

**Brief to the Standing Senate Committee on Legal and Constitutional Affairs
on *Bill S-210, An act to restrict young persons' online access to sexually explicit material***

April 19, 2022

Introduction

The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christians in Canada. Established in 1964, the EFC provides a national forum for Canada's four million Evangelicals and a constructive voice for biblical principles in life and society.

Our approach to this issue is based on the biblical principles of respect for human life and dignity, justice and care for those who are vulnerable. We note that these principles are also reflected in Canadian law and public policy.

We are grateful for the opportunity to participate in the Senate Committee's study on Bill S-210. We support this bill and believe legislation to protect children and youth online is crucial.

Sexual violence in mainstream pornography

Pornography today has moved well beyond what most of us imagine when we think of pornography. Aggressive, violent and dehumanizing sexual activity is now considered mainstream.¹ Much of what is now online is steeped in misogyny and centred around the domination and humiliation of women. It is violent, degrading and profoundly body-punishing for the female participants.

According to a new study, the landing pages of mainstream pornography sites suggest sexually violent content to first-time viewers. The April 2021 *British Journal of Criminology* study found that 1 in 8 of the titles shown to first-time viewers on mainstream pornography sites were described as portraying sexually violent acts.² The authors state in their conclusion:

Our study offers new and compelling evidence that the boundary between what is and is not sexual violence is distorted by mainstream online pornography platforms. Using the largest sample of online pornographic content collected to date, we have found that one in eight titles on the front page of mainstream pornography sites describe acts that would fall under the most widely used policy definition of sexual violence. ... The titles

¹ Dines, Gail Dr./Culture Reframed, 2015, *Pornography: A Public Health Crisis – US Capitol Hill Symposium*, <https://www.youtube.com/watch?v=7A62CdYyNSE>

² <https://academic.oup.com/bjc/advance-article/doi/10.1093/bjc/azab035/6208896>

we have reported on here are not found by users of their own volition beyond a decision to access pornography. They are not displayed as a result of a user's search terms or site history, nor are they only accessed through niche sites specializing in violent pornography. They are freely available on the landing pages of the most popular porn sites in the United Kingdom. ... Similarly, we found that depictions of practices that meet criminal standards of sexual violence, including rape, incest and so-called 'revenge porn', are labelled in ways that not only minimize or remove their criminality but often mock or belittle the possibility of harm.³

Disturbingly, the study's authors note that "teen" was the most frequently occurring word in all of the titles, including the titles referring to sexual violence. The most common form of sexual violence occurring was sexual activity between family members, such as parent-child or siblings. The second most common form of sexual violence was physical aggression and sexual assault, which included titles with terms like "force," "punch," "molest" and "brutal."⁴

Another study published in 2020, in the *Archives of Sexual Behaviour*, found that 45% of randomly selected videos on Pornhub depicted at least one act of physical aggression. The most common types of physical aggression were spanking, gagging, slapping, hair pulling and choking. Women were virtually always (97%) the target of aggression.⁵

A peer-reviewed study of the top-watched, top-selling scenes in pornography found that 90% of them had some form of emotional, physical or sexual violence against women.⁶

Access by children and youth

And never before have violent and dehumanizing sexual images been so readily accessible to children and youth. The internet feeds it into our homes and to our mobile devices 24 hours a day, 7 days a week, in ever more graphic and degrading forms. Pornography is much more difficult to avoid than it is to access.

Among teens aged 16 and 17 surveyed in the U.K., four in five (80.5%) said they had seen "sexually explicit porn videos or pictures," most commonly on the day of the survey.⁷ Teens were exposed to these videos or pictures on social media, search engines and dedicated pornographic websites. However, the authors found that the most frequently viewed source of pornographic material was on dedicated pornographic websites.

³ <https://academic.oup.com/bjc/advance-article/doi/10.1093/bjc/azab035/6208896>

⁴ <https://academic.oup.com/bjc/advance-article/doi/10.1093/bjc/azab035/6208896>

⁵ <https://link.springer.com/article/10.1007/s10508-020-01773-0>

⁶ Bridges, AJ, Wosnitzer, R, Scharrer, E, Sun, C, Liberman, R (2010), Aggression and Sexual Behaviour in Best-Selling Pornography Videos: A Content Analysis Update, *Violence Against Women* 16(10):1065-85.

