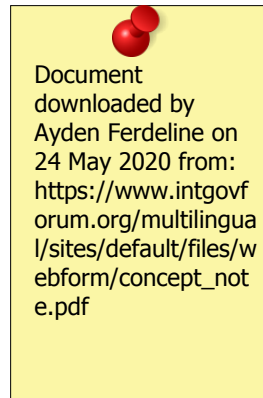


# Concept Note: A Multi-Stakeholder Dialogue on Internet Platforms, Sexual Content, and Child Protection

October 24, 2018

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## Executive Summary

Prostasia Foundation proposes to convene a multi-stakeholder seminar and roundtable discussion on the roles that Internet companies can take towards the prevention of online child sexual abuse, in a way that is consistent with human rights and Internet freedom. The convening will take place in three phases. The first will take the form of a private expert-led seminar and discussion with Internet platforms, along with representatives from marginalized stakeholder groups who are traditionally excluded from such discussions. Following this, a self-selected working group will form to work online to synthesize the learnings of the event in a draft, non-normative best practices document. The second event will involve a multi-stakeholder facilitated deliberation to

further distill this draft document into a series of normative recommendations. In parallel, a report on the transparency and accountability practices of major platforms, consultants and agencies involved in online child protection will be prepared. The recommendations and report will subsequently be disseminated and further discussed at several major Internet and child protection events.

## Problem and justification

Internet content platforms (such as search engines, social networks, chat applications, and cloud storage services) are frequently the first port of call for regulators seeking to find easy solutions to the problem of online child sexual abuse.<sup>1</sup> But although platforms have made a vital contribution towards this effort and will continue to do so, there are at least three limitations of the approach that regulators are pushing platforms to take.

First, it tends to promote a “one size fits all” approach that overlooks the differences between platforms in terms of their financial resources and technical expertise. As the the Internet Watch Foundation (IWF) has testified to the UK government:

There is a myth that the tech industry is a-wash with money and the brightest and the best brains, with the ability to solve all the world’s problems and whilst that may be true of some of the larger players, there is a need to recognise that much of the tech industry in the UK is made up of small start-ups that do not have access to the sorts of resources Government think they do.<sup>2</sup>

Second, when platforms are pushed into over-blocking and over-censoring, this frequently results in infringements of the civil liberties of minorities such as sex workers, the LGBT community, survivors of child sexual abuse, and sex workers. For example, the U.S. law FOSTA (Allow States and Victims to Fight Online Sex Trafficking Act) which was putatively aimed at making Internet platforms liable for the facilitation of sex trafficking, has in practice also resulted in the censorship of lawful speech, including sex education resources.<sup>3</sup>

Third, an approach that pushes platforms into censoring any sexual content that they instinctively regard as “questionable” does not actually protect children, and could indeed harm them. Sometimes platforms choosing *not* to censor content is more likely to protect children from sexual

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<sup>1</sup> *Javid Threatens Tech Giants over Child Abuse*. 3 Sept. 2018. [www.bbc.com, https://www.bbc.com/news/uk-45389937](http://www.bbc.com/news/uk-45389937).

<sup>2</sup> *Written Evidence - Internet Watch Foundation*.

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communications-committee/the-internet-to-regulate-or-not-to-regulate/written/82650.html>. Accessed 22 Oct. 2018.

<sup>3</sup> Farokhmanesh, Megan. “Anti-Sex Trafficking Law FOSTA Is Hurting Online Sex Educators, Too.” *The Verge*, 16 May 2018, <https://www.theverge.com/2018/5/16/17360458/anti-sex-trafficking-law-fosta-sex-work-education-oschool>.

abuse. For example, in response to FOSTA, threats of regulation, and public pressure, platforms have been found censoring child sexual abuse *prevention* materials and forums.<sup>4</sup>

More broadly, United Nations Special Rapporteur David Kaye found in his 2018 report on the promotion and protection of the right to freedom of opinion and expression that the failure of platforms to apply human rights standards in their policies related to sexual content has resulted in the removal of resources for members of sexual minorities, and depictions of nudity with historical, cultural or educational value.<sup>5</sup>

Currently, many platforms do already have child protection policies as part of their content policies or community standards, however these can be vague and unpredictable in their application even by a single platform, let alone between platforms. Smaller platforms may not have well-developed policies on this topic at all. Even in mid-size platforms, trust and safety teams are typically composed of members who deal with other forms of abusive content such as spam and fraud, but which lack dedicated expertise in child protection. Often, requests to block or restrict content are received from third parties, but are not adequately reviewed internally before being actioned.

