

Mobilizing excluded voices of concern about the EARN IT Act

Executive summary

The EARN IT Act would empower a new National Commission on Online Child Exploitation Prevention (NCOCEP) to enact guidelines on how Internet platforms should prevent “online child exploitation conduct.” Unless they comply, or take other “reasonable measures” to prevent such conduct, Internet platforms would face new civil and criminal liabilities. Child sexual exploitation *is* preventable. But there are strong reasons to doubt whether the NCOCEP will be the right vehicle to develop guidelines that are both effective and avoid collateral harms. We propose a research study that would identify the guidelines that the NCOCEP may be most likely to put forward, and explore the likely impacts of these guidelines on key stakeholder groups, including those who are socially marginalized and who are excluded from representation in the NCOCEP. In parallel, we will coordinate an ongoing public advocacy and awareness campaign to highlight the interim findings of our research and to give voice to the concerns of these excluded stakeholders.

Goals

By identifying the impacts of guidelines that are likely to be established under the EARN IT Act, we aim to facilitate better informed public discussion on the merits of the EARN IT Act’s approach, while also establishing an evidence base to allow the concerns of excluded stakeholders to be taken into account should such guidelines ultimately come into force. The achievement of these goals will in turn help to ensure that future child exploitation prevention policies are just and effective, whether or not the EARN IT Act passes into law.

Activities

The key activities to be undertaken as part of this project over a period of approximately twelve months are as follows:

1. **Research:** We will research and publish a paper to identify the recommendations that have previously been put forward by stakeholders associated with the NCOCEP (including the US Attorney General, the Department of Homeland Security, the Federal Trade Commission, and the National Centre for Missing and Exploited Children) as measures that Internet platforms could take to prevent online child exploitation. We will apply a human rights framework to analyze these recommendations in terms of their

likely impacts on key stakeholder groups, and also in terms of their likely effectiveness at preventing online child exploitation.

2. **Public outreach:** We intend to present our research as a work in progress at the Woodhull Freedom Foundation Sexual Freedom Summit in August 2020, and at the Internet Governance Forum in November 2020. The final publication will be launched at a dedicated event with coalition partners in Washington DC in the first quarter of 2021.
3. **Online advocacy:** Throughout the project period, we will bring together a coalition of stakeholders and partners to speak out about EARN IT and online child exploitation prevention, through a dedicated branded coalition website and associated social media outreach campaign. These platforms will be used to publish testimonies of representatives of affected stakeholder groups in their own voices, alongside key insights from our ongoing research. They will also educate and equip members of the community to engage with their elected representatives on these issues.

Motivation

The fight against child exploitation (online and offline) is a vital one that lies at the heart of Prostasia Foundation's mission. However, history has given us cause to be wary of the misuse of "think of the children" rhetoric by politicians advancing a broader agenda of government control of speech and private conduct. We are concerned by the fact that the EARN IT Act would hand responsibility for the development of child exploitation prevention policies to a committee of political appointees, a controlling majority of whom represent law enforcement interests, and none of whom are required to have an academic or clinical background in child sexual abuse prevention.

The EARN IT Act, like the "anti-sex trafficking" law FOSTA that came before it, is designed to achieve its object by narrowing the scope of safe harbor protection afforded to Internet platforms under the federal law commonly known as CDA 230. The fact that CDA 230 is often simplistically characterized as a law that benefits technology companies weakened the position of opponents of FOSTA, whose concerns were seen as self-serving. It was in response to the ultimate passage of FOSTA that Prostasia Foundation was formed, to bring together a diverse coalition of stakeholders, including child protection experts, who are dedicated to taking a more evidence-based, prevention-focused approach to protecting children, which upholds Internet freedom, sex-positivity, and human rights.

This makes Prostasia Foundation well-positioned to criticize the EARN IT Act from a standpoint that holds children's rights (and not Internet platform immunity) as its highest value. Our ability to promote our own positive agenda for child protection, and our resolve that this can and must be done without infringing the human rights of others, makes us uniquely qualified to lead a coalition of allies to interrogate the underpinnings of the EARN IT Act and to promote more evidence-based and inclusive alternative approaches.

Budget

I. Personnel

Position	Monthly Salary	Months	Staff Time	Total USD Salary	Total USD Cost
Project Coordinator	\$6,650.00	12	30.00%	\$79,800.00	\$26,600.00
Principal Researcher	\$3,250.00	12	60.00%	\$39,000.00	\$23,400.00
TOTAL PERSONNEL :					\$50,000.00

II. Contracts and Consultants

Printing and publishing	\$2,800.00
Web development	\$3,200.00
TOTAL CONTRACTS, etc. :	\$6,000.00

III. Meeting expenses

Rental and A/V for Washington DC meeting	\$1,500.00
Catering	\$1,500.00
Signage, stationery and swag	\$1,000.00
TOTAL MEETING EXPENSES, etc. :	\$4,000.00

IV. Travel

From/to where	# of people	Costs per person	# of Days	Accom./day/ person	Total Cost USD
SFO to Woodhull Summit, VA	2	\$400.00	5	\$120.00	\$2,000.00
SFO to IGF, Poland	2	\$2,000.00	5	\$100.00	\$5,000.00
SFO to Washington DC	5	\$400.00	2	\$100.00	\$3,000.00
TOTAL TRAVEL :					\$10,000.00

V. Other

GRAND TOTAL :	\$70,000.00
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