

# The Problem of Consent with Teledildonics and Adult Webcam Platforms

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[See table of contents](#)

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### Article abstract

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## Article

## The Problem of Consent with Teledildonics and Adult Webcam Platforms

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### Abstract

In this article, I examine some of the dangers that are associated with sex toys known as teledildonics. Unlike more conventional sex toys, teledildonics connect to the internet and allow their users and others to control these devices remotely and often through a Bluetooth connection. While teledildonics introduce new ways of engaging and experiencing sexual pleasure, they do so by risking the personal and sensitive data that such devices transmit and collect from their users. Moreover, I consider the risk that teledildonics pose as connected technologies that can be hacked and controlled, scrutinizing what this means in terms of consent and sexual assault in intimate relationships and on a live adult webcam platform like Chaturbate. I investigate how current legal definitions of consent and sexual assault neglect online sex workers, and especially those who work within a tip and token system like Chaturbate, and question how legal protections can be enforced amidst the jurisdictional and territorial problems that plague cyberspace more broadly. With these lack of protections in place, I build on scholarly research that identifies some of the risks that are associated with teledildonics as technologies of potential sexual assault (Nixon 2018; Sparrow and Karas 2020; Arrell 2022). In specific, I study how Canadian laws are ill-equipped to address the more obscure nature of consent and sexual assault as they pertain to Chaturbate and Lovense devices, a leading teledildonics company.

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### Introduction

In 2016, at Def Con 24, one of the largest hacker conferences held annually in Las Vegas, Nevada, hackers by the names “g0ldfisk” and “follower” gave a presentation that was titled “Breaking the Internet of Vibrating Things: What We learned Reverse-Engineering Bluetooth-and Internet-Enabled Adult Toys.” The hackers demonstrated how they were able to seize control of a Bluetooth connected vibrator from a company known as We-Vibe. To do so, g0ldfisk and follower showcased that—through the Bluetooth connectivity of the We-Vibe 4 vibrator—they could take control of the device and manipulate its vibrations without user consent. By examining and decompiling the app’s APK, an Android Package file in which the files are saved in ZIP format and are used to distribute applications on Google’s Android operating system (Fisher 2021), the data transmitted via the app and the vibrator were always eight bytes long with the first byte determining the command sent to the device (g0ldfisk and follower 2016). As a result, g0ldfisk and follower (2016) used software that both controlled and impersonated the data sent from the We-Connect app to the We-Vibe 4 vibrator by manipulating the first of the eight bytes of the command.

Sextech like the We-Vibe 4 and a host of other remote and connected sex toys are grouped in a category known as teledildonics, a concept that emerged as early as 1991, when critic Howard Rheingold published *Virtual Reality: Exploring the Brave New Technologies of Artificial Experience and Interactive Worlds from Cyberspace to Teledildonics*. Rheingold (1991) accurately predicted the role that teledildonics would play in the future of sex by allowing individuals who were separated by geographical distance to use remote controlled and connected sex toys in order to engage in technologically mediated sex. While teledildonics

come in various shapes and sizes, ranging from connected vibrators to connected masturbation sleeves, their growth in popularity on live adult webcam platforms like Chaturbate, Stripchat, and LiveJasmin is largely attributable to connected vibrators, used predominantly by female webcam (cam) models. These platforms, and specifically that of Chaturbate, operate according to token and tip systems, which enable registered users “to purchase tokens and redeem them as ‘tips’ for cam performers, encouraging them to perform various sex acts” (Drillinger 2021). In turn, these token and tip systems allow users to access and control the connected vibrators of cam models in real time.

One of the main features that differentiates teledildonics from more conventional sex toys is their capacity to operate remotely through a Bluetooth or internet connection that is often facilitated through an app. A second feature—and the one this article is more concerned with—is their capacity to technologically mediate sexual acts between people who may or may not consent to the complexities involved with teledildonics-enabled sex. What makes sexual consent so complex and unique in these instances is that it requires us to examine it as something that is both embodied and disembodied, physical and digital. In other words, because sexual consent involving teledildonics on a platform like Chaturbate often occurs between physical and non-physical bodies in cyberspace, rather than physical bodies in physical space, the task of isolating sexual consent as either physical or digital is immensely difficult to undertake.

This understanding of consent may pose less of a problem in lower risk settings, where the stakes of having one’s digital and sexual consent compromised are somewhat mitigated. For example, take two consenting adults who decide to incorporate teledildonics into their long-term and long-distance relationship by connecting through the We-Connect app. We may consider this specific example of teledildonics-enabled sex a lower risk setting, since there is likely an established degree of trust, communication, and consent between both partners, the latter of which can be verbally and immediately withdrawn at any time. These stakes, however, become increasingly more susceptible to being compromised in higher risk settings such as live adult webcam platforms, where trust, communication, and consent between cam models who use teledildonics and registered users who pay to activate them are far less established. This raises significant questions about existing definitions and interpretations of consent and sexual assault, especially as they pertain to teledildonics-enabled sex on adult webcam platforms. One such question the reader is encouraged to keep in mind is: how might we understand sexual consent when the use of teledildonics occurs in cyberspace and outside the legal boundaries and parameters of any given government’s prescriptive jurisdiction?

