



**PROSTASIA**  
FOUNDATION

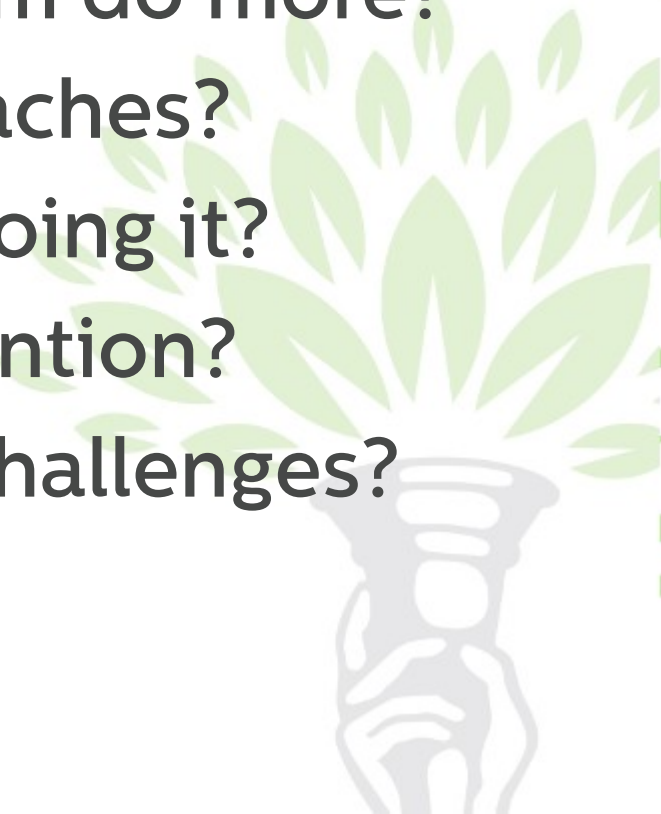
# Defeating EARN IT by offering positive alternatives

Jeremy Malcolm  
April 16, 2020



# Outline

- What is the EARN IT Act?
- What would it require platforms to do?
- What do platforms do now and how well?
- What are the risks of making them do more?
- What are the alternatives approaches?
- Is prevention possible? Who is doing it?
- How would EARN IT affect prevention?
- What can we do? What are the challenges?

