

# Image-Based Sexual Violence Take-Down Assistance (Ta-DA)

Service Report 2021-23







### **About RainLily**

Established in 2000 as Hong Kong's first sexual violence crisis centre, RainLily provides free immediate crisis support, counselling, emergency contraception, sexual transmittable infections screening and preventive treatment, legal information, and judicial procedures accompaniment support (including forensic examination, police statement-taking, and other judicial procedures) to victim-survivors of sexual violence that are 14 or above.

RainLily provides companion for immediate and post-crisis legal-medico procedures, contact RainLily Helpline for more or request RainLily services at A&E.

RainLily Sexual Violence Helpline:  
2375 5322



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## Executive Summary

Non-consensual sharing of intimate images is an issue of the public's concern and had become a subject of legal reform in Hong Kong 3 years ago. The law against non-consensual publication of intimate images came into effect in 2021, however, it has limited impact in putting an end to the rampancy of non-consensual intimate images (NCII) on the internet and many people are victimised and suffering. What alleviates the stress of victims is to remove the intimate images from the internet as quickly as possible. Considering the needs of victims affected by NCII, Take-Down Assistance ('Ta-DA') service was launched in early 2021. Through Ta-DA service, we make content-removal requests to online platforms on behalf of the victims.

During April 2021 to March 2023, RainLily provided take-down assistance to 171 cases and reported 1342 pieces of non-consensual intimate content to online platforms, 89.0% of which were successfully removed upon our requests. The vast majority of the victims were female (71.3%) and around one fifth were male

(22.2%). Among all the cases we received, about half of them found that the images were spread by people known to them, such as their intimate partner (27.5%) and online acquaintance (15.8%); and about one third (32.7%) revealed that they could not identify the person who distributed their intimate images.

Among the 1342 pieces of content we had reported, 42.0% of the contents were found on pornographic sites and around a quarter were found on social media platforms (25.0%) and search engines (22.7%) respectively. The remaining were found on image-hosting websites (5.0%) and content farms (5.3%). While pornographic sites and social media platforms accounted for most of the reports we had made, the outcomes of content removal were the least satisfactory for these two types of online platforms. Despite that the pornographic sites are hotbeds of non-consensual intimate materials, the hosts of the porn sites have scarce awareness towards the issue and very few of them have regulations, policies, and reporting mechanisms regarding distribution

of non-consensual intimate images. As for social media platforms, Telegram, Instagram, Facebook and LIHKG were the most frequently reported by the victims, the level of responsiveness of these platforms varies from time to time. It is notable that the intimate images spread on Telegram groups also appear on so-called 'content farm' webpages, which exacerbates the circulation of the images.

NCII is an issue related to breach of privacy, the Office of the Privacy Commissioner for Personal Data (PCPD) can take more proactive role in addressing the NCII problems, for example, to conduct investigation of certain online platforms where the problem of NCII is serious and publicise reports setting out the investigation results.

We not only concern the remedial actions done by the tech companies and online platforms, but also the preventive actions. There shall be specific policy and user guidelines against NCII for tech companies and they should be formulated from the victim-centred and trauma-informed perspective. Tech companies are also suggested to make good use of safety features and technological tools that prevent the platform's users from posting non-consensual materials. To achieve better policy structure and create innovative means to address the issue, the stakeholders of the internet industry play a key role by initiating the discussions. On the local level, because

## 報告摘要

未經同意下發布私密影像成為社會關注的現象，並在一年前成為香港法律改革的議題。針對未經同意發布私密影像的法律於2021年生效，然而，該法律對於遏止網絡上未經同意散佈私密影像（NCII）的泛濫問題發揮的影響有限，許多人仍然身受其害、深受其苦。對於受害人而言，要減低他們遭受的壓力，就是將私密影像儘快從網絡移除。因應這群受害人的需求，「下架支援」服務於2021年初推出。通過此服務，我們代表受害人向相關的網絡平台提出移除內容的要求。

在2021年4月至2023年3月期間，風雨蘭為171宗個案提供了下架支援，並向網上平台舉報了1342項未經同意下遭發布的私密影像內容，當中89.0%最後成功下架。絕大多數服務使用者為女性（71.3%），約五分之一為男性（22.2%）。在接獲的個案當中，大約有一半的侵犯者是受害人認識的人，例如：親密伴侶（27.5%）和網友（15.8%）；另有三分之一的個案表示不知道散布者的身分（32.7%）。

至於我們向網上平台舉報的1342件私密影像內容中，有42.0%出現在色情網站內，另外有四分之一在社交媒體平台（25.0%）和搜索引擎（22.7%），其餘的則出現在影像托管網站（5.0%）和內容農場（5.3%）。色情網站和社交媒體是我們最常檢舉的網絡平台，這兩類網站的下架成效同時也是最不理想的。儘管色情網站是散佈未經同意私密影像的溫床，但該類網站的營運商對於這個問題的意識薄弱，甚少有制定針對未經同意發布私密影像的守則、政策和檢舉機制。在社交媒體方面，服務使用者最頻常向我們檢舉的網絡平台是Telegram、Instagram、Facebook和連登，這些平台對我們提出的檢舉所給予回應不。值得注意的是，在Telegram群組中散佈的私密影像通常同時出現在「內容農場」上，加劇了影像的擴散。

