

Dear Honourable Committee members

Please find below a submission to the Standing Committee on Access to Information, Privacy and Ethics enquiry into Mindgeek, privacy and consent.

I do appreciate this is late in the day and I'm conscious that some of what I've said may fall outside your remit as a Committee on the particular matter before you. However, I trust it's helpful in so much as it relates to questions you're addressing.

I would be happy to brief any interested members on age-verification and my own experiences setting up regulatory controls for the adult industry in the UK.

Best regards

Murray Perkins

Between 2016 and 2019 I worked on the implementation of the UK Government's objective to introduce controls for online pornography to ensure, taking the language from the UK's Digital Economy Act, that 'the (pornographic) material is not normally accessible by persons under the age of 18'. Over most of that time, I led the implementation of the responsibilities of the designated Age-verification Regulator. Prior to working on the UK's Digital Economy Act, for more than a decade, I managed the UK film and video regulator's day to day work in relation to adult content.

While I continue to work on online child protection, including age-verification, I write this with my specific experience regulating adult content and working with the adult industry in mind.

I'm conscious of, as I understand it, the Committee's current considerations around child sexual abuse material, privacy and consent. I will try not to stray too far from these points.

I make some assumptions - in truth not all are merely assumptions - which may give some context to my following comments.

- While there are exceptions, and whether one likes it or not, consensually produced and distributed adult pornography is a legal product.

- Pornography is a product for adults. Not children.

- However you approach it, whether from an ethical position, academic study or practical experience, pornography often elicits polarised views.

- Whichever side of the debate, in my experience, a majority will accept that pornography carries at least a risk of harm. It isn't alone of course, many products do. But, and talking in general terms rather than referencing specific examples, the nature of the harm, who is harmed, and to what extent tend to be debated.

It's noted that Pornhub is working with the UK's Lucy Faithfull Foundation. I suggest this is a positive step and I mean to take nothing away from the worthwhile contribution that the Lucy Faithfull Foundation can bring. Nor Pornhub's willingness to use their expertise. It seems to me right that the

expertise of the foundation informs messaging on an adult platform with Pornhub's profile, scale and level of traffic. But I've not seen any evidence to support the idea that abusers or potential abusers are *frequenting* a platform like Pornhub in search of child sexual abuse material. Which is not to say it doesn't happen, it must. But what I understand very clearly from law enforcement here in the UK at least is that child sexual abuse material is primarily shared elsewhere online. Pornhub is perhaps, and certainly one of, the most mainstream of pornography websites with more controls in place than they might hitherto have acknowledged. It doesn't mean they're always effective. I have worked with Mindgeek in the past, as I have many adult services, and believe their stated intentions as a company to remove child sexual abuse content are sincere. I know that scepticism is an understandable response most especially when gross mistakes have been made. But removing such content, and investing in further efforts to remove it, makes commercial sense. It is not commercially advantageous for Pornhub to carry content which is illegal in every territory which generates meaningful levels of traffic for them.

It is beyond doubt that the platform has carried child sexual abuse material in the past. I am not suggesting that there is no child sexual abuse material to be found on Pornhub now. I don't know. I don't know how well their current procedures work and how much is missed. But, unfortunately, such content finds its way onto most large and popular social media platforms. I believe some of those platforms will be less well equipped to prevent its initial upload.

A child protection expert in the UK who specialises in social media once told me, in relation to the sharing of self-generated sexual images, that we put cameras in mobile phones with access to the internet, we give these mobile phones to young teenagers who engage with their peers on social media, what did we think was going to happen?

I don't think it's so much a question of 'is it there' on social media, but rather what is done about it. You will decide for yourselves whether Pornhub is doing enough.

When it comes to consent, I also tend to believe that Pornhub doesn't want content on their platform that is generated without consent either. It is after all another headache they can do without. But it is harder to police.

Verifying users who are able to upload content seems to me an important and valuable step in the right direction. If it sits alongside genuine and effective moderation and content controls then it can address a lot of potential consent issues. However, I might also consider the question, '*how does knowing the 'user' who uploads content ensure that all those present on screen are consenting?*' By this I mean not what does one think or judge to be the case, but how does one *know*.

I appreciate there are mechanisms in some territories which might provide some assurance, and there are obviously greater, though far from infallible, controls over professionally produced content. But what of 'amateur' content which can be generated from a wide range of different, and perhaps less well regulated, countries? It will be true that a lot of content which is dubious on the face of it will present clues which provide some reassurance of consent. But far from all. It may be that there are additional controls in place which are not apparent from Mindgeek's statement. But otherwise, and accepting that mistakes will have been made in the past, how do they *really*, at least sufficiently, mitigate the risk now?

Here, I apologise for diverging from the primary considerations. But I believe it's important in truly beginning to address the challenges and ethical considerations which arise when it comes to online pornography.

Pornography is not a product which is produced or distributed for children. And yet it remains freely accessible to children online. There was a recent article from the BBC in the UK, talking about female sexual experience, in which a young woman recalls watching pornography at the age of 12. It's not an atypical example from studies that have been carried out. Another young woman recalls of her childhood sexual education, "It leads people to go online to places like Pornhub. This generation is being raised thinking sex should be this rough, nasty thing and it's not." I borrow this quote from the BBC for its specific reference to Pornhub. But it will be as true of other major adult websites with which children become familiar. I'm sure it won't be news to the Committee.

Others can, and I'm sure would, speak more to children's experiences of online pornography and the associated harm risks. Others can I'm sure also speak more to the harm risks associated with more abusive forms of pornography but which might be considered or presented as legal; challenges around violent or physically risky behaviour, or hidden cameras and how one knows what is staged and consensual, and what isn't.

I suggest that the prevalence of online pornography and the nature of much of that pornography begs the question, why is it still so easily available to children when the technical means to address this problem have existed for a number of years? I might understand more than the average person at least, when it comes to considering age controls for adult websites, the importance of privacy and security and respecting an adults right to access legal content whether we like that or not. I also know that tools exist which are compatible with these interests.

I was told many years ago the internet is the Wild West and that offline controls would become redundant. Well, it's not the Wild West anymore. It's not hard to think of controls which are in place on the internet such as the regulation of financial services, for gambling online, and even, taking recent high profile examples in the US, controls on what individuals might say on popular social media platforms.

I respect the different views that exist around pornography. But I also know there are few industries that are as resilient as the adult industry. In my view, respecting adult freedoms, whether we agree with particular freedoms or not, safeguarding the vulnerable and, most importantly, protecting children need not be incompatible. But I expect they may be largely unachievable without cooperation.

I appreciate that I risk coming across as an apologist for pornography or the adult industry and that is most certainly not my intention. Mine is a pragmatic position. While individual companies can be tackled, the industry is something of a phoenix.

When considering the ethics of online pornography and the practices of large companies, in my humble opinion, but practical experience, the adult industry is at least open to good regulation to ensure their product is less easily available to children and perhaps even to better address concerning content. Certainly to address the kind of egregious cases which the committee has heard. Why doesn't the industry just do it then? Because when it comes to the more restrictive measures at least it isn't commercially viable until there is a level playing field, until the whole industry is subject to the same controls. And that's where legislators can make all the difference. It seems to me right now that Canada is in an excellent position to make that difference.