In an effort to call attention to the lack of legal protections that are afforded—and should be afforded—to online sex workers on Chaturbate and other adult webcam platforms, I argue that since users are not required to seek explicit consent from cam models prior to paying and activating their teledildonics, the teledildonics-enabled sex that models subsequently engage in occurs without consent and, consequently, may constitute a different type of sexual assault that legal systems have yet to seriously consider. While touching upon some of the issues of consent and data privacy that relate to the use and surveillance of teledildonics more broadly, I build on scholarly research that identifies some of the dangers that are associated with teledildonics as technologies of potential sexual assault (Nixon 2018; Sparrow and Karas 2020; Arrell 2022). In specific, I investigate how Canadian laws are ill-equipped to address the more obscure nature of consent and sexual assault as they pertain to Chaturbate and Lovense, one of the leading teledildonics companies. Drawing on case law, I contend that current laws in place do not afford enough concrete protections for cam models who use teledildonics in ways that permit paying users to access and control their devices, and that such legal issues are compounded by the jurisdictional and territorial problems that affect cyberspace as a whole.

## **Sextech History: Then and Now**

Our fascination and relationship with sex toys is not by any means a new phenomenon. In fact, it spans thousands of years across different cultures and geographical regions. Yet, our history with more modern sex toys like the electric vibrator is still relatively new, first emerging in the North American market in the

early 1900s. Sex and gender historian Hallie Lieberman (2016: 4015) observes that the electric vibrator was first used by some British physicians in the late 1800s “to treat nervous problems in both men and women.” This was attributed to British physician J. Mortimer Granville, the inventor of the electromechanical vibrator, who believed that when the body’s nerves, which “had natural, healthy levels of vibration,” were imbalanced, various diseases would ensue (Lieberman 2016: 401). According to Lieberman (2016: 401), Granville himself was aware that the device was being used for sexual purposes with Granville going so far as to instruct “doctors to use vibrators to increase sexual power in their male patients by vibrating the perineum.” Other physicians, however, grew increasingly skeptical of Granville’s vibrating health claims and, by the early 1900s, the electric vibrator underwent a drastic rebranding as a non-medical device.

Companies who made electric vibrators began advertising and selling them as household, consumer appliances, concealing “the sexual uses of the vibrator behind [their] multiple nonsexual uses” (Lieberman 2016: 394), which included marketing them as technologies for removing wrinkles, curing headaches, deafness, fatigue, and impotence. In the United States (US), companies had no choice but to advertise these devices as non-sexual. The Comstock Act, an anti-obscenity federal statute that was passed in 1873, made it illegal for manufacturers and companies to sell sexual devices or transport them by mail, including any sexually explicit material. Anthony Comstock, the moral reformer largely responsible for crafting the Comstock Act, was “specifically concerned about ‘rubber articles for masturbation,’ which he believed corrupted youths and the larger society” (Lieberman 2016: 403). Comstock served as a special agent to the US Post Office, where he was bestowed with the power to confiscate and arrest individuals who sent sexual devices or obscene literature by mail (Lieberman 2016).

But even with the Comstock Act in place, companies continued to advertise and sell electric vibrators to consumers by using coded words in their ads, such as “stimulate” and “quiver” (Lieberman 2016: 407). Pairing these coded words in ads with more sexualized drawings of men and women further signaled the erotic nature of these devices to consumers (Lieberman 2016). Once again, moralists and doctors grew increasingly concerned with the use of electric vibrators as sexually pleasurable devices. As Lieberman (2016) points out, there were concerns by moralists and physicians that men were using these devices to stimulate pleasurable sensations that were on par with the effects of masturbation. There were also concerns that women who were prescribed vaginal vibrators to treat conditions like cervicitis and enocervicitis were using them to masturbate, resulting in “voluptuous sensations” (Lieberman 2016: 427). Fortunately, perspectives on sex toys have evolved over time, socially, culturally, and technologically. Although sexuality remains taboo in some places around the world, the global usage and ownership of sex toys continues to rise with vibrators dominating the share of the sex toy market (Statista Research Department 2022b).