我們關注的不僅是科技公司和網絡平台採取的補救措施，還包括預防性措施。科技公司應制定針對未經同意發布私密影像的具體政策和用戶指引，而且它們的制訂應該以受



害人為中心、並能體現創傷知情的角度。我們也建議這些科技公司能善用安全功能和技術工具，用來防止平台的用戶上傳當事人不同意發布的內容。要推動更好的政策結構，並研發創新方式去解決此問題，互聯網行業的持分者在推動相關的討論起著關鍵性作用。就本地層面而言，因為未經同意發放私密影像本身是屬於侵犯個人資料私隱的行為，個人資料私隱專員公署可以採取更主動的角色，例如公署可以針對問題嚴重的網絡平台進行調查並發表報告予公眾查閱。

## 1. Introduction

Take-Down Assistance (Ta-DA) service was launched in 2021 in response to non-consensual dissemination of intimate images. Through Ta-DA service, RainLily makes content-removal requests to related platforms or websites on behalf of the victims. From April 2021 to March 2023, RainLily provided take-down assistance to 171 cases and reported 1342 pieces of non-consensual intimate content, 89% of which were taken down upon our requests. We collected background information of each case, such as, gender identity of the victims, nature of the reported content, relationship with the perpetrators, so on and so forth. While we offer assistance, we made records of the hyperlinks reported by the victims, the responses received from the online platforms regarding our requests and the results of content removal. The figures presented in this report were derived from the database of Ta-DA service.

### 1.1 Objective and scope of the report

The report aims to showcase that the Ta-DA service provides a

practical solution to the people affected by non-consensual sharing, as evidenced by the significant removal rate, while suggesting that the long-term solution will be greater awareness of tech companies towards NCII problems by devising specific guidelines and policies that address the issues.

This report is divided into three parts: part 1 introduces the background and objectives of this report; part 2 presents the patterns of victimisation amongst our cases, the effectiveness of content removal and the responsiveness of different online platforms; part 3 advocates the actions that could alleviate the NCII problems.

### 1.2 Image-based sexual violence (IBSV)

'Image-based sexual violence' means the behaviours of taking intimate images without the person's consent; non-consensual sharing of intimate images, including images taken with or without consent; threatening, intimidating, blackmailing someone with distribution of intimate images; creation and distribution of 'deep-fake' intimate image and sending

someone intimate image without their consent or 'cyberflashing'. In year 2020, Survey Report on Image-based Sexual Violence was published by Association Concerning Sexual Violence Against Women (ACSVAW), revealing that the findings of 206 responses to online questionnaire collected from the victims. It was found that non-consensual taking of intimate image was the most common form of IBSV, followed by voyeurism, threats to share and non-consensual distribution.<sup>1</sup>

In recent years, a large number of group chats in instant messaging applications were exposed and widely reported by the media. For instance, it has been revealed that on Telegram, there are a large number of groups spreading intimate images, including creepshots and leaked images.<sup>2</sup> The rampancy of non-consensual circulation of intimate images on the internet implies that many people are victimised and suffered from the abuse.

### 1.3 Non-consensual intimate image (NCII)

'Intimate image' refers to an image showing an intimate part of the individual or the individual doing an intimate act. Some literature and media coverage addressed the issue of non-consensual intimate image (NCII) in terms of 'revenge pornography', which is a vengeful act perpetrated by an ex-partner after the break-up of their relationship. This usually involves publishing consensually filmed sexual images or videos of their partner aiming to seek revenge or humiliate them. However, different studies have proposed that the use of 'revenge pornography' overlooks the non-consensual and intimate nature of images shared, it leaves room for the public to assume that the victims had committed wrongful acts that deserve punishments, and thus, legitimise discourses of victim-blaming or slut-shaming (McGlynn & Rackley, 2017, Gong & Hoffman, 2012). In light of this, we adopted the broader concept of NCII, capturing the malicious behaviours of distributing, sharing and circulating intimate images without the person's agreement.

<sup>1</sup> Survey Report on Image-based Sexual Violence (Association Concerning Sexual Violence Against Women, March 2020), see - <https://rainlily.org/hk/publication/2020/ibsvsurvey>

<sup>2</sup> HK01, 29 July 2017, 'Emergence of covert filming Telegram groups, thousands of members share photos with individuals in tights and short skirts (偷拍群組湧現-成員逾千分享黑絲短裙照-警-適時執法)' see: <https://cutt.ly/ghfE9w>

In NCII cases, the image could be taken under consensual or non-consensual conditions and could exist in multiple forms such as disclosure of sex tapes of consensual sexual activities, intimate photographs, sexual recordings (sound and digital), upskirting images. In some cases, the victims voluntarily send the images to the partners they met online and yet, were spread on the online platforms without their knowledge. This has much to do with the more prevalent phenomenon of 'sexting', where people are sending or exchanging self-produced sexual materials through digital applications and social networking platforms to express intimacy. Rather than stressing too much on the risks or telling people to stop doing so, the discussion on the 'consent' issue is more important. Besides, the risk discourse has reinforced the victim-blaming cultures and puts too much emphasis on victim' behaviours, overlooking the violation of imagery consent of the perpetrators and their wrongdoing.

