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MULTI-STAKEHOLDER  
DIALOGUE ON

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**INTERNET PLATFORMS  
SEXUAL CONTENT AND  
CHILD PROTECTION**

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MAY 23 2019, SAN FRANCISCO

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**BACKGROUND PAPER**



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# INTRODUCTION

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The responsibility of Internet platforms when it comes to child protection is often understood to be about removing child abuse exploitation material, and suspending users who engage in the sexual grooming of minors. But this is a far too narrow conception of their responsibility, and misconceiving it in this way is one of the reasons why those problems are so intractable.

There are good reasons why Internet platforms ought to see their responsibility in broader terms, because protecting minors from sexual harm also means equipping them to be sexually healthy adults. This may seem like a tall order, but it needn't be. It actually may require less of Internet platforms than the fight against CSEM and grooming—and over the longer term it will make that fight increasingly easy.

Helping children to grow into sexually healthy adults is an integral part of what we call *primary prevention*. So, why aren't other child protection organizations talking about this, and why aren't governments demanding it of Internet platforms? Because it's both not as easily understood, while also being more easily *misunderstood*.

That's why we're devoting a day to talk about it today. Yes, we'll be talking about removal of content. But just as importantly, we'll be talking about when not to remove content. Because sometimes deciding not to remove content does more to protect minors from sexual harm than removing it. An over-censorious approach can prevent minors from accessing accurate information about sex, from exploring their emerging sexuality in age-appropriate ways, and from accessing support if they find themselves drawn towards inappropriate behaviors.

Before we can engage in dialogue about what it means for Internet platforms to support a primary prevention agenda, we need to establish a shared understanding of some background facts that will ensure that that dialogue is well-informed and inclusive. That's what this background paper and today's morning session are for.

In the afternoon, we will apply what we have learned in the morning to deliberate on some concrete case studies that raise difficult questions for content moderators. Finally we will collect what we have learned and envision a pathway towards the development of some best practice principles for the moderation of sexual content that support a primary prevention approach.



# BACKGROUND INFORMATION

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These summaries have been prepared by Prostasia Foundation to summarize some of the key points that our presenters will be imparting in the morning session. They do not capture all of the points to be delivered in those presentations, and may contain errors or omissions. If so, these are the responsibility of Prostasia Foundation, and not of the presenters.

## ABOUT CHILD SEXUAL EXPLOITATION MATERIAL


*Based on presentations from Andrew Puddephatt and Jeremy Malcolm*

In 2018 analysts at the Internet Watch Foundation (IWF) found over 100,000 URLs of children being sexually abused or exploited. This is the highest number ever recorded; a 25% increase over the figures from 2017, based on a combination of public reports and proactive research by IWF analysts. This increase partly reflects the success of the IWF in locating this content so that it can be removed or blocked, but also reflecting the daunting scale of the problem.

The images that are found to be potentially illegal by the IWF are classed into three categories, based on UK sentencing guidelines. In 2018 23% were placed within Category A which shows sexual activity between adults and minors, 21% in Category B which shows non-penetrative sexual activity involving minors, and 56% in Category C which covers all other indecent images. Contained within Category C are some images that may not be illegal under U.S. law, for example because they depict drawn or cartoon images that do not include real minors, or are otherwise constitutionally protected. These are currently not separated out from images of real minors in the IWF's reporting.

Not all of the images reported to the IWF are ultimately identified as falling into any of the three illegal categories. In 2018, the proportion of reports from the public that were ultimately considered to correctly identify illegality under UK law was 45%. The remaining 55% were legal content such as adult pornography, non-obscene images of minors, or other lawful content. No action is taken to restrict content that isn't identified as potentially illegal.





Once new potentially illegal images are identified, they are added to a hash list enabling them to be automatically filtered out by Internet platforms who are the IWF's members. In the United States, NCMEC provides a similar hash list to Internet platforms, through its CyberTipline reporting system. Neither list is publicly available, and websites added to the list are not automatically notified of this (except through subsequent action that may be taken by the police).

Due to the cascading effect of the IWF's determinations, which are not reviewed by a court, it is important to ensure that content is not wrongly flagged as being illegal, in order to preserve public confidence that the process is not being misused to censor lawful speech. For example, in 2008, a webpage from Wikipedia was added to the IWF blacklist because it depicted child nudity on a famous album cover; a decision that was subsequently reversed.

This risk of over-blocking was highlighted in a human rights audit of the IWF conducted in 2013 by the UK's former public prosecution director Lord Ken Macdonald. In response to his recommendations, procedures were reformed to improve the IWF's accountability and to ensure that fewer lawful images were wrongly removed or blocked. For example, IWF members are now encouraged to use a splash page that identifies why a page has been blocked, and allows an appeal to be lodged. The IWF also appointed human rights and digital policy expert Andrew Puddephatt as its Chair in 2017.