We have also seen an evolution in the sex toy industry, all the way from wooden dildos and electric vibrators to modern teledildonics and artificially intelligent (AI) sex robots. In addition to the connected technologies that allow teledildonics to operate remotely, the use of these sex toys on adult webcam platforms has shifted sexual intimacy and pleasure from private spaces to more publicly accessible digital ones. For communication scholar Antonia Hernández (2019: 4), Chaturbate creates tensions that blur the boundaries between private and public spheres, where cam models stream sex acts from the privacy of their own bedrooms or from “studio farms” that not only “manage several performers at the same time” but also consist of webcam studios and rooms that “are often disguised as bedrooms.” The blurring of these boundaries can also obscure the fact that cam models are engaged in paid, online sex work rather than leisurely sex acts within domestic spaces (Hernández 2019). Online sex work on Chaturbate and in domestic spaces—or at least studio spaces that are designed to look domestic—are traditionally viewed as occurring in private spheres, although such views have certainly been disrupted by the influx of data-generating technologies within such spaces (Shapiro 2006). Still, teledildonics-enabled sex on Chaturbate has become far more publicly, digitally, and visually accessible to thousands of non-paying users and viewers across the globe, most of whom are not directly involved in teledildonics-enabled sex, thus increasing the possibility that sex work on Chaturbate is both perceived and diminished by some online viewers as acts of domestic leisure rather than paid labour.

## The Problem of Privacy and Consent With Teledildonics Consumers

While hackers demonstrated that seizing control of the We-Vibe 4 vibrator without user consent was fairly simple, the issue of consent extends far beyond the controllability of teledildonics. As a 2016 class action lawsuit showed, both We-Vibe and their manufacturer, Standard Innovation, routinely engaged in digital surveillance by collecting and sharing the personal and sensitive data of its customers without their consent. The plaintiff in the lawsuit accused We-Vibe and Standard Innovation of “secretly collect[ing] and transmit[ing] highly sensitive personally identifiable information about the consumers using them” (N.P. v. Standard Innovation 2016: 1). Court documents outline how the We-Connect app was designed to collect and record data from its teledildonics in real time, “including the date and time of each use, the vibration intensity level selected by the user, the vibration mode or pattern selected by the user... [and] the email address[es] of We-Vibe customers who had registered with the App” (N.P. v. Standard Innovation 2016: 6). The latter of these data enabled the company to link usage data directly to specific accounts of its customers. The real-time collection of such data from users was enabled through the We-Connect app, which was programmed to “continuously and contemporaneously intercept and monitor the contents of electronic communications that customers sen[t] to their We-Vibe devices from their smartphones” (N.P. v. Standard Innovation 2016: 6).

To exacerbate the issues of surveillance and consent even further, the We-Connect app also collected and transmitted certain information back to its Canadian servers when partners used the connect lover feature, allowing the company to collect data such as temperature and battery life of the devices in use between partners engaged in teledildonics-enabled sex (N.P. v. Standard Innovation 2016). According to court documents, the vast majority of We-Vibe customers would have refused to purchase their teledildonics had they known the company and manufacturer engaged in these forms of surveillance and non-consensual incursions of data privacy (N.P. v. Standard Innovation 2016: 7). In the end, the company’s and manufacturer’s “wholesale disregard for consumer privacy rights” (N.P. v. Standard Innovation 2016: 2) led the manufacturer to settle the case out of court for nearly four million Canadian dollars in 2017 (Bogart 2017). Since then, the company has updated its privacy policy regarding the We-Connect app to address the issues that were raised in the class action lawsuit.

Many years ago, sociologist Gary T. Marx (2002) identified the collecting and sharing of such data as part of what he called “the new surveillance.” Marx (2002) described the departure of new surveillance from traditional surveillance by outlining a number of differentiating factors, some of which include the capacity for new surveillance to extend the senses; to make those who engage in digital surveillance less visible or even invisible; to increase the proportion of involuntary consent; and to make data collection and analysis occur remotely. Framing teledildonics according to these characteristics allows us to understand teledildonics not as mere technologies of sexual pleasure but also as technologies of digital surveillance. While there are numerous sextech products available to consumers, there are arguably no other products that extend the senses and the remote interactivity of sexual intimacy more than teledildonics. The transcending of distance and physical barriers (Lyon 1994) is of particular importance to teledildonics users, many of whom rely on these technologies to digitally bridge the gap of sexual intimacy that can manifest itself in long distance relationships, or to utilize them as a means of delocalized online sex work on Chaturbate and other platforms. As urban and surveillance studies scholars Stephen Graham and David Wood (2003: 228) argue, digital technologies allow for surveillance “to occur across widening geographical distances and with little time delay” while also allowing “the active sorting, identification, prioritization and tracking of bodies, behaviours and characteristics of subject populations on a continuous, real-time basis.” Since the surveillance of teledildonics users occurs across geographical boundaries in real time and in cyberspace, the issue of consent and teledildonics-enabled sex becomes particularly important to pinpoint and understand.