#### **1.4 Laws and the enforcement**

The Crimes (Amendment) Ordinance 2021 came into effect on October 8, 2021, introducing four offences and a disposal order to tackle a range of image-based sexual violence behaviours. They are voyeurism (s.159AAB), unlawful recording or observation of intimate parts (s.159AAC), publication of images originating from above offenses (s.159AAD) and publication or threatened publication of intimate images without consent (s.159AAE), each of them carries a maximum sentence of 5 years' imprisonment. The legal proposal also includes the 'disposal order' (ss.159AAL), which empowers the court to command the defendants or any other person to remove, delete or destroy relevant intimate images.

According to the figures provided by Hong Kong Police and Security Bureau (see Table 1), the prosecution rates of the four offences were low. It was particularly low for the publication or threatened publication offence (s.159AAE), compared with those of the crimes concerning recording (s.159AAC) and voyeurism (s.159AAB).

Even if the perpetrator is prosecuted

**Table 1: Figures of the four offences related to image-based sexual violence (October 8, 2021 to December 31, 2022)**

	Reported cases	Prosecuted cases	Convicted cases
Voyeurism (s.159AAB)	130	30*	29*
Unlawful recording or observation of intimate parts (s.159AAC)	521	178*	<b>171*</b>
Publication of images originating from the offences under s.159AAB and s.159AAC (s.159AAD)	9	0*	0*
Publication or threatened publication of intimate images without consent (s.159AAE)	109	2*	2*
<b>Total</b>	<b>769</b>	<b>210</b>	<b>202</b>

\*The year of conclusion of the case is 2022

by police, the distributed content is under no legal obligation to be removed. The 'disposal order' that commands online platforms to remove the content is only applicable when legal proceedings commence, by which point it is too late to stop the re-sharing and circulation of the content. Seeing the limitations of the traditional justice system in responding to the traumas suffered by the victims, we aim to provide an

alternative justice intervention - assistance in content take-down - that could immediately reduce the harms faced by the victims of NCII.

## 1.5 Take-Down Assistance (Ta-DA) service

Given the severity of non-consensual distribution of intimate image on the internet, the Take-down Assistance ('Ta-DA') service aims to provide prompt deletion assistance for victims who suffer from the abuse. However, because of the local laws surrounding child sexual material, Ta-DA service is only able to assist those aged 16 or above. For assistance requests received from people below this age, we signpost to ECPAT Taiwan<sup>3</sup>. We do not place any limitation on the gender though - it is a service for people of all gender identities.<sup>4</sup>

If the victims report the contents to online platforms on their own, they might suffer from secondary traumas by re-visiting the non-consensual intimate contents. Many of them cannot bear the pressure by clicking at the link, not even to mention reaching the online platforms. Besides, they need to submit

personal information in order to contact the platform. But it is of their deep concern that this will reveal their personal identity and their information might be passed to the authorities, if there are crimes involved. By providing the take-down assistance to the victims, it could reduce their anxieties and distress if they report by themselves.

To acquire the assistance through Ta-DA service, the procedures are rather easy. The public only need to submit the 'assistance form', which collects the basic contact, some background information of the incident and the hyperlinks of the reported NCII contents. We will subsequently act on the requests by reporting to the related online platforms on behalf of the victims. If the online platforms do not respond to our reports or reject to remove the content, we might further report to the corresponding web-hosting providers.

We have established connections with different online platforms and overseas support organisations, which enhance the effectiveness of the service. For example, we are one of the trusted partners of major

<sup>3</sup> 'ECPAT Taiwan' is a non-profit organisation in Taiwan that works relentlessly in preventing child sexual exploitation, safeguarding children against online harm. They offer take-down assistance to children through 'Web547 Hotline'. See- <http://www.web547.org.tw/web5472010/>

<sup>4</sup> Official page of Ta-DA Service which contains the introduction of the service and assistance form - <https://rainlily.org/hk/ibsv/tada>

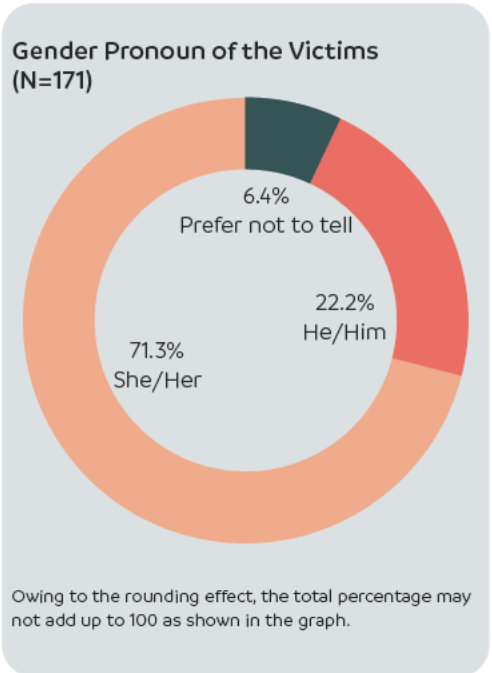
social media companies, such as Meta and Twitter. There are direct contact channels being established with their online safety teams, through which we can report the abuses and give feedback regarding their policies and mechanisms. In the meantime, we established connections with overseas NGOs, which also provide deletion service, and we constantly seek their professional advice on how to expedite the reports.