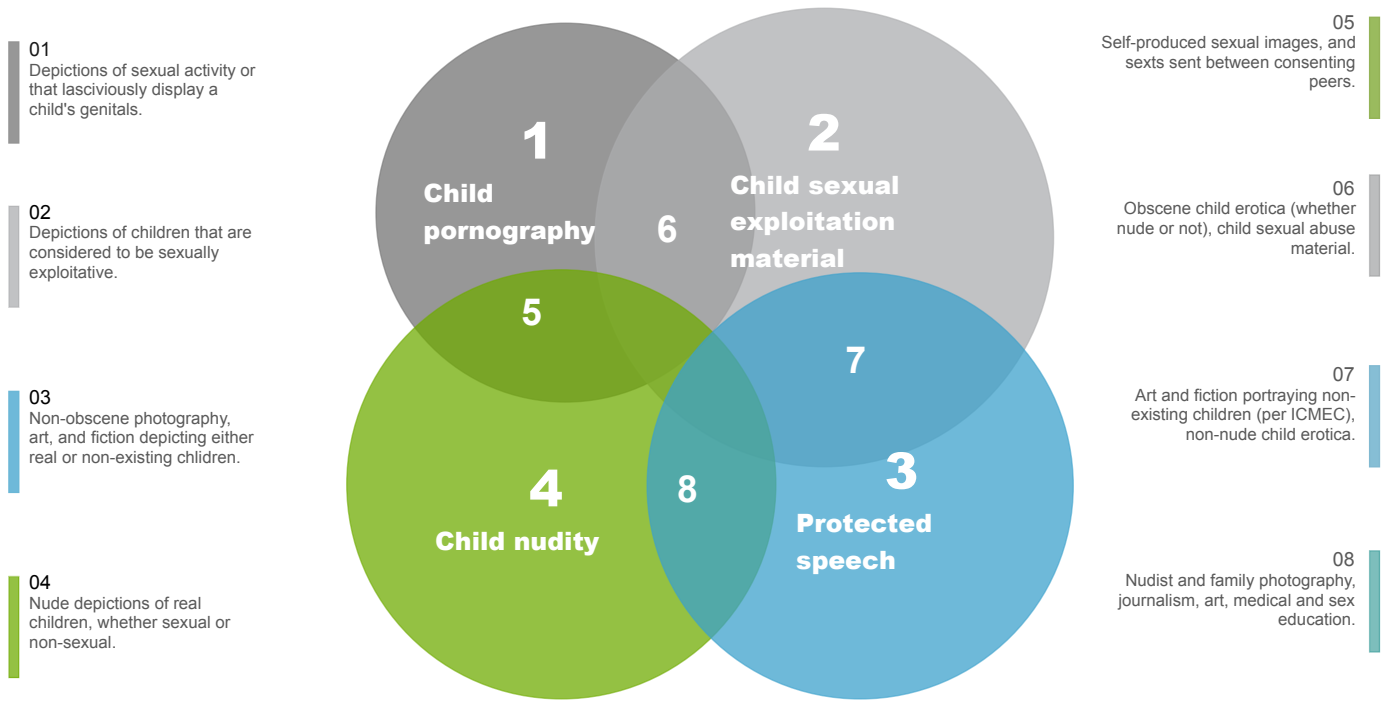
On private platforms, the problem of lack of transparency and accountability tends to be compounded. For example, another blacklist on which Wikipedia has found itself is the Google search index, which fails to return a search result to users searching for the topic "lolicon," referring to the Japanese manga art style (see Case Study 1 below).

Unlike the IWF, there is no public process for the review of private platform policies, although large platforms do informally consult with stakeholder and experts. Facebook is currently developing a more methodical and open process for the review of content moderation decisions, in which ProStasia Foundation is participating. Smaller platforms, however, do not have the resources for accessing expert and stakeholder input—which is one reason why today's meeting has been convened.

A key consideration for smaller platforms to understand is captured in the diagram overleaf. Child pornography as defined in U.S. law is a category of content that is not constitutionally protected. Hence in the representation, below, this legal category of content is shown as adjacent to protected speech, but not overlapping with it.

Child sexual exploitation material is shown as a broader category of content that overlaps with the legal definition of child pornography—but only in part, because there is some content that is considered to be exploitative but which doesn't meet the legal definition of child pornography, and is treated as protected speech. For example, when innocent family photographs are shared by strangers, the context in which this occurs may amount to exploitation of the children depicted, even though the images themselves are benign.





Platforms are justified in taking action to restrict the availability of such content, even though it amounts to protected speech.

Finally the category of child nudity overlaps with all of the other categories: in some cases and contexts it is exploitative, and in others is isn't; likewise, it may fall within the legal definition of child pornography, or it might be protected speech. For Internet companies, breaking down these categories can help them to determine what classes of content they want to allow on their platforms. The only blanket rule should be to prevent their platforms being used to disseminate illegal content; beyond that, a balanced and contextual approach to the removal of lawful content is recommended.

In the long term, we can't continue to just censor and arrest our way out of the problem of image-based child sexual exploitation. This requires a serious and long-term investment in prevention as well as co-operation and resources from government, the charitable sector and the industry itself. As a society we always tend to favor intervention once a crime has been committed (or the illness incurred) rather than in the less glamorous and longer process of prevention. But until we take this approach, we will always be fighting fires.



## ABOUT PEDOPHILIA AND CHILD SEXUAL ABUSE

*Based on a presentation from Gilian Tenbergen*

Child sexual abuse is a huge social problem. Although estimates of the prevalence of child sexual abuse are difficult to generate, research indicates that roughly 1 in 5 girls (20%) and 1 in 20 boys (5%) will be victims of sexual abuse in their childhood (see the work of David Finkelhor and the Crimes Against Children Research Center). In 2016 alone, there were 57,329 reported victims of child sexual abuse in the United States (U.S. Department of Health & Human Services, 2018).

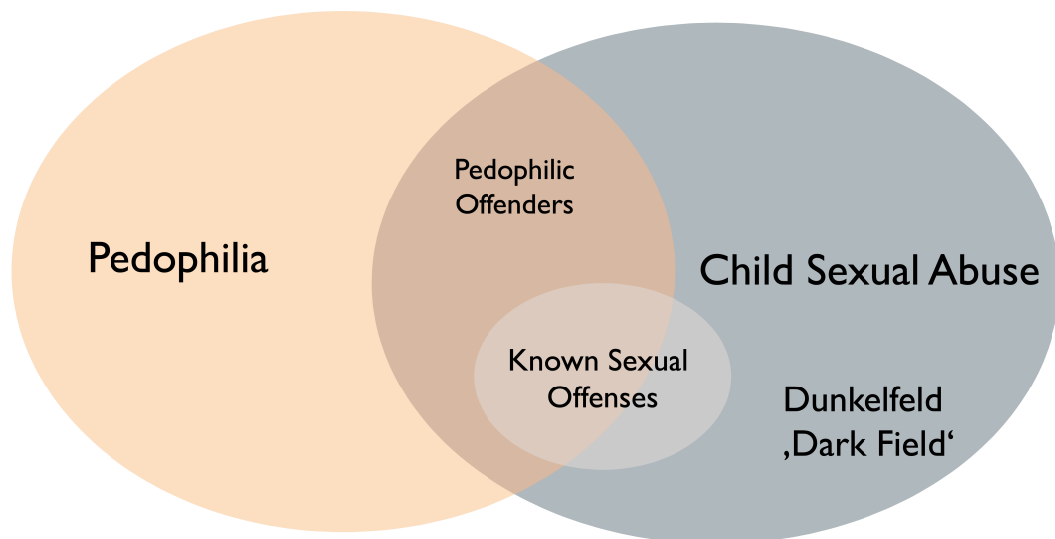
### Sexual Preference Disorder

Pedophilia/Hebephilia

exclusive & non-exclusive type

### Sexual Behavior Disorder


Child Sexual Abuse



Before meaningful work can start, one must differentiate between pedophilia and child sexual abuse (CSA). These are not the same, although there is some overlap. Pedophilia is the sexual preference for prepubertal children as manifested through persistent and recurrent (distressing) sexual thoughts and fantasies, urges, arousal, /or behavior (APA; DSM-5). 40-50% of sexual offenders against children are pedophilic, the remaining are "replacement offenders" whose sexual preference is for adults, but who may have easier access to a child victim (Seto, 2008; Schaefer et al., 2010).