Interestingly, Chaturbate’s (2023) terms and conditions for cam models makes no mention of teledildonics, nor does the website set any rules or policies that address sexual consent—or the lack thereof—between cam models who use teledildonics and registered users who pay to activate and/or control them. Unlike the



issue of consent with We-Vibe, which updated its privacy policy to address its non-consensual data collection practices and incursions on privacy, the remedy for cam models on Chaturbate—and perhaps other live adult webcam platforms—is less straightforward. In the case of We-Vibe and Standard Innovation, the infringement of user consent was rather apparent in their neglect to fully outline how user and usage data were being collected from their teledildonics and app in their privacy policy. But how is consent understood with teledildonics on Chaturbate when terms and conditions refuse to acknowledge consent as an issue? Moreover, how might we understand non-locative consent with teledildonics on Chaturbate, given that consent provided by cam models would occur outside of physical spaces and the boundaries of any government’s prescriptive jurisdiction?

### **“Rape by Deception”: The Use of Lovense Teledildonics on Chaturbate**

When it comes to teledildonics, there is a small but growing body of scholarly literature that situates the technology within the blurring of sexual boundaries (Collins 2008; Shrage and Stewart 2015; Liberati 2017; Faustino 2018; Nixon 2018; Sparrow and Karas 2020; Arrell 2022). Philosophers Louise Collins (2008), Laurie J. Shrage and Robert Scott Stewart (2015), and Maria João Faustino (2018) raise questions that run contrary to traditional perceptions and definitions of sex. Collins (2008) asks whether direct physical contact is necessary in the definition of sex. Shrage and Stewart (2015) argue that skin-to-skin contact and other sensory inputs involved with sex should not define it since they can be simulated to some degree with technology. Faustino (2018) posits that teledildonics destabilize dominant views of sex as an act that is defined by its reproductive function. While these scholars amplify important philosophical questions, they do not address the issue of sexual consent in a substantial way.

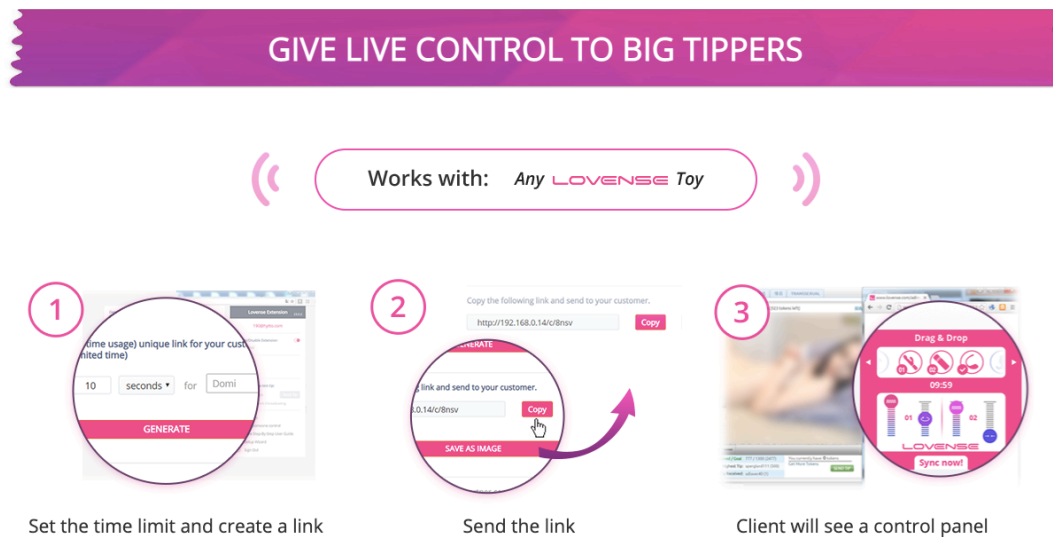
Contrastingly, European studies scholar Paul G. Nixon (2018) poses a set of different questions that pertain directly to consent and what is known as “teledildonic rape.” He asks:

Would one’s consent to a teledildonic activity with person A be valid if the person controlling the teledildonic sexual activity was in fact person B pretending to be person A? As the sexual act could occur in a physical sense, though without the physical co presence of the perpetrator, would it be subject to the standard laws governing sexual conduct rather than as a technical offence in non-physical cyberspace? (Nixon 2018: 208)

These questions are especially critical when considering teledildonics-enabled sex on Chaturbate, where the sexual dynamic between cam models and thousands of anonymous users increases opportunities for the type of consensual deception that Nixon (2018) describes. On Chaturbate, many cam models make use of teledildonics from a company called Lovense. Similar to We-Vibe, Lovense provides a line of sextech products that allow users to control their teledildonics through the Lovense Remote app. However, unlike We-Vibe’s marketing strategy, which is tailored for use between couples in long distance relationships, Lovense proclaims itself to offer the best sex “toys for interactive cam shows” (Lovense n.d.), having already integrated its software and devices with a long list of adult webcam platforms that include Chaturbate, Stripchat, and LiveJasmin. The Lovense website even provides cam models with access to courses and an online community that are meant to increase their earnings and followers (Lovense n.d.).

