

PUBLIC NOTICE



FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, S.W.
WASHINGTON, D.C. 20554

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News media information 202/418-0500

Fax-On-Demand 202/418-2830

Internet: <http://www.fcc.gov>

<ftp.fcc.gov>

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Status of CIPA Filtering Rules for Libraries Following Supreme Court Decision

CC Docket No. 96-45

In this Public Notice, the Wireline Competition Bureau (Bureau) announces that the Commission's current suspension of rules concerning libraries' compliance with Children's Internet Protection Act (CIPA) filtering requirements remains in effect until the Commission acts or the recent Supreme Court decision, *U.S. v. American Library Association*, becomes effective, whichever comes first.¹

The Commission's original rules implementing CIPA required schools and libraries with computer Internet access to certify that they have Internet safety policies and technology protection measures, *i.e.*, filtering technology, to receive discounts for Internet access and internal connections under the universal service schools and libraries support mechanism (E-Rate).² Upon a challenge by the American Library Association (ALA), the United States District Court for the Eastern District of Pennsylvania found CIPA unconstitutional as it applies to libraries and enjoined the Commission from withholding E-Rate funds from any public library for failure to comply with Commission rules implementing CIPA filtering requirements.³ In response to this decision, the Commission suspended enforcement of those portions of its rules implementing CIPA filtering requirements as they applied to libraries.⁴

On June 23, 2003, the United States Supreme Court issued its opinion reversing the District Court's decision and finding that on its face CIPA is constitutional. The Supreme Court found that CIPA does not induce libraries to violate the Constitution because public libraries' use of Internet filtering software will be disabled at the request of any adult user and therefore does

¹ *United States v. American Library Ass'n*, No. 02-361, 2003 WL 21433656 (June 23, 2003).

² *See* 47 C.F.R. § 54.520.

³ *American Library Ass'n v. United States*, 201 F.Supp.2d 401 (E.D. Penn. 2002).

⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 12,433 (2002) (specifically suspending enforcement of sections 54.520(c)(2)(i) and (iii), (c)(3), (d), and (g)(1) of its rules as applied to libraries, 47 CFR § 54.520(c)(2)(i) and (iii), (c)(3), (d), and (g)(1)).

not violate their patrons' First Amendment rights.⁵ Under the Supreme Court's rules, its judgment in *U.S. v American Library Association* will become effective no earlier than July 18, 2003.⁶

Until the Supreme Court's judgment regarding CIPA becomes effective, the District Court's injunction and the Commission's order implementing that injunction remain in place. Before the effective date of the Supreme Court's decision the Commission will provide further guidance on a reasonable schedule for libraries to acquire and install filtering software, consistent with their certification obligations under CIPA.

For further information, contact Jennifer Schneider in the Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-7400, TTY (202) 418-0484.

⁵ *American Library Ass'n*, 2003 WL 21433656, at * 8. See also *id.* at * 11 (Kennedy, J., concurring), at * 14 (Breyer, J., concurring).

⁶ Under the Supreme Court's rules, its decisions do not become effective until the Court sends a certified copy of the judgment to the District Court. The Court does not send the certified copy until 25 days after the entry of judgment. Sup. Ct. R. 45.