The types of online CSA behaviors include the consumption and dissemination of child pornography (Child Sexually Exploitative Materials, or CSEM), the sexual solicitation of minors (sometimes enacted through online fantasy chat, but in other cases as a preparatory step towards real world contact) , sex trafficking, and exhibitionism and voyeurism.





Technology enables these offending behaviors through video services (e.g. YouTube), messenger services (e.g. WhatsApp, Threema, Telegram), closed community communication services (Slack, Discord), chat services and message boards (IRC, Reddit), online communication services (Skype, Hangouts), and Dark Web sites.

The perpetrators of online offending are diverse. They include individuals with pedophilia/hebephilia (i.e. Minor-Attracted Persons), but as indicated earlier, they also include many adult-attracted individuals. Typical online offenders are younger than offline offenders, with higher income and education levels. They are also typically male, and tend to score lower in measures of deviancy and relationship difficulties as compared to contact sexual offenders (Seto, 2018; Babchishin, Hanson, VanZuylen, 2015).

*Prevention* is key when working with this group. CSEM cases are increasing, making it relevant to target this group. However, the law SESTA-FOSTA has made targeting them difficult through forced censoring of *all* CSEM/pedophilia-type information. This includes targets like prevention groups attempting to provide scientific and clinical information and scientists attempting to conduct research. As a result, we are making it *more* difficult for these individuals to seek help, thereby increasing likelihoods to offend.

Internet companies can help by understanding the science of pedophilia and sexual offending against children, interacting with experts and using their knowledge to guide software development/safety protocols/AI use, and implementing the knowledge gained from the case study examples today.

## ABOUT SEX OFFENSE REGISTRIES

*Based on a presentation from Guy Hamilton-Smith*


The goal of creating safe communities is a valuable one, but well-intentioned efforts often undermine those goals. Many tech platforms, including Facebook and Instagram, have policies that ban anyone convicted of a sex offense from participation. Although superficially attractive, these blanket policies are problematic for a number of reasons, all of which ultimately undermine safety.

First, almost all (>95%) sex offenses, online or otherwise, are committed by people unknown to authorities. Despite the popular perception that those who commit sexual offenses tend to have a string of victims, this is not usually the case. Rates of re-offending by those who have sexually offended are in fact among the lowest for any category of crime. Therefore, to use a sex offense registry as a proxy for ensuring child safety creates a false sense of security.

A further shortcoming of these policies is that they assumes that someone who seeks to take to an online platform to commit a crime will sign up with their real information. Thus, this policy will only affect people who have been held accountable for a crime, and are now trying to lead law-abiding and productive lives.







Social media and technology platforms have a crucial, necessary role to play in helping people reintegrate into their communities. To the extent that people remain isolated and disconnected from their community, they are more – not less – likely to commit more crimes.

Importantly however, nothing here prevents platforms from policing the behavior of individuals on their platforms. People can still be suspended or banned from platforms on the basis of things that they do now, but should not be banned on the basis of something that they did however many years in the past.

## ABOUT THE ADULT ENTERTAINMENT INDUSTRY AND PAYMENT PROCESSING

*Based on presentations from Ian O'Brien and Cathy Beardsley*


The Free Speech Coalition is the trade association for the adult film and pleasure products industries, often referred to together simply as the adult industry. As such, its name alone explicitly identifies the industry by its target market: it is for adults only. In everything that the industry does, care is taken to ensure that the products and services provided are not marketed towards minors.

The FSC's advocacy work has largely been about the existential question of whether porn or sexual content should be allowed to exist at all. Very often battles over the legality of adult content have been couched in terms of child protection. For example, the Child Protection and Obscenity Enforcement Act of 1988 places stringent record-keeping requirements on producers of adult films, but also exposes young actors to the risk of having their personal information misused. The FSC has successfully sought to narrow the scope of this law so that records of personal information no longer have to be maintained by every individual website on which an adult film appears.

There has also been an effort by those opposed to the adult industry to have pornography framed as a public health crisis. Resolutions declaring it so have been passed in more than a dozen states. Many of the resolutions are based on a model text written by the anti-porn group National Center on Sexual Exploitation, previously known as Morality in Media. But public health experts say that while there are questions about the effects of pornography use by minors, there is a much more pressing public health justification for the introduction of comprehensive sex education throughout the United States—a measure that the same legislators oppose.

These resolutions have no binding legal effect, but they do reinforce the perception of adult content as being especially abnormal and risky, and this carries over to the way that adult content producers are paid for their content, which involves extraordinary costs and burdens that do not apply to other content producers. Segpay is a payment processor that specializes in serving these producers. It provides technology services that can ensure that a high level of protection for children is maintained, while also minimizing fraud and other illegal practices.





The rules that Segpay and other billers enforce to manage risk come not only from the law, but also from banks, from the card brands, and from the internal assessments that Segpay and other billers make to manage their own risk in what is a highly regulated industry.

Incorporating these considerations into its terms of service, Segpay requires its customers that offer adult content to affirm that they will not permit persons who are not of legal age to view or access that content, and that the content is lawful, and that it falls within the prevailing community standards. They are also required to maintain reasonable insulation from the materials for minors and unwilling adults.

Informed by the industry's understanding of the law, best practices have emerged around content that is most likely to be face accusations of obscenity. For example this is why although incest is a popular genre of adult film, scenarios that purport to depict blood-relatives are not presented, and in the "barely legal" genre the adult actors will often reassert for the camera that they have attained the age of 18. These safeguards are not necessary when consenting adults act out fantasy scenarios together in private, but are a necessary part of risk management when such acts are depicted in adult film.

