



**STATEMENT TO THE HOUSE OF COMMONS STANDING COMMITTEE
ON JUSTICE AND HUMAN RIGHTS**

In its study of Online Hate

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We thank the Committee for inviting us to appear. I will provide some introductory remarks. My colleague, David Matas, our Senior Legal Counsel, will be pleased to address detailed aspects of the issue under study.

One year ago, B'nai Brith Canada called for a national action plan to combat antisemitism, with specific proposals aimed at our Parliament, the federal, provincial/territorial and municipal governments. We said dealing with online hate should be one element of the broader effort.

This has become all the more important given one key finding of our annual *Audit of Antisemitic Incidents in Canada*, released April 29, 2019, which found that of the 2,042 recorded incidents in 2018 – an increase of 16.5 percent over 2017 – eighty percent took place via online platforms.

We had started our work well before then. In October, 2017, David Matas offered remarks on "Mobilizing Internet Providers to Combat Antisemitism" to the Kantor Centre and Audiatur Foundation Seminar on Antisemitism, in Zurich Switzerland. In November, 2017, we wrote Ministers regarding the European Union's May 31, 2016, *Code of Conduct on Illegal Online Hate Speech*, and suggested Canada adopt the EU's 'trusted flagger' approach as one measure in addressing online hate. We can share both documents with the Committee.

In December, 2018, we submitted a policy paper to the Government calling for Canada to develop an anti-hate strategy. It is common sense that such a strategy would include confronting online content that reflects antisemitism, Holocaust denial and distortion, the key challenges faced by Canada's Jewish community members.

In Canada, we need to foster public debate. The work of this Committee will contribute to that end. So too will the meeting of the International Grand Committee on Disinformation and 'Fake News' in Ottawa on May 28th. The public needs to understand the challenges and the role they play in countering online hate (including disinformation); action cannot be left to governments, platforms and content providers.

It is not for social media companies alone to deal with online hate, although we do have recommendations for industry. Governments must lead and Canadians must be proactive. At the recent meeting of G7 Interior Ministers, Public Safety and emergency Preparedness Minister Goodale said: *"the clear message was that they [social media companies] have to show us clear progress or governments will use their legislative and regulatory authorities."*

We have specific ideas to offer, based on our own work and that of organizations such as the Anti-Defamation League in the United States. There is no need to re-invent the wheel if we can draw on useful work already undertaken.

We need to develop our framework and apply the potential solutions in Canada. B'nai Brith Canada understands that, in addressing online hate generally, the scourge of antisemitism will be captured, as long as we bear in mind its stubborn and growing nature and 'mark' antisemitism as a challenge of particular concern.

I commend to you thoughts offered last November by the authors of a Public Policy Forum initiative, *"Poising Democracy: What Canada can do about Harmful Speech Online"*. They suggested:

- The federal government should compel social media companies to be more transparent about their content moderation, including their responses to harmful speech.
- Governments, together with civil society and affected community organizations, foundations, companies and universities must support more research to understand and respond to harmful speech, as well as disinformation.
- The creation of a forum similar to the Canadian Broadcast Standards Council, to convene social media companies, civil society, and other stakeholders – in this case, representatives of the Jewish community – to develop and implement codes of conduct to address harmful speech.

We need to re-examine the need for a successor to Section 13 of the Canadian Human Rights Act. Our position has been consistent. The provision addressing hate on the internet had flaws which needed addressing, but it served a valuable purpose. We recommended amendment or re-enactment to address the flaws. This is also consistent with our testimony before this Committee on repealing Section 176 of the *Criminal Code*.

There are other active measures we can take to counter harmful online messages. For example, in November, 2018, UNESCO and the World Jewish Congress launched a new website, “Facts About the Holocaust”, designed as an interactive online tool to counter messages of Holocaust denial and distortion circulating on the internet and social media. It is a response to increased hate and disinformation online. The Committee could highlight this resource in its report.

The broader context needs to be kept in mind. I have already noted the work of the European Union which contains some good lessons. The Anti-Defamation League has testified before the House Committee on the Judiciary during hearings on hate crimes and the rise of white nationalism.

We have been struck by the United Kingdom’s recent Online Harms White Paper setting out guidelines to tackle content of concern. One proposal is the idea of an independent regulator to enforce the rules. The UK also now has a Code of Practice for Providers of Online Social Media Platforms, published April 8, 2019 which sets out actions that the government believes social media platforms should take to prevent bullying, insulting, intimidating and humiliating behaviours on their sites.

Some Recommendations for Government and Parliament

1. **Data is Key:** The government should incentivize and encourage provincial/territorial and municipal law enforcement agencies to more comprehensively collect and report (and share) hate crimes data, as well as details of hate incidents. The online dimension needs to be addressed, including by Statistics Canada. B’nai Brith Canada is in consultation about this with both Statistics Canada and the Canadian Association of Chiefs of Police.

