

Why age verification is another flawed attempt to regulate online pornography in the UK

February 11 2022, by Oliver Carter



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The UK government has announced that its forthcoming [online safety bill](#) will require websites that publish pornography to verify users are

over 18.

Sites will need to adopt a method of age verification, such as having users provide their passport information. They will likely need to employ a third-party provider to set up and maintain these systems.

This isn't the first attempt to restrict access to online pornography in this way in Britain. The government shelved plans for a similar age verification scheme [in 2019](#).

There's no question child safety online is critically important. But if adopted, this move will be yet another piece of legislation to add to a messy patchwork of often flawed UK laws seeking to police pornography.

UK porn websites will be forced to prevent underage access by using age-verification technologies as part of the government's Online Safety Bill. <https://t.co/b1CmNgwUzn>

— The Week UK (@TheWeekUK) [February 9, 2022](#)

I've done research on the history of pornography in Britain, and particularly its regulation. In short, this has always been a problematic area.

By the end of the 1950s, the pornography business had begun to expand. The [Obscene Publications Act 1959](#) sought to criminalize distributors of pornography, but had the opposite effect. Its ambiguous terminology gave way to loopholes that entrepreneurs exploited, creating [a thriving market](#) for illicit goods that were sold in bookshops, via mail-order and exported to Europe in the 1960s and early 1970s.

By the end of the 1970s, there was a shift in the discourse from viewing

pornography as an obscene object to questioning its impact and potential harm. A [moral panic](#) around pornography ensued, leading to a range of new laws aimed at regulating access.

For example, the [Indecent Displays \(Control\) Act 1981](#) and the [Local Government \(miscellaneous provisions\) Act 1982](#) sought to regulate the growth of sex shops beyond London's Soho. Their neon-lit displays were replaced by blacked out windows.

Concerns around children's access to pornography and violent material underpinned the [Video Recordings Act 1984](#), which was designed to regulate the new technology of home video.

In 2000, Britain appeared to liberalize its pornography laws [following a review](#) of the British Board of Film Classification R18 certificate. Hardcore pornography could legally be sold in Britain, but under strict control.

The shift of pornography to cyberspace complicated attempts at regulation further. Concerns around access to harmful pornography online led to the possession of "extreme" pornography being criminalized under the [Criminal Justice and Immigration Act 2008](#).

If European countries such as Denmark, Netherlands and Sweden have been relatively relaxed their approach to policing pornography (Denmark was the first country to fully legalize pornography [in 1969](#)) Britain's method has been to introduce a range of messy, overlapping laws. This becomes clear when you look at the [Crown Prosecution Service's](#) advice for prosecutors to consider a list of 14 laws before deciding whether to pursue an obscenity conviction.

Perspectives from the industry

Age verification for pornography was included in the [Digital Economy Act 2017](#). Here, authority was to be given to a government-appointed regulator to impose penalties on websites refusing to adopt age verification, such as fines or ordering internet service providers to block access.

Between 2016 and 2019 I was researching the history of Britain's pornography business and attending regular meetings of the United Kingdom Adult Performers Network.

Producers and distributors expressed concern about the impact of the Digital Economy Act 2017 on their business, fearing that age verification would dissuade customers from accessing their content. Would you want to visit a porn site if you had to put in your driver's license details or your passport?

With pornography shifting from a physical to a digital commodity that is freely streamed by video aggregator sites such as Pornhub, small-scale producers viewed the measure as another threat to their dwindling profits.

Producers believed that age verification benefited large, powerful companies such as Mindgeek, which owns many of the popular streaming sites and production studios, and was offering to provide age verification services to smaller operators.

Importantly, Britain's pornography producers and distributors were not opposed to age verification in theory. Indeed, they were concerned about children accessing inappropriate material. Their worry was about how this would work in practice, and the impact it would have on their business.

In the end, in 2019, the Conservative government deemed age

verification for pornography websites unworkable and [dropped its plans](#).

Now it's back on the table

Britain's renewed commitment to age restriction follows similar moves in [France](#) and [Germany](#).

Under the online safety bill, power would be afforded to the UK's communications regulator Ofcom, making it responsible for determining how websites are dealt with if they fail to verify users' age. Social platforms containing pornographic content, [like Reddit and Twitter](#), may not be exempt.

Privacy concerns remain, particularly around the potential for leaked data that identifies personal sexual interests.

We will now wait and see whether the government's plans for age verification will succeed. But history shows that Britain's [pornography](#) laws have never been fit for purpose. Producers and audiences have always found loopholes to circumvent controls. Some young, tech-savvy users are likely to do the same with this law.

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