## ABOUT THE LAW


*The presentation on this topic was not available at print time. An update summarizing the presentation will be published in a later edition. These notes are by Prostasia Foundation.*

In the United States, there are several different legal regimes that apply to sexual content online. Two of the most important are child pornography law and obscenity law. Child pornography law is the more straightforward of the two, in that it is visual depiction of sexually explicit conduct involving a minor, or that lasciviously displays the genitals of a minor. The 1982 Supreme Court case of *New York v Ferber* determined that is not necessary to determine that material that satisfies these conditions is also obscene, due to the state's overriding interest in protecting the welfare of the minors who are depicted in this manner.

However because this interest is narrowly focused on protecting direct harm to minors, the Supreme Court held in 2002 in *Ashcroft v Free Speech Coalition* that child pornography could not constitutionally include "virtual" child pornography such as drawn or rendered artworks of children who do not exist, unless these were visually indistinguishable from actual images of minors.

Compared with child pornography law, obscenity law is broader and less clear-cut in its application. The test of obscenity established by the U.S. Supreme Court in the 1973 case of *Miller v California* requires all three of the following tests to be met: 1) the "average person, applying contemporary community standards," finds that it "appeals to the prurient interest"; 2) the work portrays sexual conduct "in a patently offensive way"; and 3) the work "lacks serious literary, artistic, political, or scientific value."





In response to *Ashcroft*, the PROTECT Act was passed in 2003, originally criminalizing drawings, cartoons and sculptures appearing to depict minors engaged in sexual conduct, if they also lacked serious literary, artistic, political, or scientific value. This provision of the Act was declared unconstitutional by a District Court judge in *United States v Handley* when it was used to bring charges against a collector of Japanese manga art. Despite this, possession of such virtual images may still be criminalized if they satisfy the full three-step Miller test, and Mr Handley accepted a plea bargain to avoid a jury trial on this point. As such, exactly where the line of lawful speech lies when it comes to the artistic depiction of minors now remains legally grey.

Internet platforms are generally not held responsible for speech posted online by their users, pursuant to Section 230, a provision of the Communications Decency Act (CDA) of 1996, that provides "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider" (47 U.S.C. § 230).

But there are some exceptions to this law. Federal criminal law has always been one of those exceptions, and this is why platforms can be held responsible for the knowing distribution of child pornography. Since April 2018—the month in which ProStasia Foundation was formed—a further exception was established by FOSTA-SESTA. FOSTA-SESTA now makes an Internet platform responsible for knowingly assisting, facilitating, or supporting sex trafficking. It was primarily aimed at the classifieds website Backpage.com, which was widely used by sex workers to advertise to clients—however, Backpage.com executives have since been prosecuted under a law unrelated to FOSTA-SESTA.

The scope of the law's prohibition on speech "facilitating" or "supporting" sex trafficking is vague and broad, and a lawsuit has been brought by the Woodhull Freedom Foundation and other plaintiffs to have it declared unconstitutional. ProStasia Foundation contributed to an *amicus curiae* brief in support of that lawsuit, which remains pending.

The plaintiffs and amici contend that the law has impacted a range of constitutionally protected speech, and that it actually makes the prosecution of sex trafficking more difficult. Among the legitimate speech that has been impacted includes advocacy for the decriminalization of sex work, safety tips for sex workers, support and sex education materials, and even discussions of child sexual abuse prevention.

Although these may not all be attributable to FOSTA-SESTA, additional restrictions on sexual speech have been put in place by a number of major Internet platforms since its passage; among them Craigslist, Tumblr, Facebook, Medium, Twitter, and Discord.



## ABOUT THE SEX INDUSTRY

*Based on a presentation from Kristin D'Angelo*

Sex work is a broad term that encompasses a wide variety of erotic labor, both legal and illegal, including exotic dancing, escorting, phone sex, and porn. Sex trafficking is a narrower term that generally connotes lack of free will or coercion, as it is a term rooted in labor rights and empowerment/sexual freedom (coined by Carol Leigh, aka. Scarlet Harlot).

Human trafficking is a legal term that has distinct state and federal definitions. The Trafficking Victims Protection Act (TVPA) defines human trafficking as engaging in prostitution due to force, fraud, or coercion or being induced into prostitution under the age of 18. It does not need to involve transporting persons across state lines.

Survival sex is prostitution engaged in by a person because of their extreme need. It describes the practice of people who are homeless or otherwise disadvantaged in society, trading sex for food, money, a place to sleep, or other basic needs, including drugs. The criminalization of sex work makes survival sex workers even more vulnerable: there are no services available to them, they are often homeless (80% based on SWOP Sacramento Research), 59% reported being raped, 55% reported beatings, and 27% reported being harmed by an officer.

Censorship of online content harms this large survival sex population. 18% identified migrating after the seizure of the SF Redbook website in 2014. Websites which allowed transition are life saving. Criminalization will never stop a person from surviving. It is an unreasonable idea that a person will stop eating if they are arrested.

The premise behind SESTA-FOSTA is a false one: sex work is not inseparable from sex trafficking, and only a tiny percentage of cases of child sexual abuse involve child sex trafficking. Conflating these separate problems is harmful. Laws such as this that are passed in the grip of moral hysteria can literally kill, and minorities such as survival sex workers are the most vulnerable of all.

The Internet intersects with sex work, but is not correlated with the greater supply of sex workers. Rather, it is a support service, that has helped independent sex workers to stay safe. Use of the Craigslist erotic section was associated with a 17% drop in female homicide (Sept 2017, West Virginia University and Baylor University). SF Redbook and Backpage were also a safer way for sex workers to transact business. Today, these have all disappeared, and when services are pulled, sex workers suffer. Support services do not hurt trafficking victims or sex workers; on the contrary, safety benefits us all.

While they have no choice to comply with their legal obligations until SESTA-FOSTA is repealed or annulled, Internet platforms can still defend sex workers from further harm by listening to them, their experiences, and their history, and allowing them to exercise their right of free speech.



## ABOUT CHILD SEXUAL ABUSE PREVENTION AND STIGMA

*Based on a presentation from Candice Christiansen*

One of the biggest problems faced by those who wish to take a fact-based approach to child sexual abuse prevention is that this involves treating those who are at risk of offending as human beings. This in turn results in our society's hatred towards sexual abusers being turned on those who are only trying to help prevent abuse. During 2018, the Global Prevention Project was the target of one such sustained and vicious attack.