**Platforms of all sizes need to be empowered to be made more effective contributors towards child sexual abuse prevention, through a more nuanced and better-informed approach towards content moderation and censorship.**

Unfortunately, to date two obstacles have prevented this from becoming a reality. First, many of the largest mainstream child protection organizations that have promoted platform liability rules as a solution to child sexual abuse have a broader agenda to eliminate adult content online, and they exclude perspectives of those who don't share that agenda, such as sex-positive therapists and researchers, LGBT people, sex workers, and the consensual kink community. As a result, there has been nobody to speak up when these communities become casualties of censorship such as over-blocking.

The second factor that has prevented platforms from taking a more nuanced and better informed approach towards content moderation and censorship as it relates to child protection is the powerful sexual stigma that affects all who work in this area.<sup>6</sup> Although approaches based on the prevention of child sexual abuse are effective,<sup>7</sup> stigma makes it difficult for this approach to make headway against the emotionally more resonant approach of identifying and prosecuting

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<sup>4</sup> Herzog, Katie. "Online Support Groups Can Keep Pedophiles From Offending but They Keep Getting Shut Down." *The Stranger*, <https://www.thestranger.com/slog/2018/07/20/29453977/online-support-groups-can-keep-pedophiles-from-offending-but-they-keep-getting-shut-down>. Accessed 22 Oct. 2018.

<sup>5</sup> Kaye, David. *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 6 Apr. 2018, [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/38/35](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/35).

<sup>6</sup> Earp, Brian D. "People Are Terrified of Sex." *The Atlantic*, 12 Nov. 2015, <https://www.theatlantic.com/health/archive/2015/11/the-stigma-of-sex-related-health-risks/415518/>.

<sup>7</sup> Gibson, Laura E., and Harold Leitenberg. "Child Sexual Abuse Prevention Programs: Do They Decrease the Occurrence of Child Sexual Abuse?" *Child Abuse & Neglect*, vol. 24, no. 9, Sept. 2000, pp. 1115-25. ScienceDirect, doi:10.1016/S0145-2134(00)00179-4.

offenders. It also makes it difficult to suggest balances and safeguards for child protection laws and policies that are necessary in a free and democratic society.

## Activities

Prostasia Foundation proposes to address this problem by engaging experts and affected stakeholders, along with Internet platform representatives, in the following two outcome-oriented convenings, and the preparation of three key output documents:

1. The first face-to-face convening of this initiative will take place in May 2019 in San Francisco at the offices of Internet company Patreon. It will bring together Internet platform representatives in a private gathering with experts from stakeholder groups that are normally excluded from such discussions. These will include stakeholders representing the mental health profession, the sex industries, the consensual kink and LGBT communities, the criminal justice sector, human rights experts, and survivors of child sexual abuse (CSA). The meeting will be held under the Chatham House Rule and will take the format of an expert-led seminar and open discussion about best practices for policies that would protect children, while avoiding such unforeseen impacts that would infringe on the human rights of children or others.
2. In between the first face-to-face convening and the second one, a self-selected group of participants from the first workshop, facilitated by Prostasia Foundation as project secretariat, will work online to synthesize the learnings of the first event in a draft, non-normative best practices document. The draft will be circulated for further comment by all those who attended the first convening, who will be invited to participate in a second face-to-face convening at which the document will serve as a background paper.
3. The second face-to-face convening will be held alongside the 51st Annual Conference of the American Association of Sexuality Educators, Counselors and Therapists (AASECT) in June 2019 in Philadelphia. This second event will be an expert-facilitated workshop to distill the best practices outlined in the background paper into a set of actionable recommendations that are applicable to Internet platforms of any size, enabling them to refine their policies, trainings, and terms of service so that they more effectively protect children from online sexual abuse, without infringing on human rights.
4. In parallel to this series of convenings, the first edition of an independent annual report on the transparency and accountability practices of major platforms, consultants and agencies involved in online child protection will be prepared by Prostasia Foundation, to ensure that those affected by the application of child protection policies can determine what policies have been applied, and what recourse may be available against their misapplication. The scope of the publication will extend to:
  - a. Major Internet platforms themselves, to determine whether their child protection policies are clearly stated, predictably applied, and whether decisions made under such policies are subject to the same mechanisms of review as decisions made about other types of content.