## 2. Data of Ta-DA Service (2021-2023)

During April 2021 to March 2023, 171 cases received assistance through the Ta-DA service to get the images removed. A total of 1342 pieces of NCII contents were reported to online platforms. This part will show the figures regarding the gender distribution of the cases, the identity and relationship between the victim and the perpetrator, the background of the IBSV incident and the content of the images. Meanwhile, we will demonstrate the effectiveness of the service by the removal rates and the level of responsiveness of different kinds of online platforms. In particular, we will highlight how some of the online platforms failed to respond to the reports and NCII problems.

### 2.1 Gender Pronoun of the Victims

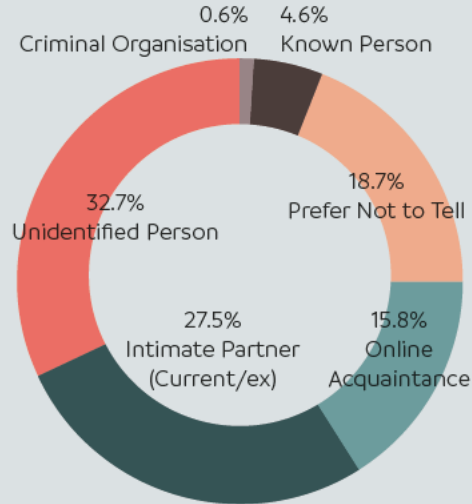
Ta-DA service is open to people of all gender identities. A majority of the victims (71.3%) identified themselves as female (she/her), while about one fifth (22.2%) self-reported as male (he/him).





## 2.2 Relationship with the Perpetrator

### Relationship with the Perpetrator (N=171)



Owing to the rounding effect, the total percentage may not add up to 100 as shown in the graph.

About half of the cases we received, the perpetrators were people known to the victims, such as intimate partner (27.5%), online acquaintances (15.8%), someone they knew<sup>5</sup> (e.g. friends, colleagues) (4.6%). Around one third of the victims (32.7%) reported that they could not identify the perpetrator.

<sup>5</sup> 'Known Person' is referred to people who were personally acquainted with the victims. This category includes friends, family members, colleagues, and other individuals that the service-user had a pre-existing relationship, but not intimate partners and online acquaintances.

## 2.3 Background of the IBSV incident

### Background of the IBSV incident (N=171)

\*Service users may choose more than one option



More than one third of the victims reported that the images were taken consensually but were shared without consent (39.8%), the images were shared without their knowledge or awareness (35.7%). One third of them were shared without authorisation (32.7%), for example, the images were sold on a particular platform and yet, they were discovered being circulated on another platform. For the circumstances where the images were being taken, 18.7% told us that they were taken without consent and 7.6% being taken without their knowledge. Meanwhile, 17.0% of the victims indicated that they experienced threats from the perpetrators when the image being taken and/or distributed.

## 2.4 Content of the Intimate Image

More than half of the cases (51.5%) involve images that captured consensual sexual activities, and 6.4% of them involve non-consensual sexual activities. 43.9% of the images contained the victims' exposed intimate parts. As for 'deepfake' images, it accounted for 12.3% of the cases.

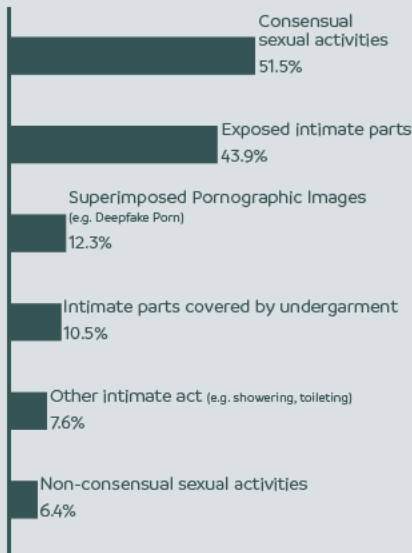
## 2.5 Removal Rates

Among the 171 cases, a total of 1342 pieces of NCII contents were being reported to online platforms. A vast majority (42.0%) of the contents were found on pornographic sites and around a quarter were found on social media (25.0%) and search engines (22.7%) respectively. The remaining were found on image-hosting websites (5.0%) and content farms (5.3%) (see 2.5.1).