Although We-Vibe devices that are app enabled are quite similar to Lovense devices in that both can be accessed and controlled by others remotely, what differentiates the Lovense Remote app from the We-Connect app is its function to generate income from multiple users on Chaturbate and other adult webcam platforms. Cam models can set their own tip-based vibrations on their Lovense devices; they can connect multiple sex toys to their app; and, amongst other features, they can give users live control of their devices through the app (Lovense n.d.). According to the Lovense website, this works in the following way: cam models set time limits over how long their devices can be accessed and controlled by paying users; a link is

generated and sent to the paying user; and the paying user accesses the device through a panel that gives them control over the time and vibration settings based on their tip (Figure 1).



**Figure 1:** Control of Lovense Device and App; screenshot from Lovense.

While the Lovense Remote app allows cam models to limit and maintain some control over how their devices are used by paying, registered users, these mechanisms do not explicitly establish or communicate sexual consent or the withdrawal of it. As such, there still remain urgent questions and concerns about what constitutes consent and sexual assault in cases of teledildonics-enabled sex on Chaturbate. Adding to Nixon's (2018) apprehension about teledildonics as devices of potential rape, philosopher Robert Sparrow and independent scholar Lauren Karas (2020: 176) frame teledildonics as technologies that can increase a user's risk of becoming a "victim of 'rape by deception.'" For Sparrow and Karas (2020), the opportunities for rape by deception are increased, to some extent, by sheer mathematical odds; which is to say, the more people regularly use teledildonics, the more opportunities there are for some people to misuse them. This is magnified by the vast number of visitors to Chaturbate's website, which draws approximately four million visitors on a daily basis (Regal 2023). Secondly, and perhaps more relevant to Chaturbate cam models, is that using teledildonics "seems to involve a not-insignificant risk of users being deceived about the identity of the person with whom they are having 'sex'" (Sparrow and Karas 2020: 176).

Sparrow and Karas (2020) employ a number of hypothetical scenarios to draw attention to this form of deception by identity. In one scenario, they describe a hacker who takes control of a woman's teledildonics, a woman who believes that her device is being controlled by her partner (Sparrow and Karas 2020). While this example is indeed hypothetical, hackers g0ldfish and follower (2016) demonstrated that it was not only possible but also quite easy to accomplish. Importantly, in this scenario, the deception or the sexual assault experienced by the woman would not manifest itself as deception or as sexual assault, since she would be unaware that her device was hacked and used without her consent by an individual other than her partner. In another hypothetical scenario, Sparrow and Karas (2020: 188) describe a heterosexual man who uses "an Internet-enabled penile sheath, with a person he has only met online... [a] person [who] has represented themselves as a woman but is in fact a man." In this case, if the heterosexual man does not explicitly consent to having teledildonics-enabled sex with the individual who has identified themselves as a woman, then it may constitute another form of rape by identity deception. This hypothetical scenario—and different iterations of it that include various gender and sexual identities—are ones that can materialize on Chaturbate between cam models and users whose gender and sexual identities often remain unknown to cam models using teledildonics.

For philosopher Robbie Arrell (2022: 592), there is nothing controversial about using teledildonics to deceive victims “into having sex with someone who is not actually the person with whom they believe themselves to be having sex.” Arrell (2022) goes on to highlight an example of rape with teledildonics that Sparrow and Karas (2020) neglect. He draws on a hypothetical scenario involving “a malicious boyfriend who gives over control of his girlfriend’s Nora vibrator [a Lovense Bluetooth remote-controlled, long-distance device] with which she is penetrating herself to his friend without her knowledge.” In this instance, “the movements she feels inside her vagina, which she believes to be the relative movements of her boyfriend’s penis, are actually the movements of his friend’s penis penetrating the corresponding Max2 [a Lovense Bluetooth and app operated male masturbator]” (Arrell 2022: 593). Since this form of identity deception can occur with either the boyfriend and his friend[s] in the same room or with the boyfriend sharing his screen with his friend[s], Arrell (2022: 593; italics in the original) suggests that we consider this as an example “of teledildonics-enabled *multiple perpetrator* sexual assault by deception” (2022: 593). Here, Arrell (2022) is less concerned about hackers seizing control of teledildonics to commit rape by deception and more concerned with the ways in which sex partners and co-conspirator friends pose a substantial threat in committing teledildonics-enabled rape by deception.