Candice Christiansen, founder of the Global Prevention Project, is herself a survivor of child sexual abuse and a licensed clinician, and perhaps the most controversial aspect of her work is to give a voice to non-offending minor-attracted persons (MAPs), as a step towards making it easier for this population to access support and wellness resources and information, with the objective that this will help them avoid offending.

The most important message is that being an anti-contact, non-offending MAP is a choice for those who find themselves attracted to children. Such individuals do exist and they are men, women, non-binary and transgendered individuals with pedophilia, hebephilia, and ephebophilia. There is a broad scientific consensus that these groups' attraction towards children is not a choice—but their behavior in response to that attraction is a choice.

Non-offending, anti-contact MAPs exist throughout society and on social media, whether they are permitted to say so or not. But the stigma that affects clinicians who make a principled choice to support a prevention agenda also affects Internet companies. This has resulted in some platforms making the choice to take prevention resources offline.

There is debate among experts over whether erotic stories and pictures such as cartoons, objects such as sex dolls, and practices such as role play, are helpful or harmful to MAPs. Little to no research exists in this area. For exclusive MAPs, these may be their only way of expressing their sexuality. For those MAPs who endorse addictive symptoms, they report it can be triggering.

Online stories, blogs, podcasts, and posts of MAPs are a simpler case. These are necessary to provide other MAPs support, as there is strong evidence that isolation creates risk. These resources also provide the family members of MAPs with information, educate clinicians on what type of support NOMAPs need, and provide researchers with access to this "underground" community for research.



# CASE STUDIES

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These case studies are presented to stimulate thought about how the information presented by our experts during the morning session can be applied to some hard cases –grey areas in which different approaches could lead to different decisions being made by platforms conducting content moderation, implementing automated filtering algorithms, constructing content blacklists, or developing content policies.

Please note that there are not meant to be any “right” answers about how these types of content should be treated in every context; in many cases the answer to whether such content is acceptable or not might be “it depends.” But that’s not a very useful answer in itself. Through small group deliberation, we hope to be able to dig a bit deeper. Here are some of the general questions that are likely to be relevant to each case study:

- How would restricting this content protect children from sexual harm?
- Who may be harmed by the restriction of this content, and how?
- If it is proposed to restrict access to this content:
  - In what contexts should it be restricted?
    - Globally
    - Only in particular contexts (which ones and why?)
  - By whom would it be restricted?
    - A social media platform
    - A web host
    - A search engine
    - A payment or advertising intermediary
- If it is allowed, should steps be taken to prevent misuse of the content? If so, what?
- What precedent might the restriction of this content set for other types of content?



## LOLICON, SHOTACON, AND FURRY FANDOM

Lolicon and shotacon and furry art are cartoon fantasy art forms with roots in the Japanese manga style of comic book art. Over the past year, platforms such as Discord, Twitter, and Reddit have all placed new restrictions on such art, preventing users from uploading images that appear to represent children—or in the case of furry cub art, childlike animals. For example, Reddit’s current policy states:

Reddit prohibits any sexual or suggestive content involving minors or someone who appears to be a minor. This includes child sexual abuse imagery, child pornography, and any other content, including fantasy content (e.g. stories, “loli”/anime cartoons), that depicts encourages or promotes pedophilia, child sexual exploitation, or otherwise sexualizes minors or someone who appears to be a minor. Depending on the context, this can in some cases include depictions of minors that are fully clothed and not engaged in overtly sexual acts.



In March 2019, ProStasia Foundation submitted comments to the United Nations Committee on the Rights of the Child, which was considering making a recommendation that depictions of non-existing minors in art or fiction should be criminalized. In our submission we pointed out (references omitted, but available in the original):

We agree that there is insufficient research on this question, and we plan to raise funds for more such research. But what research we do have shows exactly the opposite of what ECPAT claims: that access to representations of non-existing children is not associated with greater social acceptability of sexual interaction with children, and that it may actually decrease rates of actual sexual offending against children. This may be because virtual representations such as cartoons and dolls can provide a safe, victimless outlet for some people who are sexually interested in children, but who abhor the idea of harming a real child.

In this case study, we will consider such policies against the “sexualization” of non-existing minors in the form of cartoon art. In addition to the general questions applicable to all case studies, groups should consider:

- Is the concern about “sexualization” a coherent and valid one?
- How easy is it to determine whether art represents a child, and does so sexually?
- Could there be benefits of allowing minors to be depicted sexually in art?



## NUDIST WEBSITES THAT CROSS THE LINE

We can accept that nudism (naturism) is a legitimate lifestyle and that families do participate in it responsibly, without exposing their children to harm. However, nudist community organizers need to take responsibility to make sure that children are not being exploited. This applies equally on the Internet as it does in physical venues. There are a number of nudist websites that are legal, but nevertheless are arguably exploitative in their focus on photographs of children.

One such website offers paid memberships which it claims “support the families involved,” and contains the following very assertive disclaimer:

The naturist photo and video documentaries that we offer are legal in every city, every state and every county inside the United States. They are protected by the First Amendment and are not subject to local obscenity laws or ordinances.

On the other hand, the same website also warns:

Our system is specifically designed to meet all legal specifications. Downloading and saving material out of context of PureNudism.com can cause issues. This is for your protection.



Prostasia Foundation reached out formally and extensively to the nudist community, at local, national, and international levels, to invite their participation at this event, but they declined to participate. However the American Association for Nude Recreation did acknowledge the potential for confusion between “nudist and naturist web sites [and] the dating and exhibitionist/porn sites that are all over the Internet.” Since neither the AANR nor the International Naturist Federation (INF) offers any accreditation system to distinguish legitimate websites from illegitimate ones, determining the difference is essentially left as an exercise for law enforcement authorities, and for payment and Internet intermediaries.

In this case study, groups can discuss the following additional questions:

- Is child nudity inherently exploitative?
- Who should make the call about a nudist website that appears to go too far?
- Should Internet intermediaries make it harder to access such (legal) content?





## MAPS AND REGISTERED CITIZENS ON SOCIAL MEDIA

Several platforms disallow those who identify as Minor-Attracted Persons (MAPs) to post their thoughts online because it offends their other users, and/or because of a belief that it “normalizes pedophilia.” Other platforms place a blanket ban on users who are on sex offense registries, regardless of what they post.