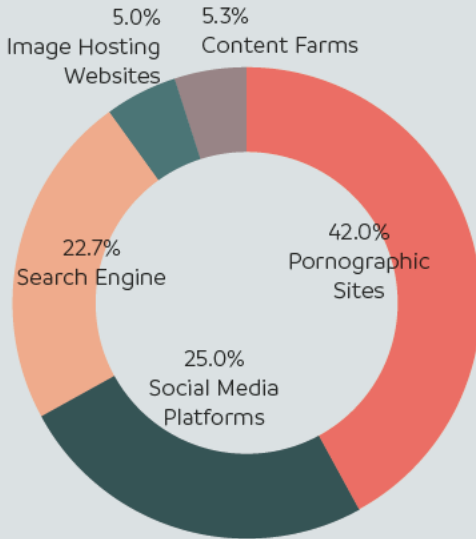
Upon our reports and follow-up actions, 89% of the reported contents were taken down successfully (see 2.5.2). Comparing the removal rates of the 5 types of online platforms, pornographic sites were the least responsive to reports (removal rate=78.9%), while the image-hosting sites were the most responsive (removal rate=100%) (see 2.5.3 to 2.5.7).

### Content of the Intimate Image (N=171)

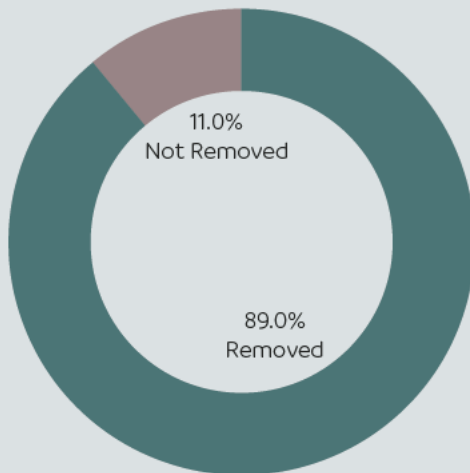
\*Service users may choose more than one option



### 2.5.1 Location of Reported Contents (N=1342)

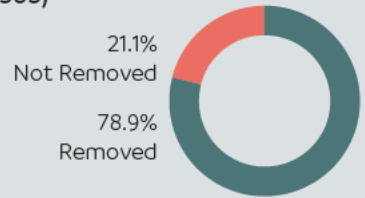


### 2.5.2 Overall Removal Rate (N=1342)

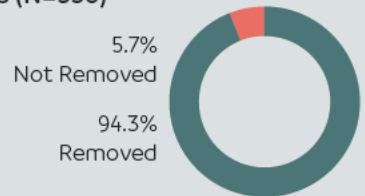


Owing to the rounding effect, the total percentage may not add up to 100 as shown in the graph.

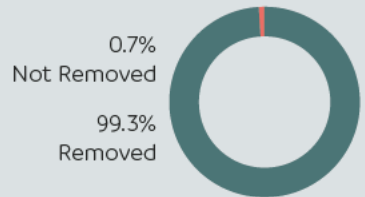
### 2.5.3 Removal Rate of Pornographic Sites (N=563)



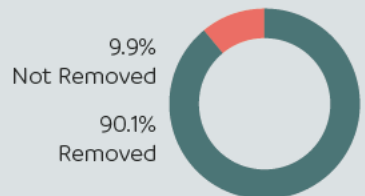
### 2.5.4 Removal Rate of Social Media Platforms (N=336)



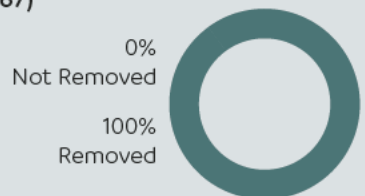
### 2.5.5 Removal Rate of Search Engines (N=305)



### 2.5.6 Removal Rate of Content Farms (N=71)



### 2.5.7 Removal Rate of Image Hosting Sites (N=67)



## **2.6 Online platforms not responsive to take-down requests**

In the 11% of the reported intimate contents that are not removed, we have resorted to all options but had no response from the platforms. This part tries to highlight the problems of three types of online platforms in response to NCII materials, the removal rates of which are the lowest, including pornographic sites, 'content farms' and social media platforms. We will examine how they fail to respond to NCII from the ways they deal with our take-down requests and problems in their policy and community guidelines; worse still, some of them were intended to spread NCII.

### **2.6.1 Pornographic site**

Pornographic sites are huge hotbeds of non-consensual sexual materials. A vast majority (42.0%) of the non-consensual intimate contents reported were found on pornographic sites. More than 130 porn sites were involved. Some NCII contents are consumed and perceived as 'mainstream porn' on those websites. In some cases, the help-seeking persons were filmed by their partners during sexual activity without asking for consent. The viewers of pornographic sites may not be able to tell if these contents are consensual or not. Therefore, they may mistake these videos as amateur home-made porn.

Worse still, the materials spread on pornographic sites on an exponential scale, compared to other sorts of online platforms. The massive spreading of the materials adds many difficulties to complete removal. For example, 25 pornographic sites never responded to our reports and took no actions to remove the non-consensual contents. These sites are hosted by two web providers, namely, 'Venomdc Llc' and 'Private Layer Inc', and they share

identical layout, structure and IP address. It is found that once a NCII material is uploaded to one of them, it metastasises to the other pornographic sites that share the same host.