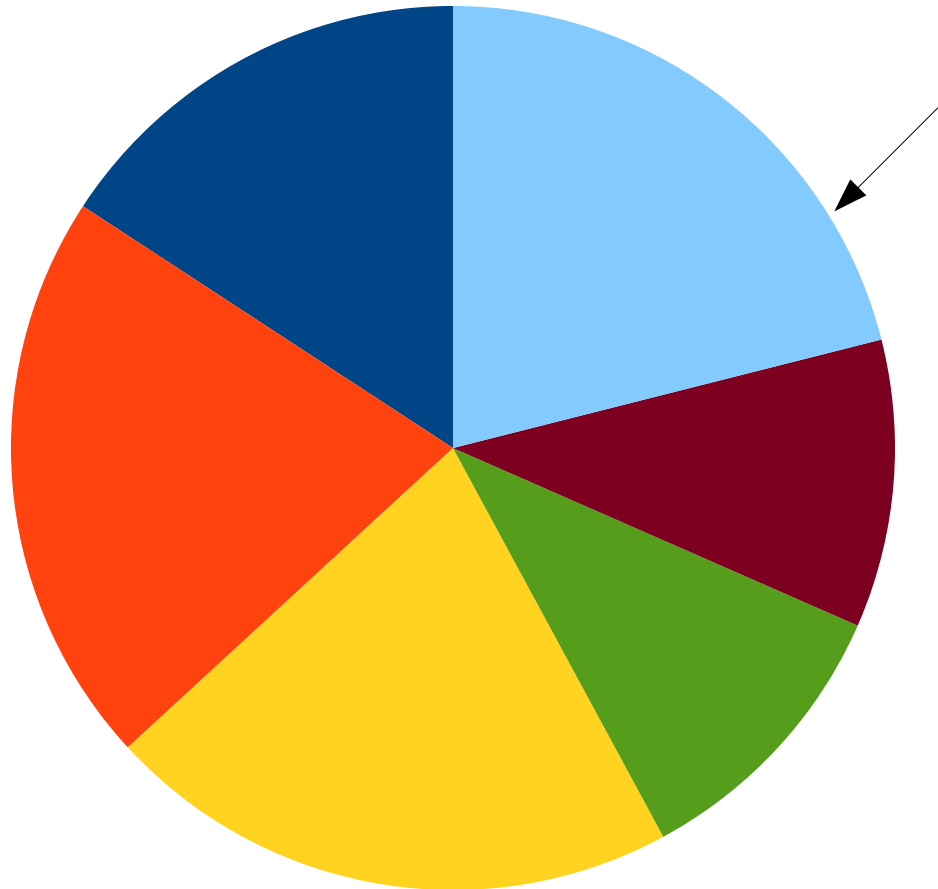


# What is the EARN IT Act?

- Creates “best practices” to address a range of child exploitation harms
- To be developed by a 19-member government appointed committee
- Fast-tracked through Congress
- Failure to comply places platforms at risk of criminal and civil liability



# A look at the NCOCEP\*



- Agency heads
- Law enforcement
- Tech companies
- Computer scientists
- Lawyers
- Survivors/victim advocates

\* National Commission on Online Child Exploitation Prevention

# What would EARN IT claim to do?

- Four distinct harms to be addressed:
  - Enticement and grooming
  - Sex trafficking
  - Sexual abuse
  - Proliferation of child sexual abuse material
- Recommendations are to address:
  - Reporting child sexual exploitation
  - Training and supporting content moderators
  - Coordinating with “voluntary initiatives”
  - Age rating/gating and parental controls



# Why encryption is at risk

An Internet platform's toolkit for removing child abuse is limited to these techniques:

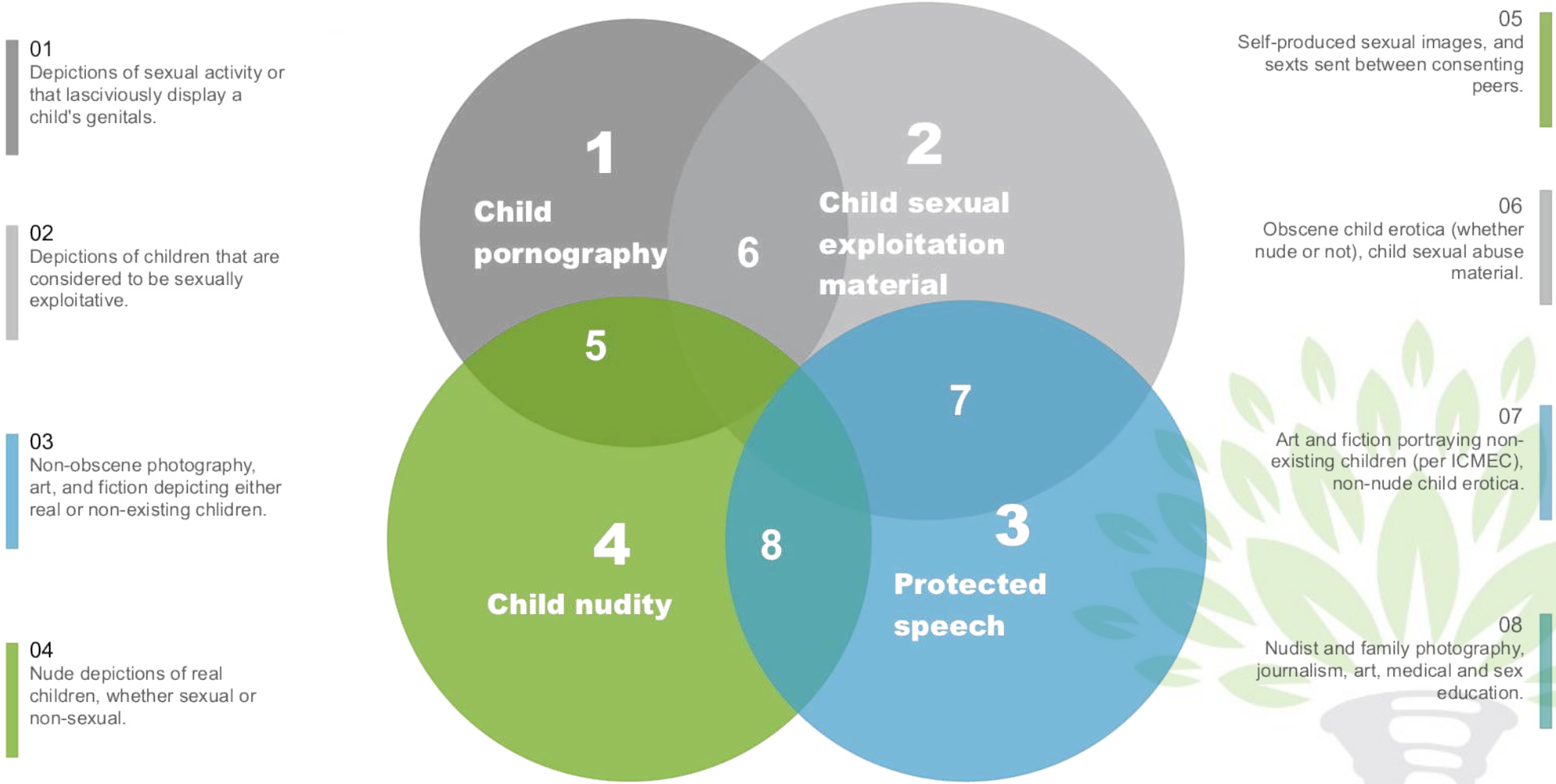
	Keyword filtering	Hash filtering	Artificial intelligence	User reporting*
Accuracy (images)	★	★ ★ ★	★	★ ★ ★
Accuracy (text)	★ ★	★	★ ★	★ ★ ★
Speed	★ ★ ★ ★	★ ★ ★ ★	★ ★ ★ ★	★ ★
Transparency	★	★	★	★ ★ ★ ★
Preventative	★	★	★ ★	★ ★ ★

