Kidfluencers and conundrums: the rising need for Internet policy that addresses child labour and safety

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Abstract

As the internet rapidly evolves and its wide influence expands, the Canadian government (as well as many other nations) have struggled to create and enforce policies that protect people online. This has become especially problematic as digital spaces used by children are constantly growing, and even more so as these children become active participants in not only the consumption but also the creation of internet content, leaving them vulnerable to privacy breaches and labour exploitation. Child Internet stars, or kidfluencers, are a vulnerable group that has relatively no legislative protection. Although the United States has laws to protect child actors from financial exploitation, these laws do not address other forms of abuse or the privacy of these children, and no laws exist in Canada or the United States to protect online child performers from the exploitation of their private lives and labour (Geider 2021 pg. 29). Instead, the responsibility falls to parents to ensure their kids are safe and protected when producing content online, but when the abuse stems from the family, no one is there to protect children from their parents. In the absence of concrete regulation, the onus falls on the platforms themselves to regulate and remove content that exploits children; however, content regulation has its own drawbacks. The Canadian government has the opportunity to act as an international legislative leader by putting forth legislation that requires platforms to cooperate with a national child digital welfare service to ensure fair treatment and compensation for this new generation of internet stars. This paper outlines various issues in regulating child based content as well as suggests possible policy solutions.

Keywords

Canadian internet policy, influencing, child labour, content regulation, digital policy

As the internet rapidly evolves and its wide influence expands, the Canadian government (as well as many other nations) has struggled to create and enforce policies that protect people online. This has become especially problematic as digital spaces used by children are constantly growing. As these children become active participants in not only the consumption but also the creation of internet content, they are left vulnerable to privacy breaches and labour exploitation. Child Internet stars, or 'kidfluencers', are a vulnerable group that have relatively no legislative protection. Although the United States of America has laws to protect child actors from financial exploitation, these laws do not address other forms of abuse or the privacy of these children**;** furthermore, no laws exist in Canada or the United States of America to protect online child performers from the exploitation of their private lives and labour (Geider, 2021, p. 29). Instead, the responsibility falls to parents to ensure their kids are safe and protected when producing content online, but when the abuse stems from the family, children severely lack protection from the exploitation of their parents. In the absence of concrete regulation, the onus falls on platforms themselves to regulate and remove content that exploits children; however, platform enforced content regulation has its own drawbacks. Throughout this paper I will discuss the varying issues faced by online child performers and conclude by proposing policy suggestions for the Canadian government to consider. The Canadian government has the opportunity to act as an international legislative leader by putting forth legislation that requires platforms to cooperate with a national child digital welfare service to ensure fair treatment and compensation for this new generation of internet stars.

Article 16 of the United Nations Convention on the Rights of the Child 1989 states that,

(1) No child shall be subject to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation; (2) The child has the right to the protection of the law against such (as cited in Nottingham, 2019, p. 5-6).

However, in reality, relatively no enforcement of this Convention takes place. Instead, the internet has opened up new realms for sharing the private information of children with a vast array of people, including strangers. There are two primary ways that children's personal lives are shared online. The first is through what is known as "sharenting" (Nottingham, 2019, p. 2). Sharenting consists of the parent sharing images and videos of their child, often without consent. This poses the obvious risk of exposing a child's information in a scam-filled and data-hungry world, but it can also be more insidious as photos of children can also be used to identify their school or other markers that dangerous individuals could use to determine the location of the child. There is also emotional harm caused by sharing images online, including emotional damage that can occur long after the content is initially posted (Nottingham, 2019, p. 5).

The second form of digital sharing is through children creating and sharing their own content: kidfluencing (Maheshwari, 2019). The rise of kidfluencers has been fast and is especially prominent on video sharing sites like YouTube, which have adapted greatly to become both more kid and advertiser-friendly, despite still not allowing children under 13 to create their own accounts (Wong, 2019). The most famous example and YouTube's highest earner of 2019 and 2020 is Ryan Kaji, also known by his YouTube handle, @RyansWorld (Neate, 2020). Ryan's content consists of him unboxing and playing with toys, as well as house tours and videos of him playing in his new mansion. His family runs a total of nine YouTube channels under Ryan's brand and even changed their surname to Kaji to match Ryan's previous YouTube handle (Neate, 2020). Ryan's

channel earned an astounding 29.5 million dollars in revenue in 2020 alone; additionally, his merchandise brings in 200 million for his family each year (Neate, 2020). Ryan is actively advertising for companies and earning his family millions, but how much control does the now 11-year-old actually hold over this money or the way he is represented to his audience? Ryan's mom suggests that it was her son (Ryan), at the tender age of 5, who suggested he start a YouTube channel (Neate, 2020), but now that Ryan has become a multi-million-dollar brand, it is difficult to say how much autonomy he has in terms of brand deals, editing, and personal privacy. Although there is no evidence or claims of abuse occurring in Ryan's family, there are a number of families who pose not just a financial risk to kidfluencer's but also a threat to their emotional privacy and safety. The United States does have the Coogan law, legislation that requires a portion of a child's earned money to be put aside for adulthood; however, this legislation still excludes digital performers (Geider, 2021, p.29).