The scarce awareness towards the NCII problems of the pornographic sites make them a hotbed of non-consensual materials and online abuse. A vast majority of the porn websites only prohibit materials that infringe the owners' copyright.<sup>6</sup> However, in most NCII cases, the copyright falls in the hands of the 'photographers' or 'filmmaker', instead of the ones being filmed. According to Uhl et al. (2018), who conducted content analysis of pornography websites. According to the study, amongst the photos that it was clear who the photographer was, 45.5% were taken by someone who was not in the photo. When these victims try to get their photos removed from pornographic websites, they face difficulty in requesting actions from the porn sites because the contents are often considered

as photographers' property, despite the fact that they are the ones being depicted in the image.

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<sup>6</sup> A 'DMCA policy' section can usually be found on most porn sites, which claims copyright infringement will be responded expeditiously. DMCA, or the Digital Millennium Copyright Act, is a subset of U.S. Copyright Law and specifically relates to the takedown, removal, and putback of copyrighted content displayed online.

### 2.6.2 Content farm

'Content farms' generally refer to web companies that employ large numbers of freelance writers to produce contents mainly for the purpose of generating advertising revenue through attracting page views. Content farms have long been heavily criticised mainly for the lack of factual evidence and for spamming the search results with low quality content on Google and social media platforms (Tung, 2016). The content farms reported by the victims are mainly from Hong Kong and Mainland China, as revealed by the language and layout of the sites.

For Hong Kong's content farms, their hosts also spread information on the channels and groups of Telegram. Telegram seems to be the main platform for them to spread the contents due to the huge volume of audience on Telegram. Therefore, when we requested the group administrators of Telegram to delete posts that contain NCII materials, we also requested them to take down these contents on their content farms, too. The take-down rates of these Hong Kong websites have been satisfactory.

On the other hand, the responses were far from satisfactory for the content farms of Mainland China. It was either due to no contact information we could find on the websites, or the hosts ignored our take-down requests.

### 2.6.3 Social media platform

We have selected three social media platforms that are the most commonly reported by the victims to illustrate the problems when they respond to NCII complaints, namely Telegram, Instagram and Facebook of Meta and 'LIHKG'.

#### Telegram

Telegram is another hotbed of the diffusion of NCII. It accounts for more than 140 NCII contents that were reported by the victims. The contents were mostly published on public Telegram 'channels' and 'private chat groups' which require a specific invitation link to join. These telegram channels usually involve a branch of small subgroups targeting different audiences (i.e. discussion about different sexually explicit topics) and the same piece of content is shared to all the subgroups. The subscribers of these channels and groups range from a few thousands to more than a hundred thousand. In the past, we submitted NCII reports to Telegram, but they neither responded to the complaints nor removed the contents or the groups.

What we could do is to report to the administrators of the Telegram chat

groups and channels. Contents are more likely to be removed through this way. Although the administrators are willing to take down the contents, it does not change the fact that Telegram remains a hotbed of NCII and illegal materials. The problem will not be alleviated unless the company reviews their user regulations and takes concrete actions against the groups and channels that spread NCII.

#### Meta (Instagram and Facebook)

There are community guidelines on 'adult sexual exploitation' that prohibit the sharing of non-consensual intimate imagery on Meta. However, the threshold to prove 'non-consent' is too high for the victims. According to the community guideline of Meta, the lack of consent should be indicated by meeting any of the following criteria,

- Vengeful context (such as caption, comments or Page title);
- Independent sources (such as law enforcement record) including entertainment media (such as leak of images confirmed by media);
- A visible match between the person depicted in the image and

the person who has reported the content to us;

- The person who reported the content to us shares the same name as the person depicted in the image.<sup>7</sup>

These criteria are not easy to meet for victims who suffer from NCII. First of all, rarely do people use their real name for their social media accounts. Secondly, according to the reports we received, most NCII materials do not show the faces of victims, or their faces are edited by the perpetrators so as to make it unidentifiable. It poses barriers for the victims to prove a clear match in terms of names and physical features.

Besides, the reporting policies of Meta are not designed in a victim-centred approach, which ignore the predicaments and needs of victims suffered from NCII. Victims often find it shameful to have their intimate image being exposed. They do not want to be identified. Neither do they want others to know that they are victimised. Therefore, the

victims reflected that the requirements to submit personal data hinder them from reporting. By explaining the difficulties to Meta's team on behalf of the victims, the contents were removed ultimately without having to submit the personal particulars. However, we recommend that Meta's policies should be revised by putting the victims' needs and dignity as the prioritised considerations and prevent re-traumatisation in the reporting process.

### **Discussion forum - LIHKG**

LIHKG (lihkg.com), one of the most famous internet community spaces in Hong Kong, is also one of the least responsive social media platforms to our removal requests. As a popular local discussion forum, hundreds of spontaneous discussions are initiated on the platform every day. Some of the users would utilise the platform to circulate NCII. In addition to posting intimate images, LIHKG users may further share other private information such as full name, address, social media account of the victims, to slut-shame and attack the victims. Therefore, LIHKG is also known as a space that breeds misogyny and sexism.