⁷ Thurman, Neil, and Obster, Fabian (2021), The regulation of internet pornography: What a survey of under-18s tells us about the necessity for and potential efficacy of emerging legislative approaches. *Policy & Internet*, 1-18.

Children are exposed to pornography at increasingly younger ages. The average age of first exposure to online pornography is between 10-12 years of age. But many are exposed much younger.

Research commissioned by the British Board of Film Classification found that children and teens are watching and coming across pornography at early ages.⁸ It found more than half of 11–13 year-olds (51%) had viewed pornography, with some as young as seven or eight years of age, rising to 66% of 14–15 year-olds. The 2019 research also reported that for more than 60% of youth aged 11 – 13 years of age, their first viewing of pornography was accidental. Youth are easily able to access free sites that do not have any meaningful age verification in place, like Pornhub.

Further, there are examples of pornography platforms appearing to directly target a young audience. A meme created and shared on social media by Pornhub around the release of the immensely popular *Star Wars: The Mandalorian* featured a wide-eyed baby Yoda with the Pornhub logo reflected in his eyes and the words “10 seconds after my parents leave the house.”⁹ Some of the searches for movie and TV characters on Pornhub in 2019 were for characters from the movies *The Incredibles* (6.9 million searches) and *Toy Story* (3.5 million searches), as well as many other movies popular among youth audiences, with top searches for the Avengers and DC characters.¹⁰

Impact on children and youth

Pornography is a powerful teacher of beliefs and behaviours. Images are potent carriers of meaning, and unlike written text are absorbed quickly, and more readily understood to be truth. This is especially the case with children.

Lianna McDonald of the Canadian Centre for Child Protection told the House of Commons Ethics Committee in 2021 that children are harmed by the ease with which they can access graphic and violent pornographic content.¹¹

A recent meta-analysis of international studies concluded that pornography consumption is associated with an increased likelihood of committing acts of verbal or physical sexual aggression, regardless of age.¹²

A growing number of studies indicate that regular use of pornography, even pornography that

⁸ <https://www.bbfc.co.uk/about-us/news/children-see-pornography-as-young-as-seven-new-report-finds>

⁹ <https://endsexualexploitation.org/articles/porn-industry-normalizes-children-using-porn-with-baby-yoda-meme/>

¹⁰ <https://www.pornhub.com/insights/2019-year-in-review#celebrity>

¹¹ <https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210222/-1/34824>

¹² Wright, P, Tokunaga, R, Kraus, A, (2016) A Meta-Analysis of Pornography Consumption and Actual Acts of Sexual Aggression in General Population Studies, *Journal of Communication*, 66:183-205. Doi:10.1111/jcomm.12201

does not include sexual violence, changes users' beliefs about rape and sexual violence.¹³ As a recent report on family violence by the Chief Public Health Officer points out, "The belief that violence is acceptable and a normal way to behave can increase the risk for child abuse and intimate partner violence. Exposure to violence can lead to it being seen as normal."¹⁴

The impact is particularly evident in children exposed to pornography before age 18. Research indicates they engage in riskier behaviour, such as more sexual partners, sexual activity at younger ages, more likely to use drugs or alcohol during sexual encounters, and less likely to use contraception. They are more likely to hold less progressive gender role attitudes. Boys are more likely to perpetrate sexual harassment and see women as objects.¹⁵

Girls exposed to pornography are also absorbing messages about what is normal and desirable in sexual relationships. Girls who watch pornography are more likely to accept sexual harassment and to be victims of non-consensual sex.¹⁶ In a hypersexualized culture that teaches girls from a young age that what matters most is how desirable they are, girls learn to treat their bodies as things that exist to please others. Self-objectification has been identified as a "key process whereby girls learn to think of and treat their bodies as objects of others desires,"¹⁷ and is easily observed on social media sites or apps. Girls are taught by pornography and mass media that in order to be visible, accepted and popular, they need to be sexualized. A 12-, 13- or 16-year-old girl isn't self-objectifying as an expression of her sexuality, she is trying to be visible in a pornified culture.