A dangerous combination of sharenting and kidfluencing can be found in the growing community of YouTube family vloggers. These channels often consist of a mother, father, and their children acting in skits, reviewing toys together, or participating in reality show-style drama and pranks. In these circumstances, it is not the parent alone engaging in influencer behaviour, but they also involve their children's private lives in their content to make money for themselves and to advertise for companies. These children also face risks of being manipulated or forced to act in certain harmful or even degrading ways to ensure views, followers, or good advertiser relations. There is also no limitation to how long child performers for social media are allowed to work; their parents could be filming them for twenty-four hours a day and face no consequences for profiting off of their child's continuous performance (Nottingham, 2019, p. 8).

Unlike the children of mommy bloggers who are discussed primarily in relation to the parent, the children of influencers are valued for what Crystal Abidin (2017) describes as "anchor talents" (p. 2). Anchor talents are performance skills such as acting in skits, singing, dancing or creating tutorials and are valued in a secondary manner for their role in adding authenticity to the domestic content of the family. This becomes especially disturbing when anchor content involves emotional manipulation and creates a sense of distrust between parents and their children. Audiences on the internet are drawn to intense reactions and emotions, which makes children's emotions ripe content farms for parents who seek to maintain their digital relevance. Nottingham (2019) discusses a video by the vlogging family 'The Shaytards', who were YouTube stars circa 2014. In the video, the nine-year-old daughter begs her father to "Cut that part out!" (Nottingham, 2019, p. 8) after sharing information about a private crush. The daughter proceeds to run away crying while her father follows her with the camera refusing to turn it off, and can be heard saying "this is good footage" (Nottingham, 2019, p. 8).

A more insidious example of parents pushing their kids to the emotional edge and using their private emotions for views is the now banned vlogging family "FamilyOFive", also known as "DaddyOFive". The content often consisted of parents, Heather and Mike Martin, playing 'pranks' that included ridiculing or punishing their children to the point of intense emotional distress and recording the reactions. Other videos contained Mike Martin physically abusing his children by shoving them, encouraging them to physically harm each other or verbally abusing them (Sisley, 2020). After being notified by their content moderating system, YouTube reported the couple to Maryland Child Protection Services (Geider, 2021, p. 21). Two of the children were removed from their custody. The Martins were charged with child neglect, and although they refused to admit guilt, they did take a plea and were sentenced to five years of probation as well

as an order to no longer post any videos or photos of their children (Sisley, 2020). However, as their account already had nearly a million followers, the parents were able to continue to live off of the money produced from their previously created content (Geider, 2021, p. 22). This prompted YouTube to adjust its guidelines, completely removing content and banning accounts that featured child abuse or endangerment (Geider, 2021, p. 22) rather than only demonetizing them. As highlighted by Geider (2021), one company amending its policies still does little to address the vast array of online child exploitation. In the FamilyOFive case, YouTube's content regulation policies were effective at flagging and then removing content that depicted abuse. However, it took an extended period of time before the platform recognized and addressed the abuse and exploitation embedded within the family's videos, displaying the cracks in the content regulation system. There are also a variety of other limitations to content regulation as a way to combat online child exploitation.

There are a wide variety of drawbacks to allowing platforms to self-regulate children's content to tackle online child abuse and exploitation. Firstly, content moderation works by screening photos and videos once the media has already been uploaded. The screening process does not often occur before the image or video is posted (Roberts, 2019, p. 35). This means that for many kidfluencers, their privacy has already been breached by the time the content is flagged and removed, doing little to help them. Child-based content is also growing exponentially as children grow up with devices surrounding them from birth. Millions of user-generated posts are created and submitted to social media sites every day (Roberts, 2019, pg. 3). Content moderators are already overworked and underpaid, and with the sheer number of posts it is not possible for individual moderators to examine the details of every child Youtuber's video, especially when abuse may not be obvious. In addition to this, many social media companies do not fully disclose

how their content moderation processes operate, partially due to the idea that internal workings are proprietary information but also because maintaining this privacy allows them to "escape scrutiny and public review of these policies from their users, civil society advocates, and regulators alike" (Roberts, 2019, p. 38). Roberts (2019) also states that sharing the vast inner workings of content moderation practices with the general public would expose just how prevalent inappropriate, disturbing, and harmful imagery is as well as how social media platforms, in many ways, facilitate the distribution of this content, rather than acting as a force to stop its dissemination.