# Abuse content on the clear web

<b>10%</b>	The proportion of images reported by NCMEC to foreign police that are actually found to be illegal
<b>0.5%</b>	The proportion of child abuse images located by the Internet Watch Foundation on social media websites
<b>0.3%</b>	Child sexual exploitation violations as a proportion of all policy violations reported to Twitter in 2019
<b>7-8%</b>	Internet users who have ever seen any child sexual abuse images online (Sweden and Denmark 2018)



# The unclear boundaries of CSAM





# Over-blocking hurts people

- Cartoons reported as child abuse led to the arrest of a 17 year old artist in Costa Rica
- Russian trans woman imprisoned in a men's prison
- INHOPE refused to change their policies



NATIONAL  
COALITION  
AGAINST  
CENSORSHIP



Denton Howard  
Executive Director  
INHOPE  
Bos en Lommerplein 270-300  
1055 RW Amsterdam, NL

January 20, 2020

Dear Mr Howard,

**INHOPE members reporting artwork as child sexual abuse**

As the international association of Internet reporting hotlines, INHOPE and its members are charged with a vital responsibility to help rid the world of child sexual abuse material (CSAM), and to ensure that those who produce and share it are reported to authorities. Because of the gravity of the content involved, most hotlines are either government-run or are granted statutory authority to act without the safeguards that the public would normally demand for a body exercising such sweeping censorship powers.

That's why we are very concerned that several of your members are misusing this important and trusted public charge to censor works of art, and to criminalize those who create and produce it. These actions disproportionately affect those from marginalized artistic and LGBT communities, and have resulted in the arrest and imprisonment of people who are innocent of any wrongdoing against children. One of these is a 17 year old Costa Rican girl, who was arrested for posting

Prostasia Foundation  
18 Bartol Street #995  
San Francisco CA 94133  
Tel: +1 (415) 650 2557

National Coalition Against Censorship  
19 Fulton Street, Suite 407  
New York NY 10038  
Tel: +1 (212) 807-6222

Article 19  
Free Word Centre  
60 Farringdon Road  
London EC1R 3GA UK  
Tel: +44 20 7324 2500

Comic Book Legal Defense Fund  
811 SW Naito Parkway, Suite  
100  
Portland, OR 97204

# Is increased enforcement the key?

“ 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.

— Andrew Puddephatt, Chair, Internet Watch Foundation



# A better way does exist

- **Primary prevention is about intervening to prevent offending before it occurs**
- **We don't know who will offend so it targets the entire population or populations of interest**
- **Education and support are key components**



Olympian and CSA survivor  
Margaret Hoelzer, April 2020

# Moral panic does not help

- Understanding how abuse happens matters



**95%** of sexual offenses are committed by someone with no criminal history



**77%** of CSA is committed in a residence



**90%** of CSA is perpetrated by someone the child knows and trusts



**73%** of CSA is committed by those who are primarily attracted to adults



**35%** of CSA is committed by juveniles

- Nobody is condemned to become an abuser
- Prevention works!