For example, during 2018, Tumblr reportedly terminated the accounts of all self-identifying MAPs as a prelude to the later revision of its policies on sexual content of all kinds. The reason given for termination of these accounts, most of which were dedicated to child sexual abuse prevention, was that they contained “inappropriate content involving minors”—even if they didn’t.

Similarly, Medium suspended a publication called “Pedophiles about Pedophilia” in August 2018, and Discord repeatedly banned a support server called MAP Support Chat, which is now hosted independently.

But not all platforms take the same approach: Twitter allows non-offending MAPs to maintain Twitter accounts, and only terminates those that promote child sexual abuse or otherwise infringe Twitter’s content rules.

It is unlikely ever to be possible for a platform to ensure that it has no MAPs or registered citizens as users. All that it can do is to terminate their accounts if they ever come out or are “outed” as such. Based on the presentations given earlier in the morning, the motivation for a blanket prohibition on MAPs or registered citizens to have a presence on social media has also been questioned.

On the other hand, we also have to acknowledge that platforms face significant social and financial pressures not to carry such controversial content. For smaller platforms, these pressures may be insurmountable and make a blanket ban seem like the most attractive option. But is it the option that best protects children?

Additional questions for discussion during this case study include:

- Do these policies make sense, or are there better approaches we could take?
- If MAP blogs are allowed, should they be limited to anti-contact non-offenders?
- How can platforms address the feelings of users who are offended by such content?



## CHILD MODELING

Some of the legal child modeling content online could be considered ethically dubious. An example that has drawn some public attention is Instagram, where young models post content to accounts accounts run by their parents. Often the content that gets the most page views, clicks and comments are the most revealing photos. This image is of a twelve year old model, taken by a professional photographer and posted to Instagram with the approval of the model's parents. Take note of the comments alongside the photo.



Instagram's community standards state:

People like to share photos or videos of their children. For safety reasons, there are times when we may remove images that show nude or partially-nude children. Even when this content is shared with good intentions, it could be used by others in unanticipated ways. You can learn more on our Tips for Parents page.

Beyond this, there are websites dedicated to child modeling, which feature underwear and swimwear shots from professional and amateur models. These often have .com domains and are indexed on major search engines. There are even websites that feature nude adult models from modeling studios that were shut down by authorities for having produced child sexual exploitation images and videos. Where should the line be drawn?

In this case study, groups may like to consider answers to these additional questions:

- Whose responsibility is it to ensure a child model's welfare?
- Is the removal of sexual comments and solicitations a sufficient response?
- Is it ethical to link to legal content from a studio that also made illegal content?



## DD/LG, AGEPLAY, AND COSPLAY

The sexual fetishes of DD/lg (Daddy Dom/little girl) and ageplay are immensely popular, especially with younger women. Fashion, photography, and art all create an aesthetic that calls back to the idea of youth, and some of these representations are overtly or implicitly sexual.

DD/lg and ageplay fantasies often take place in private. But representations of these fantasies can also be found online when users either post photographs of themselves dressed as a younger persona (“cosplay”) on websites such as Tumblr and FetLife.

They may also take the form of text-based chats and stories posted to platforms such as Reddit and Discord, in which participants role play as being underage but give a clear disclaimer that they are actually just pretending.

In most cases, it is obvious that the ageplayer is role playing: they might be wearing a onesie and sucking a pacifier, but their build and features are clearly those of an adult. But in some cases, these depictions may be literally indistinguishable from actual representations of minors.

An extreme example is shown in the photograph shown here, which comes from a popular model, Marina Nagasawa. Believe it or not, she was 21 years of age when this photo was taken, although she is cosplaying as an elementary schoolgirl. As an adult, can we tell her that she doesn't have the right to pose as a child in cosplay photographs that she posts online?



In addition to the questions raised for consideration across all of the case studies, some additional questions for discussion here include:

- Should these representations of child sexuality be allowed? With what limits?
- What steps can be taken, and by whom, to prevent minors participating?
- Does it make any difference when it is depicted in sex work or commercial porn?



# BEST PRACTICE PRINCIPLES

MULTI-STAKEHOLDER  
DIALOGUE ON

INTERNET PLATFORMS  
SEXUAL CONTENT AND  
CHILD PROTECTION

MAY 23 2019, SAN FRANCISCO

This multi-stakeholder dialogue is the first in a series of three: the next will be held at RightsCon 2019 in Tunis on June 13 from 9am, and the third is currently planned to be held at the Internet Governance Forum in Berlin in November 2019. At each event, we plan to move a step closer towards the development of a series of best practice principles on content moderation in the field of child protection. As participants in this first event, you have the opportunity to set the roadmap for the development of these principles.

What follows are suggestions that we will discuss during the final session of our San Francisco meeting. You will have the opportunity to join a working group that will take these draft ideas and form them into a set of draft principles for presentation at RightsCon 2019 for further community feedback and discussion.

There is a tendency for policymakers to take an exceptionalist approach to child protection; in other words, to consider that it constitutes a *sui generis* policy area that overrides the way that we do things in other areas. But whenever we succumb to this tendency, it tends to mean doing away with important principles like due process and transparency. This is exactly the kind of thinking that led to FOSTA, and one of the reasons why ProStasia Foundation was formed was that we thought we could do better than that.

That's why we're very deliberately not starting this discussion of principles from scratch. Instead, we are using a set of principles that are grounded in international human rights norms, and based on years of work on guiding principles in the area of Internet content moderation, in documents such as the *Manila Principles on Intermediary Liability* and the *Santa Clara Principles on Transparency and Accountability in Content Moderation*, both of which have been endorsed by hundreds of human rights defenders worldwide.

In May 2019, Access Now developed a set of principles for content moderation that draw upon these previous documents and others, titled *Protecting Free Expression in the Era of Online Content Moderation*. Rather than re-inventing the wheel, we suggest that this group take that document as a starting point, and that we produce a commentary or "remix" of these principles, that applies them to the field of child protection.





The principles—and some of our own brief commentary on each of them—are as follows:

**Prevention of harm.** The Internet industry must take human rights into account when making content moderation decisions and developing child protection policies. The rights of a child to bodily autonomy and privacy are critical considerations. And preventing violations of those rights is far preferable to just enforcing policies against those who have already violated them. But freedom of expression is also a right—for children, and for others in society. We do not accept that we have to give up one right for the protection of another. Industry can *and must* protect and uphold *all* human rights, for *all* human beings.