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<sup>7</sup> For Meta's community guidelines on 'adult sexual exploitation', please refer to - <https://transparency.fb.com/en-gb/policies/community-standards/adult-sexual-exploitation/#policy-details>



According to the guidelines of LIHKG, users should not 'share adult pictures or videos directly on the post'. Many users exploit the loophole by uploading the picture to the image-hosting websites and sharing the URLs in the post, instead of uploading the picture directly. During the first year of our service, most of the problematic threads that involved non-consensual contents were removed by the platform. However, LIHKG became inactive in removing the reported contents in the following year and responded to our reports in a selective manner. Many of those reported threads were not removed and worse still, went viral and ranked amongst the top-rated discussions.

Being the most prominent social networking site in Hong Kong, LIHKG should shoulder more responsibility in reducing abusive contents on the platform by actively responding to take-down requests and establishing clearer guides that prohibit NCII.

It is insufficient to examine the remedial responses of online platforms regarding our reports of NCII, without regard to their awareness of the issue and their policies. The

latter formulate the foundation for how they choose to respond. There should be transformational changes to the industrial standards and practices of tech companies regarding NCII materials and to foster a friendly environment for victims and NGOs to report. The following part of this report will render further recommendations.

## 3. Recommendations

We not only concern the remedial actions done by the tech companies and online platforms, but also the preventive measures. There shall be specific policy and guideline against NCII for tech companies, which deliver a clear message to the users that NCII is prohibited and they could report at any time. Above all, the policies should be designed from victim-centred and trauma-informed perspective. The companies are also suggested to make good use of safety features and technological tools that prevent the platform's users from posting non-consensual materials. To achieve a better policy structure and create innovative means to address the issue, the stakeholders of the internet industry play a key role by initiating the discussions within the industry. On local level, the Office of the Privacy Commissioner for Personal Data (PCPD) can take more proactive role in addressing the NCII problems, because NCII is a breach of privacy.

### 3.1 Policies and guidelines against NCII

For online platforms that are operated by large corporations, there is a robust structure including an online safety team that devises policies; for example, Google<sup>8</sup>, Twitter<sup>9</sup> and PornHub<sup>10</sup>. The policies and reporting mechanisms of the above companies on removing NCII contents are clear and comprehensive, and they are more responsive to the complaints.

What we concern most are the platforms that disregard take-down requests and ignore the problem, including innumerable pornographic sites and 'content farms'. They lie outside of the traditional business model and do not apply the same supportive systems of corporation. Some website hosts deliberately register the domain for spreading NCII contents. For these online platforms, the companies that provide web hosting services and IT management services and domain

<sup>8</sup> 'Non-consensual explicit or intimate personal images' policy of Google - <https://support.google.com/websearch/answer/6302812>

<sup>9</sup> 'Non-consensual nudity' policy of Twitter - <https://help.twitter.com/en/rules-and-policies/intimate-media>

<sup>10</sup> 'Non-consensual content policy' policy of PornHub - <https://help.pornhub.com/hc/en-us/articles/4419871787027-Non-Consensual-Content-Policy>

name registrars play a key role in regulating them.

'Non-consensual distribution of intimate materials' should become a category where web hosting services receive abuse reports from the public. 'Copyright infringement' and 'child sexual abuse material' are the commonly seen categories where the web hosting companies regard to be harmful contents and the public could file an abuse report. On the other hand, NCII is rarely deemed to be harmful contents, nor a category where we could lodge a report. The domain registrars and web hosting companies should clearly stipulate that NCII is harmful content and establish specific regulations regarding NCII to alert the online platforms. The public could compile an abuse report based on non-consensual distribution of intimate materials and the websites would be warned against in this regard.

### **3.2 The policies and reporting mechanism should be victim-centred and trauma-informed**

The policy and reporting mechanism should be designed in victim-centred approach. For victims of image-based sexual abuse, they felt ashamed to have found their intimate image being exposed. Alongside the image being shared, they were being doxxed, trolled and attacked by the online communities. When submitting reports, some websites require victims to submit the screenshot of the NCII for proof in order to proceed with their removal requests. However, this adds burden to the victims' emotions while revisiting the intimate image. It suffices for victims to provide the hyperlink that contain the NCII contents, and the screenshot is apparently unnecessary. We also observe that some platforms require them to provide a picture that contains their face or personal features, so as to prove a match. It is doubtful that they create the requirements so as to verify that it is a 'real' complaint. Many users told us, the requirements to submit personal data discourage them from reporting. It is suggested that the submission of personal information

and screenshot of the non-consensual intimate content should not be part of the procedures of reporting, so as to prevent re-traumatisation.