For cam models on Chaturbate, the threat of teledildonics-enabled sexual assault by deception is not limited to vengeful partners. It is quite easy to imagine a scenario similar to the one Arrell (2022) provides above, where a group of young men take turns activating or controlling a cam model’s teledildonics through a single registered Chaturbate account. In such a scenario, there are two forms of identity deception that occur. Firstly, there is the deceptive presumption of consent between the cam model who uses teledildonics and the registered user who pays to initiate the sexual act. Since only paying, registered Chaturbate users are permitted to access the teledildonics of a cam model, there is a reasonable expectation that the individual paying for access is, in fact, a registered Chaturbate user. Secondly, it is entirely possible that a cam model would refuse sexual consent had they prior knowledge that their teledildonics would be activated by individuals other than the registered user. At what point in this scenario, or other more straightforward scenarios that do not involve identity deception, is sexual consent explicitly established? If sexual consent is simply deemed to exist by virtue of cam models logging into Chaturbate for online sex work, enabling their teledildonics to be accessed by paying, registered users, then we run the dangerous risk of assuming that sexual consent is fixed and exists implicitly, a gross misunderstanding of the ways in which consent is defined and understood in Canadian law.

### **Case Law, Legal Implications of Implied Consent, and Territorial Jurisdiction in Cyberspace**

Rather than limit our thinking about consent, deception, and teledildonics to rape, it is critical and more apt to consider them under the broader category of sexual assault. Whereas rape is commonly understood to involve “sexual penetration without consent” (Sparrow and Karas 2020: 181), sexual assault—at least in a Canadian legal context—refers to “all incidents of unwanted sexual activity, including sexual attacks and sexual touching” (Brennan and Taylor-Butts 2008: 7), which is imperative to keep in mind since not all teledildonics involve sexual penetration. Beyond criminal offences that relate to the sexual abuse of children, the Canadian Criminal Code (1985) classifies sexual assault according to three levels. The first of these involves any “assault committed in circumstances of a sexual nature such that the sexual integrity of the victim is violated” (Brennan and Taylor-Butts 2008: 7). This includes minor injuries suffered by the victim or, importantly, no injuries at all. The second level involves “[s]exual assault with a weapon, threats, or causing bodily harm,” while the third includes “[s]exual assault that results in wounding, maiming, disfiguring or endangering the life of the victim” (Brennan and Taylor-Butts 2008: 7).

I would like to briefly discuss the first two levels of sexual assault, since they appear to be most applicable to teledildonics-enabled sex on Chaturbate. Given these definitions of sexual assault, the Criminal Code (1985) does not include sufficient protections that ensure consent is achieved and maintained by cam models and, perhaps, other online sex workers. It is entirely plausible that the sexual integrity of Chaturbate cam



models can be violated without them experiencing any sort of physical injury. This is largely the byproduct of not having any measures in place to ensure that explicit sexual consent is given and maintained throughout the entirety of teledildonics-enabled sex on Chaturbate, or each and every time any paying user activates a cam model's teledildonics. Moreover, if teledildonics like Lovense devices can be accessed by registered users on Chaturbate and, deceptively, by non-registered users, then is it possible that teledildonics can be used or viewed as potential weapons of sexual assault? Whether it is a hacker or a friend of a registered Chaturbate user, how, when, and under what conditions can we consider the non-consensual use of teledildonics as technologies or weapons that are capable of facilitating both digital and physical sexual assault on unknowing cam models?

As legal precedence in Canada shows, consent must be explicitly and freely provided. *R. v. Ewanchuk* (1999) demonstrates that there is no defence in Canadian law to what is known as implied consent, or "the assumption that unless a woman protests or resists, she should be 'deemed' to consent." This case involved a seventeen-year-old woman (the complainant) who was interviewed by a man (the accused) for a job in his van. The accused made numerous sexual advances that were thwarted by the complainant "on each occasion when she said 'no'" (*R. v. Ewanchuk* 1999). Yet, the accused persisted and the "complainant submitted to sexual activity out of fear that the accused would apply force to her" (*R. v. Ewanchuk* 1999). The trial judge presiding over the case acquitted the accused who relied on the defence of implied consent, but the judge was later deemed to have erred by Supreme Court judges in his interpretation of consent, including allowing the accused to even use a defence of implied consent while failing to recognize that "consent must be freely given" (*R. v. Ewanchuk* 1999).

Although *R. v. Ewanchuk* (1999) outlines the issue of implied consent as it exists between physical bodies in physical spaces, one cannot deny that implied consent on Chaturbate is also fundamentally rooted in the fact that consent must be explicitly and freely given. However, since this is not the case for cam models on Chaturbate who have their teledildonics activated by each and every registered user or, perhaps, by every non-registered user, any suggestion that some notion of implied consent exists between cam models and Chaturbate users is based on nothing more than a set of mythical and stereotypical assumptions about women and sexuality (*R. v. Ewanchuk* 1999). In other words, there need to be concrete mechanisms in place that allow cam models on Chaturbate to explicitly communicate sexual consent prior to any teledildonics enabled sex, whether that be verbally, technologically, or by some other means, especially because the platform shifts the power dynamic of sexual relations into the hands of its users instead of its cam models. In this power dynamic, cam models are always the recipients of teledildonics-enabled sex, whereas users with the power to initiate the technologically mediated sexual act remain outside it.