2. **Strengthening the Legal Framework:** Parliament has an opportunity to lead the fight against cyberhate by increasing protections for targets as well as penalties for perpetrators of online misconduct. Some actions that can be taken include revising the law to allow for penalty enhancements based on cyber-related conduct; and updating provisions of the *Criminal Code* related to stalking and harassment to account for online behavior where intent or targeting is not present in the traditional sense but the harm to the individual is just as devastating.
3. **Improved Training for Law Enforcement:** Elsewhere, B'nai Brith Canada has argued for more hate crimes units in major cities – or at the least clear hate crimes strategies – and better training. Law enforcement is a key responder to online hate, especially in cases when users feel they are in imminent danger. Increasing resources and training for these agencies is critical to ensure they can effectively investigate and prosecute cyber cases and that targets know they will be supported if they contact law enforcement.
4. **Robust Governance for Social Media Platforms:** Elected leaders and government officials have an important role to play in encouraging social media platforms to institute robust and verifiable industry-wide self-governance. This could take many forms, including Parliamentary oversight or passage of laws that require certain levels of transparency and auditing. As noted, one-size fits all laws specifying particular types of content moderation are unlikely to be effective. The internet plays a vital role in allowing for innovation and democratizing trends, and that should be preserved. At the same time the ability to use it for hateful and severely harmful conduct needs to be effectively addressed. An escalating series of regulations, depending upon a platform's successful self-regulation, may be an option. There are other areas of law to which we can look to find systems that allow individual companies to meet required thresholds in the ways best suited for the manner in which they operate.
5. **International Cooperation:** Canada should ratify the 2002 Additional Protocol to the *Council of Europe Convention on Cybercrime* (concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems).

Some Recommendations for Industry (drawing on examples offered by the Anti-Defamation League)

Enhance Transparency

- Platforms must report meaningful statistics to the public about the prevalence of hate on their platforms. The metrics of these reports should be determined in consultation with trusted third parties so that they will be of value to the communities most impacted by hate online.

Improve Accountability

- Any public reporting done by technology companies regarding hate online, whether through transparency reports or reporting through other initiatives, should be reviewed and verified by a trusted third parties. Additionally, platforms should submit to an external audit of hate on their platforms, to allow for a fully independent analysis of the effectiveness of a company's policies and practices in terms of mitigating hate online.

Provide Data

- Platforms should, while respecting the privacy of their users, provide meaningful data to external researchers to advance understanding of the problem of hate online and to promote innovation in solutions to mitigate the problem.

Ensure Strong Policies Against Hate

- Privacy-by-design has become a best practice over the past years; so must “anti-hate-by design.” Every social media platform must have clear and transparent terms of service that address hateful content and harassing behavior, and clearly define consequences for violations. These policies should include, but should not be limited to:
 - Making clear that the platform will not tolerate hateful content or behavior on the basis of protected characteristics.
 - Prohibiting abusive tactics such as harassment, doxing and swatting.
 - Establishing an appeal process for users who feel their content was flagged as hateful or abusive in error.

Strengthen Enforcement of Policies

- Social media platforms should assume greater responsibility to enforce their policies and

to do so accurately at scale. This means:

- Improving the complaint process so that it provides a more consistent and speedy resolution for targets. We know from research that content moderators regularly make mistakes when it comes to adjudicating hateful content.
- Relying less on complaints from individual users, and instead proactively, swiftly, and continuously addressing hateful content using a mix of artificial intelligence and humans who are fluent in the relevant language and knowledgeable in the social and cultural context of the relevant community.

Design to Reduce Influence and Impact of Hateful Content

Social media companies should design their platforms and algorithms in a way that reduces the influence of hateful content and harassing behavior. Steps should include:

- Making hateful content more difficult to find in search and algorithmic recommendations. This means, for example, never recommending hatemongers' tweets, suggesting them as friends, or auto-playing their videos.
- Removing advertisements from hateful content.
- Not allowing hateful content to be monetized for profit.
- Labeling content suspected to be from automated "bot" accounts, given the use of bots for spreading hate.

Expand Tools and Services for Targets

Given the prevalence of online hate and harassment, platforms should offer far more user-friendly services, tools, and opportunities for individuals facing or fearing online attack. This includes:

- Greater filtering options that allow individuals to decide for themselves how much they want to see likely hateful comments. What goes into default settings should also be considered.
- Protections for individuals who are being harassed in a coordinated way.
- User-friendly tools to help targets preserve evidence and report problems to law enforcement and companies.
- Enhanced industry support for 'counter speech' initiatives, including fostering, aggregating and promoting positive messages responding to offensive content.