Pornography use is associated with a range of individual health impacts including impaired sexual function, addiction and compulsive behaviour, severe social anxiety, depression and loss of productivity.

Pornography shapes what both boys and girls expect and accept in terms of sexual violence and exploitation in relationships. It has a significant negative impact on their ability to develop and maintain healthy relationships.

¹³ Layden, Mary Anne (2014), *CESE Summit: Long Term Consequences of Pornography Use: Overview of the Research*, <https://vimeo.com/111104070>

¹⁴ *The Chief Public Health Officer's Report on the State of Public Health in Canada 2016: A Focus on Family Violence in Canada*, p. 24, <https://www.canada.ca/content/dam/canada/public-health/migration/publications/department-ministere/state-public-health-family-violence-2016-etat-sante-publique-violence-familiale/alt/pdf-eng.pdf>

¹⁵ Layden, Mary Anne, PhD (2014)

¹⁶ Layden, Mary Anne, PhD (2014)

¹⁷ Frederickson, B.L., Roberts, T.-A (1997), Objectification Theory: Toward understanding women's lived experience and mental health risks. *Psychology of Women Quarterly*, 21, 173-206.

International developments

The UN Committee on the Rights of the Child issued *Comment 25 on children's rights in relation to the digital environment* in March 2021.¹⁸ It is the Committee's explanation of how "States parties" should implement the *Convention on the Rights of the Child* in a digital environment, and it provides guidance on legislative, policy and other measures to ensure full compliance with the Convention.

Comment 25 specifically mentions the need to protect children from risks relating to violent and sexual content (par. 14) and recommends that states use age verification systems to protect children:

States parties should take legislative and administrative measures to protect children from violence in the digital environment, including the regular review, updating and enforcement of robust legislative, regulatory and institutional frameworks that protect children from recognized and emerging risks of all forms of violence in the digital environment. Such risks include ... exploitation and abuse, including sexual exploitation and abuse, child trafficking, gender-based violence, cyberaggression, cyberattacks and information warfare. [par. 82]

...

States parties should ensure that appropriate enforcement mechanisms are in place and support children, parents and caregivers in gaining access to the protections that apply. They should legislate to ensure that children are protected from harmful goods, such as weapons or drugs, or services, such as gambling. **Robust age verification systems should be used to prevent children from acquiring access to products and services that are illegal for them to own or use.** Such systems should be consistent with data protection and safeguarding requirements." [par. 114, emphasis added]¹⁹

Other jurisdictions such as France, the U.K., Australia and Germany recognize the need to protect children and are taking steps to protect children, most through some system of age verification.

At the European Union level, the Audiovisual Media Services Directive requires the adoption of appropriate measures to protect children from harmful content, including age verification. Article 6a was added to the directive in 2018 and states:

Member States shall take appropriate measures to ensure that audiovisual media services provided by media service providers under their jurisdiction which may impair

¹⁸<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglkirKQZLK2M58RF%2f5F0vEG%2bcAAx34gC78FwvnmZXGFUI9nJBDpKR1dfKekJxW2w9nNryRsgArkTJgKelqeZwK9WXzMkZRZd37nLN1bFc2t>

¹⁹<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglkirKQZLK2M58RF%2f5F0vEG%2bcAAx34gC78FwvnmZXGFUI9nJBDpKR1dfKekJxW2w9nNryRsgArkTJgKelqeZwK9WXzMkZRZd37nLN1bFc2t>

the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme.

The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.²⁰

France unanimously voted to introduce a nationwide age verification system for pornography sites in 2020. The choice of verification methods is left up to the platforms. The French electronic media regulator has been given the ability to audit and sanction companies that do not comply.²¹

The U.K. passed the *Digital Economies Act 2017* which included provisions on age verification for online pornography platforms. The age verification provisions were not enacted, in part because they did not cover social media platforms.²² The government decided, instead, to move toward a new regulatory framework that would address online harms more broadly, establishing a duty of care on companies, overseen and enforced by an independent regulator.²³ The government's response to its *Online Harms White Paper* states:

