 statements
  - 13 categories
  - 3 newspapers
Approach

- Articles read, and coded for statements according to frame and support for topic.
- Core frames identified for overall debate.
- Analysed for engagement of opponents and proponents with frames.
- Also analysed over time for stability and ideational congruence. Not discussed here.
France: Number of Statements

![Bar graph showing the number of statements for proponents and opponents in France. The graph compares the number of statements made by proponents and opponents, with proponents having fewer statements compared to opponents.]
France: Frames
France: Core Frames

- Protection & prevention
- Civil liberties/censorship
- Critique opponents
- Internet infrastructure
- Mission creep
- Damage
- Constitutional/legal

Effectiveness

In-degree

Yana Breindl and Joss Wright

Internet Filtering Trends in Western Liberal Democracies: 19/30
France: Frame Bundling

Proponents

Opponents
France: Actor Statements

- **Civil society**
  - Out-degree: 
    - UMP
    - Telcos
    - Parliament
    - Court
    - Internet industry
    - Opposition
    - Media & journalists

Yana Breindl and Joss Wright

Internet Filtering Trends in Western Liberal Democracies: 21/30
Germany: Number of Statements
Germany: Frames
Germany: Core Frames

Context
Methodology
Study
Results

Yana Breindl and Joss Wright
Internet Filtering Trends in Western Liberal Democracies: 24/30
Germany: Frame Bundling

**Proponents**

**Opponents**

- Type of regulation
- Necessary measure
- Alternatives
- Mission creep
- Constitutional/ legal
- Civil liberties/ censorship
- Effectiveness
- Damage
- Critique opponents
- Internet regulation
- Prevention & protection
- Effectiveness
- Necessary opponents
- Constitutional/ legal

Yana Breindl and Joss Wright

Internet Filtering Trends in Western Liberal Democracies: 25/30
Germany: Actor Statements

- CDU/Gov.
- BKA
- President
- EU Inst.
- Internet industry
- Data protection authority
- Media
- Other pol. Party
- Civil society

Out-degree
Debate Engagement

- In France, proponents dominated ‘principled’ debate (constitutionality) and avoided 'practical' debate (effectiveness).
- In Germany, both sides engaged in both principled and practical debate.
  - Proponents backtracked on effectiveness, and moved debate to avoiding accidental access.
Overall Points of Interest

- Germany
  - Broader debate
  - Diverse range of opponents
  - Many core frames in debate

- France
  - Large constituency
  - Proponents include Telcos
  - Two main frames
Limitations

- Only two cases, with many important factors.
- Hidden actors.
- Social media.
- Limited scope of analysis.
Future Work

- 24 countries across Western Europe, US, Japan, Canada, New Zealand, Australia.
- Other network metrics for discourse, such as clustering and centrality.
- Conflict networks.
- Role of actors.
- Deeper examination of the proposed technologies and the actors involved.
- How does censorship on the ground interact with political debates?