- b. Vendors of software or services that are used by Internet platforms directly, or used by law enforcement officers in cooperation with Internet platforms, for censoring or moderating content for purposes of child protection, including Microsoft, Google, Thorn, and the Child Rescue Coalition. For example the report will determine whether the software is documented, whether its source code is available for review or testing, and whether its use is audited.
  - c. Agencies such as the Internet Watch Foundation (IWF) and the National Center for Missing and Exploited Children (NCMEC) that supply “hash lists” (unique identifiers or known unlawful material) or “URL lists” (lists of Internet addresses pointing to unlawful material) to be used by platforms in moderating content will also come under consideration for their own transparency and accountability practices.
5. Finally, the recommendations resulting from the series of workshops, along with the annual transparency report, will be disseminated and presented for broader community feedback at a series of follow-on events including RightsCon 2019 in Tunis in June, the Association for the Treatment of Sexual Abusers (ASTA) Annual Research and Treatment Conference in Atlanta in November, and the Internet Governance Forum in Berlin also in November.

## Outputs

The tangible outcomes to be produced from this process are as follows:

- **Best practices paper:** The best practices document prepared in between the first and second face-to-face convenings will record the messages shared by experts, stakeholder representatives, and Internet platforms at the first convening in San Francisco. This document will include references to source materials and will guide participants at the second convening towards the development of key policy recommendations.
- **Policy recommendations:** A set of policy recommendations will be finalized at the expert-facilitated follow-up event in Philadelphia. Although the intention of this document is not to standardize terms of service related to child protection across the industry, it may include a set of model terms of service for Internet platforms with respect to child protection that smaller Internet platforms can easily adapt and use.
- **Transparency and accountability report:** This inaugural report on the practices of Internet platforms, software vendors, and content rating agencies will become an ongoing resource for those who are affected by the child protection practices of these bodies, and provide an aspirational standard for improvements in their accountability and transparency.
- **Advisory network:** The process will also result in formation of a standing advisory network of stakeholders, with secretariat support from ProStasia Foundation, who can provide advice and feedback to Internet platforms on their child protection policies and their human rights impacts.

## Objective

The objective of this project is to enable industry participants to ensure that their child protection policies and practices are scientifically sound, and that they fulfil their obligations under the United Nations Guiding Principles on Business and Human Rights, which require companies to:

Conduct due diligence that identifies, addresses and accounts for actual and potential human rights impacts of their activities, including through regular risk and impact assessments, meaningful consultation with potentially affected groups and other stakeholders, and appropriate follow-up action that mitigates or prevents these impacts.<sup>8</sup>

By facilitating a dialogue with experts and stakeholders who are normally excluded from the development of child protection policies by Internet platforms, we aim to make these policies more evidence-informed, and more compliant with human rights standards.

In concrete terms, this will be evidenced by improved accuracy in the moderation of sexual content. Specifically, participating platforms will remove more material that is harmful to children and has no protected expressive value, and less material such as lawful, accurate information on child sexual abuse prevention. The ultimate result of this will be that more children are saved from child sexual abuse.

## Institution and Personnel

**Jeremy Malcolm** is the Project Coordinator as well as the Executive Director of Prostasia Foundation. Malcolm has significant experience of managing multiple complex, international and multi-stakeholder projects. He has raised and managed six-figure project budgets, working with donors such as Ford Foundation, Open Society Foundations, the International Development Research Centre (IDRC), and Google. While employed at Consumers International as Senior Policy Officer (2008-2014), he coordinated its global program Consumers in the Digital Age and was responsible for spearheading proposed revisions to the United Nations Guidelines for Consumer Protection. While he was Senior Global Policy Analyst at the Electronic Frontier Foundation (2014-2018), he led the development of the Manila Principles on Intermediary Liability, which have become an aspirational global standard on that topic. Malcolm graduated with degrees in Law (with Honours) and Commerce in 1995 from Murdoch University, and completed his PhD thesis at the same University in 2008 on the topic of Internet governance. Malcolm'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.

