

**PORNOGRAPHY:** HOW PORN FUELS  
SEX TRAFFICKING,  
CHILD EXPLOITATION, &  
SEXUAL VIOLENCE  
A PUBLIC HEALTH CRISIS

***Pornography: A Public Health Crisis  
Why Finding A Solution Is So Difficult***

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SEXUAL EXPLOITATION

The brains of young children are being bombarded with graphic, extreme Internet pornography, causing significant harm. The average age of first exposure to Internet pornography is 12 years old and is declining. By age 10, 32% of children have been exposed to pornography; and 53% of boys and 28% of girls (ages 12 – 15) use sexually explicit pornography via the Internet.

This situation is exacerbated by the fact that on today's Internet, so-called "soft porn" has largely disappeared. Today, the content is increasingly extreme, graphic, often-violent and degrades and humiliates girls in particular. A recent study found that 88% of top-rated porn scenes contain physical aggression and 49% verbal aggression, with 94% of the targets of that aggression being female.

This phenomenon is also fueled by the explosion of free porn sites as pathways to the commercial pornography industry. New York Magazine reported that ten years ago total daily adult site traffic averaged less than 1 million unique visitors on the entire Internet; today the free pornography tube sites alone get 42 million unique visitors every day.

This is a particular problem today when the Internet is no longer tethered to a PC on a desk at home. Today, children carry the Internet around in their hands via mobile devices. A recent Cisco report estimated that mobile data traffic will increase 11-fold between today and 2018.

Thirty years ago, we could zone pornography off, regulate it, deny access to children, require that material be covered by plain brown wrappers, and cover the windows to prevent inadvertent display. In the Internet era, we can't do that anymore.

Today, you will hear from some of the leading scholars, researchers and experts in this field regarding what we know, what the challenges are and how significant the damage is that is being done to our children.

But my question for Congress is – “why is finding a solution so difficult?” My answer is threefold:

1. **Our laws have failed.** Congress tried to address this problem at least three times: through the 1996 Communications Decency Act; the 1998 Child Online Protection Act; and the 1999 Children's Internet Pornography Act. Yet, most of that legislation was struck down by the courts as an unconstitutional infringement on free speech.
2. **Our efforts to educate parents on ways to protect their children from this kind of content have failed.** Internet companies and NGOs have tried to educate parents and persuade them to use the tools that are readily available today. Yet, just 28% of parents have installed filtering software, just 17% on mobile devices, and only 15% on gaming consoles. Over the past 20 years we have made great progress in educating children and families in how to use the Internet safely and responsibly. However, in the area of protecting children from exposure to graphic, extreme content, we have failed miserably.

3. **Obscenity prosecutions have declined dramatically.** With the advent of the Internet, we have seen a marked decline in obscenity prosecutions. Obscenity is not protected speech, but in order to be “obscene,” content must be adjudicated to be obscene. The Supreme Court established a three-part test in the 1973 case, *Miller v. California*:

Whether "the average person, applying contemporary community standards," would find that the work, taken as a whole, appeals to the prurient interest;

Whether the work depicts or describes, in a patently offensive way, sexual conduct or excretory functions specifically defined by applicable state law; and

Whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Today, in this era of the Internet, some question whether community standards mean the same for Internet distribution as for distribution by other means and whether in light of the extreme, dehumanizing content that appears regularly on Internet sites, anything can be held to be “obscene.” Given the public health crisis we are discussing today and the emergence of content far beyond what used to be prosecuted under obscenity law, my hope is that public officials at all levels will reexamine the use of obscenity prosecutions as at least one element of a comprehensive strategy.

However, even in light of the challenges we face, I am convinced that there are other options we should explore. Let me suggest one:

## **Default Filtering**

On July 22, 2013 UK Prime Minister David Cameron spoke about an issue that is “hard for our society to confront, that is frankly difficult for politicians to talk about, but that I believe we need to address as a matter of urgency.” Prime Minister Cameron said that issue is “the Internet, the impact it is having on the innocence of our children and **how online pornography is corroding childhood.**”

He called upon British Internet companies to take voluntary action to provide default filtering for all users. He approached this not as a limitation on free speech, those who want to access pornography can still get it. But instead of depending on parents to adopt and implement available filtering tools, he urged the Internet companies to provide these tools for them automatically, unless users opt out of receiving them.

Today, the four major British ISPs – British Telecom, BSkyB, Talk Talk, and Virgin – are implementing default-filtering. British households are being contacted by their Internet service provider to specify whether they want to activate the “family friendly filters,” with those who do not state a preference having the filters automatically switched on by their service provider.

In January 2015 Sky Broadband switched on its “Shield” filter for every one of its 5.3 million users, with those wishing to access pornography needing to explicitly “opt-out”

of the filter. Thus, the UK does not deny access to adults who seek to access the content, it only seeks to deny it to children.

The UK initiative is not without critics. Recently, the Council of the European Union proposed measures to stop mobile phone and Internet providers from being able to automatically block pornography. Thus, in all likelihood this battle has only just begun.

Nonetheless, recognizing the experience of the past twenty years, it is inescapable that educating parents is not enough and will not work, and that Congressional action may not meet the test of constitutionality. Thus, a voluntary, industry-driven initiative like the British model would seem to have potential for the United States and other countries.

As Internet pornography has become more extreme, we are seeing growing demand for action from all parts of the political and philosophical spectrum. We hear it from feminist leaders who see extreme porn as an assault on women and their rights, content that affects the way boys (soon-to-be men) view women, relationships and sexuality. And we hear similar concerns from the anti-obscenity, family values community.

We all embrace the ideal of free speech and a free, unfettered Internet. Yet, there are limits. Unless we better protect our children, we will see future generations of damaged adults and societal disruption. One prominent researcher called the inundation of young children with extreme Internet pornography as “the single, largest unregulated social

experiment in history.” We have to confront this emerging reality and develop real solutions that maximize individual freedom but better protect our children.

My message to Congress today is that we need leadership and we need action. The British model offers one creative option that does not require a statutory mandate and that engages industry in finding a solution that will work. But if that is not the best solution, we must find another one.

The use of the Internet is changing, the challenges are increasing, and the children of America and the world are at greater risk than ever before. We need to take action.