Under our proposals we expect companies to use a proportionate range of tools including age assurance, and age verification technologies to prevent children from accessing age-inappropriate content and to protect them from other harms. This would achieve our objective of protecting children from online pornography, and would also fulfil the aims of the Digital Economy Act.²⁴

The UK government published a draft *Online Safety Bill* in May 2021. The draft legislation establishes a new regulatory regime to address illegal and harmful content online, including provisions to ensure children are not exposed to harmful or inappropriate content. It proposes placing a duty of care on providers of Internet services which allow users to upload and share user-generated content and providers of search engines. The bill requires companies to submit details about how their services might expose users to harmful content and how they will combat that risk. Oversight and enforcement of the new regulatory regime will be carried out

²⁰ <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>

²¹ <https://www.politico.eu/article/french-regulator-issues-age-verification-ultimatum-to-porn-sites/> and <https://www.politico.eu/article/france-to-introduce-controversial-age-verification-system-for-adult-pornography-websites/>

²² Thurman, Neil, and Obster, Fabian (2021), The regulation of internet pornography: What a survey of under-18s tells us about the necessity for and potential efficacy of emerging legislative approaches. *Policy & Internet*, 1-18.

²³ <https://www.gov.uk/government/consultations/online-harms-white-paper/outcome/online-harms-white-paper-full-government-response>

²⁴ <https://www.gov.uk/government/consultations/online-harms-white-paper/public-feedback/online-harms-white-paper-initial-consultation-response>

by the Office of Communications (OFCOM), and the bill confers powers on OFCOM to carry out these responsibilities.²⁵

Several parliamentary committees have scrutinized the draft legislation and made recommendations. A Joint Committee of both Houses formed to study the bill published its report on December 14, 2021, agreeing with the Government that self-regulation by internet companies had failed. It said that the draft Bill was a “a key step forward for democratic societies to bring accountability and responsibility to the internet”.²⁶ The Joint Committee also recommended, among other things, that all pornography sites should have duties to stop children from accessing them, regardless of whether the sites host user-to-user content.

On February 8, 2022, the Digital Minister announced that the proposed *Online Safety Bill* will be significantly strengthened with a new legal duty requiring all sites that publish pornography to put robust checks in place to ensure their users are 18 years old or over.²⁷ The Government plans to incorporate a stand-alone provision in the Bill that would require providers who published or placed pornographic content on their services to prevent children from accessing that content. This change will protect children from user generated and non-user generated pornography.

The UK also has an Age Appropriate Design Code, a statutory code of practice that came into effect in September 2021. The code requires digital services to conform to standards that automatically provide children with built-in data protection, that includes restricting underage user’s access to adult-only products and services.²⁸

In a February 2020 report, the Australian Standing Committee on Social Policy and Legal Affairs recommended mandatory age verification before viewers can access online pornography. The committee recommended that the country’s e-Safety commissioner to create a “roadmap” for the creation of an age filter within 12 months. As the report states,

The Committee recognised that age verification is not a silver bullet, and that protecting children and young people from online harms requires government, industry, and the community to work together across a range of fronts. However, the Committee also concluded that age verification can create a significant barrier to prevent young people—and particularly young children—from exposure to harmful online content.²⁹

²⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/985031/Explanatory_Notes_Accessible.pdf

²⁶ <https://researchbriefings.files.parliament.uk/documents/CBP-8743/CBP-8743.pdf>

²⁷ <https://www.gov.uk/government/news/world-leading-measures-to-protect-children-from-accessing-pornography-online>

²⁸ <https://ico.org.uk/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services/>

²⁹https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Online_age_verification/Report

Germany's *State Treaty on the Modernization of Media Regulations* has been in force since November 2020. It requires providers of adult content, such as pornography, to ensure that it is accessible only to adults.³⁰ State media authorities can impose sanctions on providers if there is a violation.

Conclusion

Commercial pornography sites must be required to put in place meaningful third-party age verification to ensure users are adults, in order to protect underage viewers without compromising consumer privacy.

We urge the Committee to support this bill, and to recommend it to the Senate as an important step to protect children and youth.

³⁰ <http://merlin.obs.coe.int/article/8761>