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<sup>8</sup> UN Human Rights Council, *Protect, respect and remedy: a framework for business and human rights*, John Ruggie, 7 April 2008, A/HRC/8/5, available at: <http://www.refworld.org/docid/484d2d5f2.html>.

**Lawrence Strickling** leads the Collaborative Governance Project of the Internet Society, whose mission is to expand the global knowledge and use of collaborative governance processes to solve problems and develop norms. The Collaborative Governance Project will be facilitating the Multi-Stakeholder Dialogue on Internet Platforms, Sexual Content, and Child Protection in collaboration with ProStasia Foundation. Strickling is former Assistant Secretary for the National Telecommunications and Information Administration (NTIA) under the U.S. Department of Commerce (DOC), a position to which he was appointed by President Barack Obama in 2009. In this role, he oversaw the successful transition of the U.S. government's stewardship of key functions of the Internet Corporation for Assigned Names and Numbers (ICANN) to the global multistakeholder community.

**Meagan Ingerman** is a childcare and child development specialist with over ten years as a provider, tutor, and consultant. She has engaged in multiple forms of sex work and has ties to the organized kink community. Within the kink community she has been an event organizer, presenter, and volunteer. She has presented on subjects such as safety in kink, kink/BDSM for beginners, and has helped to facilitate discussions about consent and consent violations. .

**Jeff White** is ProStasia's Research Associate. He is a social science major (U-MN Morris) who assists with research, social media tasks, and is a liaison between ProStasia and its stakeholder communities. He focuses on the sociological and psychological science behind why sexual misconduct happens so we can put better policies in place.

## About ProStasia Foundation

ProStasia Foundation is a s.501(c)(3) nonprofit child protection organization whose mission is to ensure that the elimination of child sexual abuse is achieved consistently with the highest values of the society that we would like our children to grow up in.

ProStasia was formed in April 2018 by a group of mental health professionals, child protection workers, human rights activists, sex industry experts, and CSA survivors, one week after an anti sex-trafficking bill called FOSTA/SESTA (Allow States and Victims to Fight Online Sex Trafficking Act/Stop Enabling Sex Traffickers Act) was signed into law.

Like other laws before and after it, FOSTA/SESTA encapsulated an approach to child protection policymaking with which we disagreed:

- It was not evidence-based; for example, misfocusing on offenders who matched a popular stereotype, rather than on those who posed the most danger to children.
- Its proponents relied heavily on leveraging moral panic to secure its support from industry and its ultimate passage through Congress.
- Insufficient attention was paid to the rights of innocent persons who would bear the brunt of the law's impact: in this case, sex workers and users of Internet platforms.

In contrast, ProStasia's priority is on using law, technology, and social interventions to prevent CSA before it happens, rather than merely tracking down and punishing those who have already

offended, at which point our society has already failed. Our approach is holistic, multidisciplinary, and multistakeholder, driven by our commitment to:

- **Child protection:** There is never any justification for adults to have sexual contact with children or to use or trade in child sexual abuse materials (child pornography).
- **Human and civil rights:** Our work is grounded in respect for universal human rights such as freedom of expression, privacy, and the due process of law.
- **Sex positivity:** We proceed on the assumption that private sexual behavior between consenting adults, or by oneself, is not harmful, rather than presuming that it is.

This uniquely balanced, rights-respecting and evidence-based approach to CSA prevention allows us not only to protect children from abuse, but also to reduce the separate harms caused to children and others by our society's predominantly reactive child protection agenda. We do this by:

- Helping to **fund sound scientific research on CSA prevention.**
- Engaging in dialog with a diverse group of stakeholders on the **human rights impacts of child protection laws and policies.**
- **Communicating the results of that research and engagement** to policymakers, platforms, and the public.