### **3.3 Safety features and technological tools that prevent NCII**

Apart from preventing NCII through textual policy and guideline, it could be prevented with the aid of safety features and technological tools. For example, Twitter had previously launched a safety feature called the 'harmful reply nudge'. When a person sends a tweet in which AI technology has detected trigger words or harmful language, a pop-up would appear, asking the users if they would like to review the post before tweeting it. They were given the options to 'edit,' 'delete,' or 'tweet' as originally written. Through the 'nudge', users are given a second chance to consider the tweet replies before publishing. The findings suggest that nudges can encourage less offensive speech online without hindering participation in online conversations. People who were prompted to reconsider their replies cancelled them 9% of the time and revised them 22% of the time. They also observed a decrease

in both the number of future offensive Tweets written by users who got the nudge, and the number of offensive replies they themselves received.<sup>11</sup>

Safety features like 'harmful reply nudge' could be applied to NCII materials. For the platform's users who upload content in which AI technology has detected an image that contain intimate parts or sexual activities, there should be an alert popping up to ask something like 'if the image is a consensual material' or 'have you obtained consent to share the image'. This is particularly applicable and necessary for the online platforms that allow sexually explicit contents. It brings more awareness to the platform's users of - where the intimate contents come from and whether its dissemination has obtained consent.

<sup>11</sup> 'How Twitter is nudging users to have healthier conversations', <https://blog.twitter.com/common-thread/en/topics/stories/2022/how-twitter-is-nudging-users-healthier-conversations>

### **3.4 Establishment of industrial standards and codes of practice**

To establish industrial standards and codes of practice amongst the tech companies towards the problem of 'non-consensual intimate image', the participation of the online technology service providers is of paramount importance. To create an internet world free of NCII, the professional opinions and involvement of the online technology service provider industry to bring change is important. Besides, it is much more effective for the internet industry to arouse discussions and initiate actions than the social service sector. There are influential platforms that could facilitate and foster the discussions around NCII problems within the internet industry, such as 'Internet Governance Forum (IGF)'. As a platform for discussions, the IGF brings various people and stakeholder groups to exchange information and share good policies and practices relating to the Internet and technologies, as well as to develop solutions. The IGF each year sets the thematic priorities. It is suggested that NCII could be one of the emergent themes to be explored in the IGF. Looking back at Hong Kong, NCII

is not of major concern amidst the internet industry. Alliances of internet service providers, such as 'Hong Kong Internet Service Providers Association' and 'Internet Society Hong Kong Chapter', could at least initiate some discussions and arouse the attentions to NCII problems within the industry.

### **3.5 The role of ‘Office of the Privacy Commissioner for Personal Data (PCPD)’ in tackling the NCII problems in Hong Kong**

The data protection principles under the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO) applies to ‘personal data’. ‘Personal data’ is defined under Section 2 of the PDPO to mean any data – (1) relating directly or indirectly to a living individual; (2) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and (3) in a form in which access to or processing of the data is practicable. NCII cases typically concern photographs and videos of the victims in which they are readily identifiable and the three elements would usually be satisfied. It has been decided in cases that where a person intentionally uses a video camera to record the activities of a person known to him or her, the footage would constitute personal data within the PDPO as the video relates directly to the individual and it is practicable to ascertain the

identity of the individual from the video.<sup>12</sup> Intimate image amounts to personal data and distribution of NCII is a violation of the Ordinance, but PCPD rarely addresses NCII as an invasion of private information, except for spontaneous response to several social incidents.<sup>13</sup> It is suggested that PCPD should take a more proactive role in addressing this abuse issue. They should review the number of complaints which is related to NCII and published the statistics to the public. PCPD could take more proactive role in conducting investigation and inspection of certain online platforms where the problem of NCII is serious and, publish reports setting out the investigation results. To raises the public’s awareness and understandings of NCII and how these behaviours might violate the Ordinance, they can design and provide training workshop and seminar specifically on this topic.

12 Lo, *Privacy Law in Hong Kong*, at para. 5 058; *Mou Pui Hong v Privacy Commissioner for Personal Data* (AAB 10/1998, 1 December 1998) at pp. 3–4 (the supervisor of the appellant, a postal officer, allegedly video-recorded his activities in the officer without his knowledge or consent); *鄧貴新 v Privacy Commissioner for Personal Data* (AAB 25/2016, 16 November 2017) at [10(1)] and [19] (owner of a flat video-recorded the behaviours the caretaker of the multi-storey building)

13 For example, PCPD responded to the incident on suspected clandestine footage circulating on the internet, see: [https://www.pcpd.org.hk/english/news\\_events/media\\_enquiry/enquiry\\_20200929.html](https://www.pcpd.org.hk/english/news_events/media_enquiry/enquiry_20200929.html) and <https://topick.hketc.com/article/1987509>

## 4. Conclusion

This report provides a review of the Ta-DA service of the past 2 years, examines the responses of online platforms regarding our take-down requests and proposes the actions that can tackle the issue by important stakeholders.

By delivering this report, we hope to raise the public's awareness towards our take-down assistance service and stimulate some thoughts on how to alleviate the problems of non-consensual sharing of intimate images on the internet in the long run.

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# **Image-Based Sexual Violence Take-Down Assistance (Ta-DA) Service Report 2021-23**

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Date of Publishing

August 2023

ISBN

978-988-13134-6-1

Published and printed in Hong Kong.

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