**Evaluation of impact.** The industry could do better at monitoring the human rights impacts of its decisions. Some companies have been censoring a broader range of sexual content than was necessary to comply with the law—even taking FOSTA into account—and this has been harming researchers, artists, sex workers, educators, child sexual abuse survivors, and other vulnerable people seeking support. But then again, that’s largely because they had not been hearing from those groups. Now that Prostasia Foundation exists, that has begun to change. Our next challenge is that not all of the necessary research has yet been done on the effects of censorship on child protection. As an organization, we are committed to help seeing that research funded, and we call on industry to support us in this goal also.

**Transparency.** Despite recent improvements, child protection remains one of the least transparent areas of content moderation. For example, when images are added to shared industry blocklists, how many “virtual” images such as cartoons, or sex education publications, or family photos are being included—and do we want them to be? If we do, are we sure that censoring them won’t cause more harm than it averts? Transparency is necessary to establish exactly where lines are being drawn, by whom, and on what basis. We commit to preparing a transparency report covering all major actors in online child protection, and publishing it this year—and we call on industry to support us in this too.

**Proportionality.** The proportionate response in the case of online sexual grooming of a minor, or sharing unlawful images of minors, will often be account termination—and referral to law enforcement authorities. But this might not be proportionate in all cases—for example, when a 16 year old shares selfies with their 17 year old romantic partner or asks them for sex, many jurisdictions recognize that this is not child sexual exploitation—and platforms should take this into account when enforcing their policies in those jurisdictions. The proportionality of responses to other child protection policies should also be assessed individually; for example, sharing legal cartoon images, even if against a platform policies, is not as serious an infraction as sharing illegal images.

**Context.** As a starting point, no Internet platform is compelled to carry any particular legal content. Neither should it be compelled to prohibit any form of legal content. Its decision to carry content (or not) should, however, be human rights informed. This means





sometimes making a judgment about the context in which content is published. Whether the content is being used to directly harm a child will often be the most relevant contextual consideration. Whether it is being published in an historical, artistic, or journalistic context will inform that assessment. We believe that the consideration of context should also be sex-positive; in other words, whether the content involves only consenting adults is another vital consideration. Where scale permits, context should be considered by a human before automated content filters are applied—except in the case of confirmed illegal images.


**Non-discrimination.** Sex workers, the consensual kink community, the LGBTQ+ community, those who have offended or are seeking support to avoid doing so, and the professionals who work with these populations, are often discriminated against on the basis of harmful stigmas. This sometimes perpetuates itself in the written or unwritten policies of Internet companies, seeing content from these groups removed while similar content is not removed when it is posted by other less socially stigmatized groups. This is harmful and must change.

**Human decision.** We do believe that automated decision-making has an important place in child protection: the use of hash-based databases for the elimination of duplicates of illegal child sexual abuse images and videos are an industry best practice that we support. But even in this case, it should always be a human decision that results in an image of video being added to such a database—and we are calling for better transparency and accountability of this process. Artificial intelligence algorithms should not yet be used to identify new content as being an unlawful sexual image of a child or an unlawful act of child sexual grooming, without individual human review—and any such technologies must respect privacy.

**Notice.** The Internet industry has been improving the comprehensiveness of its provision of notice to those whose content is removed by a moderator. It is time for similar improvements to be made so that when websites URLs and content hashes are added to shared industry blocklists, the owner of that website or content is informed of this—so that they can defend it if necessary—and determine that the content is no longer blacklisted if the defense is successful.

**Remedy.** When a platform slips up in its content moderation decisions, it should provide a remedy to those affected. But FOSTA takes this a step further, allowing platforms to be held liable directly to victims of sex trafficking for the effects of that abuse. This goes a step too far—because it encourages platforms to over-censor and over-enforce, and distracts us from pursuing justice against actual perpetrators of child sexual abuse. This doesn't mean that platforms shouldn't be held responsible when they do too little (or too much) to prevent child sexual abuse. But far better results will be obtained if they provide that remedy through means like those we have outlined above—rather than by paying out to individual survivors of child sexual abuse through lawsuits. For this reason, we reject the idea that content moderation should be expressed in terms of a “duty of care” by Internet platforms, as recently proposed in the United Kingdom.





We believe that inclusive, multi-stakeholder participation is required when developing child protection content standards. So although our suggestions above are a suggested starting point, our discussions at this meeting are an essential first step towards the development of a set of draft best practice principles for child protection through sexual content moderation, that we will present for broader public comment at our second public meeting at RightsCon 2019.

We hope to see you there.

## REFERENCES

*Manila Principles on Intermediary Liability* (2015), Electronic Frontier Foundation. Available from: <https://manilaprinciples.org/>

*Protecting Free Expression in the Era of Online Content Moderation* (2019), Access Now. Available from: <https://www.accessnow.org/free-expression-at-scale-a-human-rights-guide-to-content-moderation/>

*Santa Clara Principles on Transparency and Accountability in Content Moderation*: (2018), Electronic Frontier Foundation. Available from: <https://santaclaraprinciples.org/>





# BIOGRAPHIES OF SPEAKERS



### JEREMY MALCOLM

is Executive Director of ProStasia Foundation. Prior to his work at ProStasia he held the position of Senior Global Policy Analyst at the Electronic Frontier Foundation, where he led the development of the Manila Principles on Intermediary Liability and worked in numerous other areas defending digital privacy, free speech, and innovation. Before that he worked for Consumers International coordinating its global program Consumers in the Digital Age.

Jeremy graduated with degrees in Law (with Honors) and Commerce in 1995 from Murdoch University, and completed his PhD thesis at the same University in 2008 on the topic of Internet governance. He is the author of Multi-stakeholder Governance and the Internet Governance Forum.

Jeremy's background is as an information technology and intellectual property lawyer and IT consultant. He is admitted to the bars of the Supreme Court of Western Australia (1995), High Court of Australia (1996) and Appellate Division of New York (2009). He is a member of the Multistakeholder Advisory Group of the United Nations Internet Governance Forum.



### GILIAN TENBERGEN

is currently a Visiting Assistant Professor of Psychology with SUNY Oswego, specializing in the neurobiology of pedophilia and its translation into the prevention of child sexual abuse. In Hannover, Germany, she spent several years working with the German Prevention Project Dunkelfeld and the German national NeMUP Research Consortium. Her research interests focus primarily on the roles of neuropsychology and neurobiology on the development of paraphilias and risk factors in the commission of sexual offenses.