Prostasia is currently engaged in multiple projects, other than those described in this concept note. For example, we are currently running a unique outreach campaign targeting users who are at high risk of seeking out unlawful material. Building on a psychological profile of potential offenders, this campaign ensures that this population has accurate information and access to resources and tools to avoid offending.

We are also engaged in fighting the anti-sexworker law FOSTA more directly with the intention of joining a constitutional lawsuit by means of an amicus curiae brief that will demonstrate how the law has restricted the availability of sexual abuse prevention materials online.

Prostasia Foundation is governed by a Board of Directors which is majority female and contains representatives of survivors of child sexual abuse. The board consults a balanced Advisory Council, comprised of representatives from the mental health profession, the criminal justice sector, the Internet and sex industries, and the LGBTQ+ and kink communities—stakeholder groups that other child protection organizations exclude.



# Timetable and Budget

## Timetable

The expected timetable for this project is as follows:

October 2018	Initial outreach to partners and funders
January 2019	Commencement of drafting of background paper and transparency report
May 2019	First meeting at Patreon in San Francisco
May 2019	Working group convenes to finalize the background paper and work on draft recommendations for consideration at the second meeting
June 2019	Second meeting at the AASECT Annual Conference in Philadelphia
June 2019	Presentation of background paper, draft recommendations and “work in progress” on transparency report, at RightsCon 2019 in Tunis
August 2019	Draft recommendations finalized and published
October 2019	Transparency report finalized and published
November 2019	Presentation of final publications at the ASTA Annual Research and Treatment Conference in Atlanta
November 2019	Presentation of final publications at the Internet Governance Forum in Berlin
December 2019	Prostasia issues final project report to funder/s

## Budget

### I. Personnel

Position	TOTAL Monthly Salary Rate	Months	Percent Staff Time Dedicated to this project	Total USD Year's Salary for this person	Total USD Cost
Project Coordinator (Jeremy Malcolm)	\$6,650.00	12	60.00%	\$79,800.00	\$47,880.00
Project Assistant (Meagan Ingerman)	\$3,250.00	12	60.00%	\$39,000.00	\$23,400.00
Project Intern (Jeff White)	\$3,250.00	12	40.00%	\$39,000.00	\$15,600.00
<b>TOTAL PERSONNEL :</b>					\$86,880.00

### II. Administration

Expense	Total USD Cost
Rent (coworking space x 2)	\$7,200.00
Telephone/fax	\$480.00
Postage / Courier	\$180.00
Hosting	\$250.00
Office Supplies	\$640.00
<b>TOTAL ADMINISTRATION :</b>	\$8,750.00

### III. Contracts and Consultants

List	Total USD Cost
Web development	\$600.00
Printing and publishing	\$2,100.00
ICT support	\$600.00
<b>TOTAL CONTRACTS, etc. :</b>	<b>\$3,300.00</b>

### IV. Meeting expenses

List	Total USD Cost
Rental and A/V	\$0.00
Lunches (x2)	\$1,800.00
Coffee breaks (x4)	\$960.00
Printing and publishing	\$300.00
Signage	\$350.00
Conference registration	\$4,750.00
<b>TOTAL CONTRACTS, etc. :</b>	<b>\$8,160.00</b>

### V. Travel

From/to where	# of people	Transport costs per person	# of Days	Accom./day/person	Total Cost USD
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US domestic to SFO for meeting 1	4	\$600.00	2	\$110.00	\$3,280.00
US domestic to PHL for meeting 2	6	\$600.00	3	\$110.00	\$5,580.00
SFO to Tunis for RightsCon	1	\$1,400.00	4	\$80.00	\$1,720.00
SFO to Atlanta for ASTA	2	\$400.00	3	\$110.00	\$1,460.00
SFO to Berlin for IGF	1	\$1,200.00	5	\$90.00	\$1,650.00
<b>TOTAL TRAVEL :</b>					\$10,410.00

#### VI. Other

<b>List</b>	<b>Total USD Cost</b>
Association/network membership	\$2,500.00
<b>TOTAL OTHER :</b>	\$2,500.00

<b>GRAND TOTAL :</b>	\$120,000.00
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