# How does it work?

- **Protective factors:**
  - Comprehensive sex education
  - Dismantle pro-offending cognitive distortions
  - Availability of peer and professional support
- **Risk factors:**
  - Family conflict
  - Parental mental issues or alcoholism
  - Harmful gender norms
- **Stigmatizing and shaming does not work**





# More research is needed

We focus on supporting research into pedophilic offending because it is the most stigmatized.

- What is the etiology of pedophilia?
- Do outlets increase or prevent offending?
- Can drugs reduce the impulse to offend?



Prostasia advisor Craig Harper presenting at ATSA 2019

# Who is doing this work?



*The*  
Global Prevention Project  
PREVENTION IS THE INTERVENTION

*b4uact*



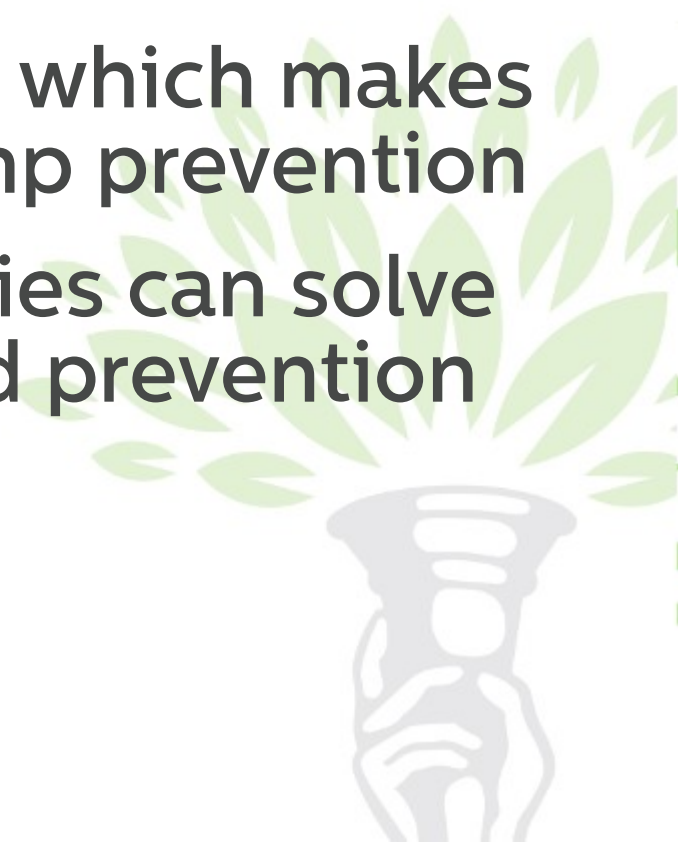
Absent from this list are the pro-censorship child safety groups which rely on moral panic



# EARN IT and prevention

In March we led prevention groups including Stop it Now and Global Prevention Project in writing to Senators to oppose EARN IT:

1. There are no prevention experts on NCOCEP
2. EARN IT politicizes the process which makes it easier for moral panic to trump prevention
3. EARN IT assumes tech companies can solve this problem and does not fund prevention



# Case study: impact of FOSTA

USCA Case #18-5298 Document #1774111 Filed: 02/20/2019 Page 1 of 83

ORAL ARGUMENT NOT YET SCHEDULED

No. 18-5298

In the

**United States Court of Appeals for the D.C. Circuit**

**WOODHULL FREEDOM FOUNDATION, HUMAN RIGHTS WATCH,  
ERIC KOSZYK, JESSE MALEY a/k/a ALEX ANDREWS and THE  
INTERNET ARCHIVE,**

*Appellants,*

v.