Content moderation policies work within the framework of the corporation's rules and may not immediately flag videos of families as anything in need of a human moderator. As long as the family is presented as safe and fun and there is no obvious on-camera abuse, a content moderator would not flag the video as a potential source of child exploitation. However, this is also due to the fact that, similarly to the audience, the platform only sees a curated image of performers and the family as a whole. In the FamilyOFive case, the abuse was clearly displayed in the videos; however, other kidfluencers, such as Machelle Hackney Hobson's seven adopted kids, are only ever shown smiling and laughing for the camera while secretly being abused behind the scenes. Hobson's channel, @FantasticAdventures, accumulated over 700,800 followers and made Hobson nearly 300 million in 2018 before she was arrested (Wong, 2019). The abuse faced by her children was directly related to content creation. The children stated that Hobson would withhold food, water, and bathroom access, beat, pepper spray, and even molest the children if they forgot their lines, did not act well, or did not want to participate in the videos (Geider, 2021 p. 20). YouTube appeared to be unaware of the abuse and their initial reaction to the arrest was only to demonetize the accounts before later deleting them entirely (Wong, 2019). The very fact YouTube initially tried to leave the uploaded videos from both the FamilyOFive and the FantasticAdventures

channels displays that the privacy and safety of these children is not their main priority. Entrusting companies that have a history of exploiting and hiding information from users to tackle complex societal problems such as child abuse is incredibly dangerous, especially when the public does not fully understand how these companies make their decisions.

One might think that an easy catch-all for this would be to ban the sharing of images and videos of minors as well as the online content produced by minors. While encouraging parents to respect their children's privacy is important, many parents do not post with malicious intent and many kids do create online content as a non-monetized hobby. Simply banning parents from posting their children or allowing their children to create original content is not an adequate solution (Nottingham, 2019, p. 2). However, content regulation by a private platform alone is also inadequate. Removing the content may take the abuse out of the public eye, but it does not help those who are actively harmed by it, leaving the children vulnerable and alone. In both the FamilyOFive and the FantasticAdventures vlogging abuse scandals, both the intervention of the government and the private platform was required to adequately protect children. Although YouTube did not have the capacity to remove the children from the abuse, they were able to remove the incentive, and although the government could not stop the family from earning income from the abuse, they could take the children out of the dangerous home. Tackling child abuse online requires a nuanced and federally regulated approach.

An issue as complex as the abuse and exploitation of children for internet views requires a thorough piece of legislation that touches on all areas of abuse. To become leaders in protecting the privacy and safety of children, I recommend that the Canadian government bring in a comprehensive Kidfluencer bill that enforces a partnership between national child welfare services and major digital platforms. It can be difficult to engage large platforms in this kind of cooperative

effort. However, Veena Dubal, a University of California Hastings law professor who specializes in employment law and the gig economy, claims that platforms like YouTube could be considered joint employers of these children as they control the dissemination of money (Wong, 2019). This would add to their responsibility to reduce exploitative child labour on their platforms and would give the Canadian government some weight in threatening legal action against these companies for being complicit in the abuse if they do not comply.

Canada's child services agencies are currently regionalized by province; however, to adequately address online abuse, I suggest the federal government create a branch designed just for digital child welfare. Once their child-focused accounts reach a monetary threshold (Geider 2021, p. 25), parents should be required to register their child with a digital child welfare agency to obtain a digital work permit. Although critics of the attempt to add this work permit to California child labour laws have stated that the enforcement of work permits would be near impossible as work is done mostly at home where permits cannot be verified, the proposed regulated partnership between platforms and national child welfare services could combat this. Under my proposed Kidfluencer bill, platforms such as YouTube would be required to ensure a permit is submitted to them and restrict channels from producing content if their permit has not been verified by the platform. From this point, it would be the role of a social worker to check in and visit these families to ensure no behind-the-scenes abuse or intimidation is occurring. Simultaneously, the platform can continue to flag obvious displayed abuse and notify the digital child welfare agency of specific violations that need immediate action.

This bill must also delineate a kidfluencer's right to own their own finances, following in a similar vein to California's 1999 child actor labour law overhaul, which maintains that a minimum of 15% of a child's earnings must be kept in an account until they are an adult and the

remaining 85% must be used to take care of the child, even if that includes paying the parent a salary as the child's manager (Wong, 2019). For vlogging families, I suggest that this should be extended to 10% of the family's total earnings being set aside for each child who performs on camera. Geider (2021) states that the proper spending of this 85% can be ensured through disclosure requirements which would force parents

> to disclose where the money is coming from, how much money is being exchanged, and the type and nature of the work that is going on. For example, with YouTube, it would also involve information like the name of the account holder's channel, the dates of recording, and when the video was uploaded (p. 26).

Another aspect of my suggested Kidfluencer bill would be a digital privacy clause that requires a child's written or verbal consent to posted videos, as well as a legal right to have these videos removed at their own discretion. For children who are too young to be considered "Gillick competent" (Nottingham, 2019, p. 3) or who cannot speak or act on behalf of themselves yet, this clause would allow for the removal of content that they were not able to reasonably consent to at the time.

Although it would require a complex and comprehensive piece of legislation, creating a space for children to safely perform and earn fair compensation on the internet is possible. The longer major governments wait to enact legislation to protect these children, the more the abuse will grow and become normalized. The vacuum left in the absence of any government regulation to protect child content creators has left private corporations in charge of content moderation, which presents its own array of dangers, as corporations are not necessarily properly equipped to tackle issues of human rights. Canada is not the only country to have left its most vulnerable at

risk during the tsunamic rise of the internet, but it does have the chance to be the first to put an end to the rampant abuse and exploitation occurring online.

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