### ANDREW PUDDPHATT OBE

is Chair of the Internet Watch Foundation. He has worked to promote human rights for twenty years with specific expertise in freedom of expression, transparency, and the role of media and digital communications in promoting human rights. Specific skills include:

- Policy analysis, evaluation and advice on projects concerned with communications, human rights and democracy internationally. Advisor to the Ford Foundation on digital issues. Provided guidance on the internet's implications for human rights to the Open Society Foundation, the UN Special Rapporteur for Freedom of Expression and the OAS Special Rapporteur for Freedom of Expression.
- Expert in international human rights, with a specific focus on freedom of expression and access to information. A specialist in modern digital communications and transparency issues. For UNESCO, has produced the Media Development Indicators, Journalist Safety indicators and a model set of internet indicators.
- Regular public speaker and presenter on internet public policy issues; developed and delivered training programs for the EU on political economy analysis and its application to the field.
- Previous work includes strategic policy analysis, scoping exercises, evaluation of programs, needs assessments, and the development and delivery of capacity-building programs. Has worked with experts and governments in Europe, the United States, the Middle East, sub-Saharan Africa, and Latin America.

Andrew's other roles include chairing the Danish based NGO International Media Support, and serving on the board of both the Sigrid Rausing Trust and the European Council for Foreign Relations. He is an entrepreneur having founded two social enterprises: Adapt in 2017, and Global Partners Digital where he remains the Chair and in which capacity he leads the secretariat for the 30 country Freedom Online Coalition.



### CANDICE CHRISTIANSEN

is the founder of several programs including Namasté Center for Healing, The Global Prevention Project, and the Prevention Podcast. Candice and her expert team provide cutting edge, evidence based treatment for men, women, couples and families with trauma, problematic behavior related to porn/sex addiction, risky sexual



attractions and behavior, infidelity; as well as a variety of relational/sexual issues, substance abuse, & financial disorders.

Candice is an expert witness who administers sex specific mental health evaluations in state and federal courts, for the Board of Pardons and medical/professional licensing boards, & immigration cases. Candice is a member in good standing with the Association for the Treatment of Sexual Abusers (ATSA) Prevention Committee & Diversity Subcommittee. She serves on the DOPL Substance Abuse Board in Utah, is on the advisory board for Legal Reform For Individuals with Intellectual and Developmental Disabilities(LRIDD), & is a member of the United Nations Human Trafficking Task Force. She authored *Mastering The Trauma Wound: A Mindful Approach to Healing Trauma and Creating Healthier Relationships* and is published in various online magazines and newspapers nationwide.



### **GUY HAMILTON-SMITH**

is a graduate of the University of Kentucky College of Law and is the Sex Offense Litigation and Policy fellow at the Mitchell Hamline School of Law. He has written about these issues for Harvard Law's Fair Punishment Project, the Texas Journal of Civil Liberties & Civil Rights, the American Bar Association, and other outlets. You can follow him on Twitter @G\_Padraic, or read more of his writing at his website, [guyhamiltonsmith.com](http://guyhamiltonsmith.com).



### **CATHY GELLIS**

is a lawyer in the San Francisco Bay Area with a practice focused on intellectual property, free speech, intermediary liability, privacy, and other innovation policy matters affecting technology use and development. She regularly writes, speaks, counsels, and litigates on these and other related topics, particularly with respect to how these issues relate to Internet platforms. Examples of her work include defending the free speech rights of anonymous bloggers, representing an organization of college webcasters before the Copyright Royalty Board, and authoring numerous amicus briefs, including in litigation challenging NSA Internet surveillance. Her writing on the policy implications of technology regulation has appeared in various widely-read publications, including the Daily Beast, Law.com, and the technology news site Techdirt.com, where she is a regular contributor. Prior to becoming a lawyer she was an aspiring journalist-turned-Internet professional who developed and managed websites for enterprises in Silicon Valley and Europe. She has a B.A. from the University of California at Berkeley in Mass Communications and Sociology, where she studied information technology and user adoption trends, and a J.D. from Boston University.





### CATHY BEARDSLEY

is President and CEO of Segpay, one of four companies approved by Visa USA to operate as a high risk Internet Payment Service Provider (IPSP) in the U.S. With more than 600 merchants, Segpay has become a top brand among IPSP's in the U.S. and Europe. Beardsley has more than a dozen years of experience leading and managing payment processing companies.

Prior to founding Segpay, Beardsley was President for the Internet Billing Company (iBill). Prior to her IPSP work, Beardsley spent seven years with telecom giant MCI WorldCom. Cathy earned a B.A. in Business Administration/ Marketing from California Polytechnic University, San Luis Obispo and a MBA in Business Administration/ Finance from the University of Santa Clara.



### KRISTIN DIANGELO

is a community organizer, activist, educator and the Executive Director of The Sex Workers Outreach Project Sacramento. Kristen has worked with Amnesty International, The Harm Reduction Coalition, and a Special Rapporteur to the UN and the Geneva Convention to formulate their views on the sex trade and how to best reduce harm. Executive Producer and Interviewee in of the award winning documentary American Courtesans, Kristen co-wrote the needs assessment Sex Work and Human Trafficking in the Sacramento Valley; A Needs Assessment which is currently used as teaching curriculum in Universities across the US.



### IAN O'BRIEN

is Senior Director of Programs and Operations at the Free Speech Coalition. Ian works with regulators of both the pleasure products and adult film industries, to compile, analyze and provide accurate, evidence-based research on issues ranging from zoning and lubricants to workplace safety and public health. He also works on research on the industry as a whole, working to combat pseudo-scientific concepts like porn addiction and the porn public health crisis, a crucial focus at a time when over two dozen states are using such studies to ban or censor adult content.

O'Brien attended graduate school at Columbia University's prestigious Mailman School of Public Health.



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**ABOUT**  
PROSTASIA FOUNDATION

**THE STIGMA-BUSTING CHILD PROTECTION ORGANIZATION**

Prostasia Foundation is the only s.501(c)(3) nonprofit child protection organization that is progressive and sex-positive, and supports the free and open Internet. Our diverse team includes digital rights activists, lawyers, mental health professionals, and representatives of sex workers and other stakeholders who are normally excluded from discussions about child protection.