Such a dynamic seems to operate according to a sense of implied consent, where consent between cam models and users is assumed to exist by virtue of payment. However, as the Criminal Code (1985) clarifies, no consent is given if "the complainant expresses, by words or conduct, a lack of agreement to engage in the activity" (Criminal Code 1985: s. 273.1 [2][d]), or if "the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity" (Criminal Code 1985: s. 273.1 [2][e]). *R. v. Ewanchuk* (1999) further informs us that since the complainant did not affirmatively communicate by "words or conduct her agreement to engage in sexual activity with the accused" but, instead, explicitly denied the accused's multiple sexual advances, consent was not given. In the case of Chaturbate, these definitions of consent pose quite a problem in that violating consent through deception or engaging in sexual assault by deception can take place without the knowledge of cam models, thereby eliminating their ability to either clearly give, withdraw, or refuse consent. With the inability to verify the identity of any Chaturbate user who activates a cam model's teledildonics, cam models are not given a legitimate opportunity to affirmatively express consent or deny it since the identity of the user cannot be corroborated.

Another interesting question that emerges is whether the deceptive breach of consent described above, or the absence of it entirely, constitutes a violation of consent as described in s. 273.1 (2)(a.1) of the Criminal Code (1985), which states that no consent is possible when the individual is unconscious. Admittedly,

because these particular laws were written to address sexual assault involving physical bodies in physical spaces (*R. v. J.A.* 2011), the impossibility of giving or refusing consent when one is rendered unconscious is tied to physical and/or cognitive consciousness. The idea that one can be rendered unconscious of a sexual assault online by a lack of knowledge or awareness rather than intoxication or assault, for instance, is not an area of law that has been explored in significant detail. As legal precedence in Canada demonstrates, the vast majority of criminal cases involving consent, sexual assault, and unconsciousness are centred around in-person and physical sexual assaults (*R. v. Ewanchuk* 1999; *R. v. J.A.* 2011; *R. v. J.M.H.* 2011; *R. v. Hutchinson* 2014; *R. v. Kirkpatrick* 2022). Yet, as Arrell (2022) suggests, a lack or absence of knowledge, or the conscious experiencing of a sexual assault, does not negate the fact that it occurred, seen with cases of sexual assault involving victims with severe mental disabilities, victims who were drugged, and even victims who are considered deep sleepers.

The issue of consent and unconsciousness from a viewpoint that does not revolve around some element of cognitive impairment is highlighted to some extent by *R. v. Hutchinson* (2014) and *R. v. Kirkpatrick* (2022). In *R. v. Hutchinson* (2014), the accused was charged with aggravated sexual assault because, unknown to the complainant, he “poked holes in the condom,” resulting in the pregnancy of the complainant. The trial judge subsequently “found that the complainant had not consented to unprotected sex” (*R. v. Hutchinson* 2014). Similarly, in *R. v. Kirkpatrick* (2022), the accused was charged with sexual assault when he did not receive consent from the complainant to engage in sexual intercourse without the use of a condom. Both cases point to the two-step process outlined in the Criminal Code (1985) for analyzing consent to sexual activity. *R. v. Hutchinson* (2014) describes the first step as “determin[ing] whether the evidence establishes that there was no ‘voluntary agreement of the complainant to engage in the sexual activity in question’ under s. 273.1(1),” while also “requir[ing] proof that the complainant did not voluntarily agree to the touching, its sexual nature, or the identity of the partner.” The second step is to consider “whether there are any circumstances that may vitiate the complainant’s ostensible consent or participation” under s. 273.1 (2) and s. 265 (3), the latter of which states that no consent can be obtained by reason of fraud (*R. v. Hutchinson* 2014). Since this element of fraud includes consent to “the identity of the partner” (*R. v. Hutchinson* 2014), then it is possible to consider how s. 265 (3) of the Criminal Code (1985) might apply to the fraudulent or deceptive nature of teledildonics-enabled sex on Chaturbate, particularly with hacking teledildonics and misrepresenting one’s identity. Since cam models are not given the option to substantiate whether or not the user is engaging in any sort of fraudulent activity, and often remain unaware or unconscious of it, then we have to question whether consent to teledildonics-enabled sex is even possible on current iterations of adult webcam platforms like Chaturbate, Stripchat, and LiveJasmin.

While I have considered consent and sexual assault from a Canadian legal perspective, the solution to these issues online and, specifically, with teledildonics and Chaturbate cannot be addressed from any given legal jurisdiction—at least not with current definitions and interpretations of consent and sexual assault. Since the interactions between cam models and Chaturbate users occur digitally from different regions across the globe, under what set of laws might we consider consent and sexual assault in a decentralized cyberspace? This problem of territorial jurisdiction is not unique to legal questions surrounding consent and sexual assault but affects other areas of the law in which cyberspace obfuscates geographical boundaries, physical boundaries, and the location of subjects (Razmetaeva, Ponomarova, and Bylya-Sabadash 2021).