**THE UNITED STATES OF AMERICA AND WILLIAM P. BARR, IN HIS  
OFFICIAL CAPACITY AS ACTING ATTORNEY GENERAL OF THE  
UNITED STATES,**

*Appellees.*

From an Order by the U.S. District Court for the District of Columbia  
The Honorable Richard J. Leon, Judge Presiding (Case No. 1:18-cv-1552-RJL)

**BRIEF OF FREEDOM NETWORK USA, SEX WORKERS PROJECT,  
NEW YORK TRANSGENDER ADVOCACY GROUP, SHARMUS  
OUTLAW ADVOCACY AND RIGHTS INSTITUTE, DECRIMINALIZE  
SEX WORK, NATIONAL COALITION FOR SEXUAL FREEDOM, FREE  
SPEECH COALITION, BROOKLYN DEFENDER SERVICES,  
PROSTASIA FOUNDATION, INSTITUTE FOR MIND BODY THERAPY,  
and ST. JAMES INFIRMARY IN SUPPORT OF APPELLANTS**

Melissa Sontag Broudo  
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DECRIMINALIZE SEX WORK  
68 Third Street

James Turner, DC Bar #82479  
SWANKIN & TURNER  
1601 18<sup>th</sup> St. NW, #4  
Washington, DC 20009  
Telephone: (202) 462-8800

We demonstrated how platforms such as Discord, Medium, and Tumblr all increased their censorship of child sexual abuse prevention resources after FOSTA passed



# What can Internet platforms do?

- Stop censoring prevention researchers and the populations that they work with
- Be critical of the “best practice” solutions sold by third party service providers
  - Keyword lists can blacklist LGBTQ+ terminology
  - NCMEC has a hash database with legal content
- Make it easy for your users to get help
  - Reddit integrates support from Crisis Text Line and allows other users to flag those in need
  - Some platforms link Stop It Now in search results



# Lessons for activists

1. Don't dwell on tech/consumer interests.  
Only child protection is politically relevant.
2. Ally with child protection groups/experts.
3. Recognize NCMEC as a government actor.
4. Stigma pervades this area. Don't add to it.
5. Don't thoughtlessly promote harmful and ineffective enforcement-based approaches.
6. Promote increased funding for prevention.



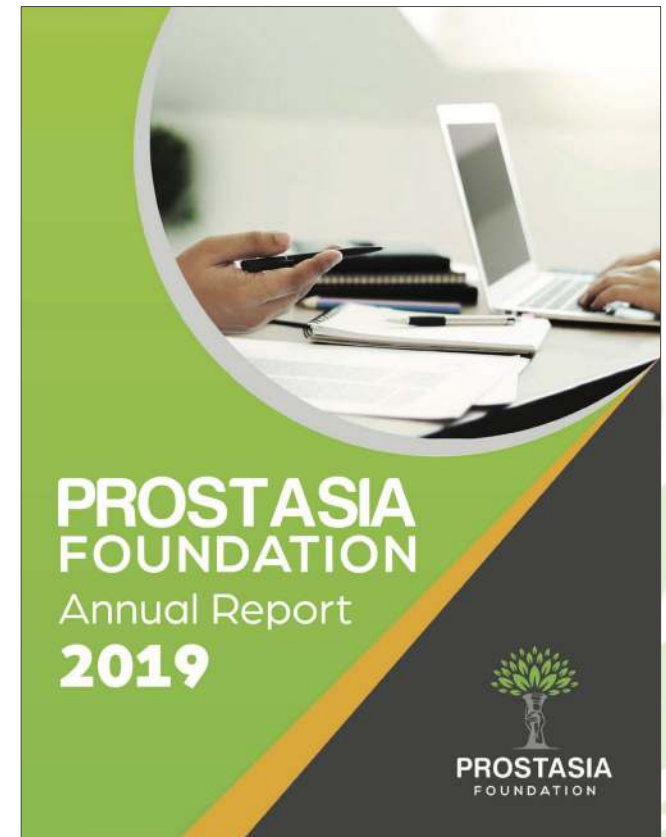
# Conclusions

- **Child sexual abuse is preventable but we're not doing enough**
  - The lifetime social cost of the new cases of child sexual abuse each year is about \$9.3b
  - The total US government grants for CSA prevention research this year is only \$2m
- **Sharing best practices is good, but to avoid harmful censorship it must be truly voluntary**
- **To go beyond what Internet platforms can do, prevention is a positive alternative**



# Services of Prostasia Foundation

- We provide services to tech companies:
  - CSA prevention consulting
  - Advice on mitigating the effects of FOSTA and EARN IT while complying with human rights
- We ally with diverse nonprofit organizations
- *Please connect us to clients, coalition partners, and donors!*





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