One solution to this problem, as proposed by legal studies scholar Alexandra Perloff-Giles (2018: 223), is universal jurisdiction, which “enables an international criminal tribunal (or the courts of any nation) to claim criminal jurisdiction over an accused, regardless of where the crime occurred.” Although universal jurisdiction has mostly dealt with piracy and has its own set of challenges, Perloff-Giles (2018: 225) believes that, “if the crimes subject to universal jurisdiction could be carefully drawn, an international criminal tribunal empowered to hear cases against and ultimately sentence cyber criminals anywhere in the world could prove a powerful deterrence mechanism.” Unfortunately, the problem with universal jurisdiction, as it applies to issues of consent and sexual assault with teledildonics, is not in the creation of carefully drawn out laws that can be heard before an international criminal tribunal. Instead, one of the fundamental

problems with universal jurisdiction is somewhat of a philosophical one; that is, how would such laws be enforced when they can occur without the knowledge or awareness of the victims?

As I outline in scenarios above, if a hacker takes control of an individual's teledildonics while they are engaged in teledildonics-enabled sex with a partner, the victim may remain entirely unaware that their consent has not been given and that they are being sexually assaulted by a disembodied subject. Likewise, if a registered user on Chaturbate allows a non-registered user to activate a cam model's teledildonics without their explicit consent, any consent or refusal of consent from the cam model is effectively rendered void. Ultimately, the problem that must be addressed is not so much a matter of jurisdiction or governance but a matter of understanding and/or reframing consent from a technospatial perspective, which makes the application and realization of consent less discernible but in no way less legally consequential.

## Conclusion

As newer technologies and platforms that are part of a growing sex industry take shape, teledildonics and Chaturbate provide users with more nuanced forms of engaging in technologically mediated sexual intimacy and pleasure. The capacity to not only control one's own device remotely with an app but also those of others, as is the case with teledildonics companies like We-Vibe and Lovense, adds an entirely different dimension to what it means to give and/or receive sexual pleasure. While teledildonics may certainly enhance one's sexual experience with or without a physical partner, they do so at a significant cost. As I have argued, these costs can come at the expense of sensitive and personal user data; risks to potential acts of sexual assault through networked connections; and insufficient legal mechanisms that ensure consent is explicitly and freely given and maintained with teledildonics-enabled sex.

I also raise concerns about some of the legal implications that are involved in using teledildonics on an adult webcam platform like Chaturbate. The use of Lovense teledildonics and the Lovense Remote app, in particular, allow registered users on Chaturbate to directly activate teledildonics through a tip/token system, raising a number of troubling questions that surround existing legal definitions and interpretations of consent and sexual assault in cyberspace. Moving in the direction of establishing a working framework of universal jurisdiction that deals directly with consent and sexual assault is indeed a step in the right direction; however, it does not solve the problem of how consent is to be proven or enforced when those who may have their consent and bodies violated physically and digitally can lack all knowledge and awareness of it.

Teledildonics are only part of an evolving sexual wellness market whose worth is expected to surpass thirty-seven billion dollars in the US alone by 2023 (Statista Research Department 2022a). Although this market largely consists of traditional sex toys and those we might consider less traditional like teledildonics, the market is also expanding to include AI sex robots. While current iterations of these robots, including those developed by companies such as US-based RealDoll or Canadian based Green Earth Robotics, are nowhere near a complex level of cognitive sophistication that we often see in science fiction films like *Her* (Jonze 2013) and *Ex Machina* (Garland 2015), AI sex robots are nonetheless becoming progressively more human like in their physical appearances and conversational capabilities. These robots are not only designed to look human and "elicit human feelings and mimic social cues" but also to "follow social behavior patterns, have various 'states of mind', and adapt to what they learn through their interactions" (Darling 2012: 4).

As a largely unregulated field of AI, Galaitsi et al. (2019: 2, 3) point to the immense risks to privacy and security that AI sex robots pose, since they are not "fully addressed under existing regulatory processes," which consist of "lax security measures that allow uninvited parties to collect and store usage information." In this way, the problem we face with AI sex robots is similar to the problem we encounter with teledildonics that collect, process, and transmit personal, sensitive, and usage data from their users. If hackers or other unwanted actors have the capacity to seize control of teledildonics through their networked connection, then will it be possible to do the same with AI sex robots in the future? Creating new laws that address these current gaps are, without a doubt, critical, but how do we prevent sextech, including AI robots, from allowing individuals who use these technologies to be at risk of being sexually assaulted? What may be at

stake here is a more rudimentary question: do we prioritize digitally and technologically mediated sexual intimacy and pleasure, or do we perhaps pause until we can guarantee that sextech can be used in consensually safe ways for all?

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