The Internet and Hate Promotion:

THE 21ST-CENTURY DILEMMA

"Like a walk through the Shuk or the Kasbah, today's Internet offers the very best of whatever the heart desires. Without leaving the comfort of your office or living room, the computer-literate can travel to Paris, tour the Louvre, or climb Mount Everest. However, the dark side of the equation is bleak indeed. Sexual predators, hustlers, scam artists, child pornographers and hatemongers also populate cyberspace, thankfully on its periphery."

These words were written in 1996 as part of an introductory essay I wrote to *The Internet: A New User's Guide to Understanding Hate in Cyberspace*. Ten years later, it is amazing how little the essence of Internet hate has changed, and how much bigger the problem has become.

In the early 1990s, when the professional staff and volunteer committees of Canadian Jewish Congress first began to consider the challenges of this new technology, the term "Internet" had not yet entered common parlance. Indeed, technology was primitive by today's standards and the price of computer equipment, while steadily dropping, still represented a barrier to many users. One CJC volunteer observed that his first IBM computer, purchased in 1985, cost $5000 and came with 320 KB of memory, two floppy disk drives and no hard drive! His connection to an early precursor of the Internet was made through a modem that transmitted data at a rate of 1.2 KB per second. The cost of connection was $10 US an hour! Given such barriers, it is no exaggeration to say that the Internet as we know it today was, for early users, a dream beyond articulation. Or a nightmare.

As costs have dropped and as technology has become more flexible, the Internet has become a global marketplace in which all travelers can offer their wares to anyone. Thus it is no surprise that, in its 2005 report, the Simon Wiesenthal Center tracked approximately 5000 problematic websites, portals, chat rooms and toplists. That is a 60% increase from the 3000 locations that were identified in the Center's 2000 report.

These numbers appear to provide confirmation for a trend that Canadian Jewish Congress has noted since 1995: hate on the Internet is a growing problem. But what is to be done?

We can take some comfort in the fact that our laws provide a number of protections against Canadian-based hate-mongers. Section 318 of the *Criminal Code* of Canada makes it an offence to advocate genocide. Section 319 of the Code prohibits both public incitement of hatred and willful promotion of hatred. Further, the courts are granted the ability, per section 718.2 of the Code, to take into consideration "evidence that the offence was motivated by bias, prejudice or hate." Additional protection is found in section 13 of the *Canadian Human Rights Act*, which provides for definite sanctions against those who would employ specific technologies to "expose a person or persons to hatred or contempt." It was under this section that, in January 2002, the content of the so-called "Zundelsite" was found by the Human Rights Tribunal to be in violation of Canadian law.[1] By that time, Mr. Zundel had left Canada to take up residence in the United States. His site, hosted by a U.S. Internet service provider (ISP), remains in operation.

Despite the continued operation of the *Zundelsite,* the 2002 decision of the Human Rights Tribunal was significant in that it established the jurisdiction of the

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Canadian Human Rights Commission over the Internet. Since that time, advocacy organizations such as the Canadian Jewish Congress have had one more tool at their disposal to stem the flow of hate on the Internet.

It remains, however, a daunting task. The vast majority of hate sites are located in jurisdictions beyond the reach of current Canadian law. In such cases, we must rely less on the rule of law and more on arguments that speak to the integrity of the individual ISPs. In April 2003, such approaches were helpful in persuading US-based ISPs to apply their own "Acceptable Use Policies" to a number of anti-Semitic websites – hoozajew.com, resistance.com, nationalvanguard.com, jewwatch.com – from their services. In some cases, the ethical action by the ISPs served only to temporarily inconvenience the hate-mongers, who were able to find other organizations willing to host them. In other cases, the removal had more permanent effects and the site was never re-established. While some might argue the utility of this approach, we believe that it is important to the health and vitality of our society that individuals not be turned into targets of hatred and that those who would do so be challenged wherever possible. In such matters, our job remains to bring comfort to those who have been disturbed and to disturb those who are comfortable.

In Canada, websites that are hosted by Canadian ISPs or are owned by residents of Canada are subject to the provisions of the *Criminal Code* and the *Canadian Human Rights Act.* Canadian Jewish Congress maintains a close watch on the Canadian scene to ensure that law enforcement agencies are aware of Internet content that may infringe the law. We also work with other ethnocultural communities when our research unearths material that is offensive to other communities. Such partnerships are important to inoculate our society against the twin diseases of hatred and intolerance.

Strangely, such partnerships can be forged in the most unlikely way. In 2004, Canadian Jewish Congress contacted an Ontario police service to advise them of a website that contained problematic material. We had already contacted the owners of the site and requested that the material be removed. We received no response. The police understood the seriousness of the matter and, though not certain that the material constituted a violation of the law, undertook to resolve the matter in a different fashion. Over the course of several months, the police officer identified responsible members of the community and brought those individuals together with Canadian Jewish Congress to discuss the issue. As a result, the offensive material was removed, and two organizations came together to solve a problem. Such resolutions are not always possible, but we remain alive to the notion that even hateful material can be posted for a variety of reasons. Education is not a panacea, but it is an option that we actively consider.

For all of these efforts, though, the world becomes a smaller place with each passing day. National borders are easily penetrated by technology. The "open-the-trunk" exchange with a customs official at the border becomes less meaningful when hate material flows along underground fibre-optic cables or through the ether of wireless communications. The man who, 10 years ago, stood out on a chilly street corner to distribute his mimeographed sheets of paper now sits in a wi-fi café in Vancouver (or New York or Oslo) sipping cappuccino and reaching a potential worldwide audience with a few keystrokes.

More must be done to counter this challenge. In July 2005, Canada became the first non-European county to sign the additional protocol to the Convention on Cybercrime. The treaty is intended to facilitate international cooperation in investigations and extraditions. In so doing, the Government of Canada fulfilled an important commitment, which it articulated in the March 2005 federal Action Plan Against Racism.

Canadian Jewish Congress and other like-minded organizations will continue their advocacy work on behalf of communities that are targeted by hate. We will continue to build partnerships with all stakeholders on this important matter. However, Canadian Internet service providers must also take as active a role in combating hate as they have against child pornography.

While an ISP may not be legally liable for information that flows through their network (of which they may not even be aware), they should, through self-regulation, be responsive to concerns raised by their customers and other interested parties and take steps to curb the flow of hateful material into this country. The technology exists to allow ISPs to block access to foreign websites and refuse to distribute content that is illegal when hosted in Canada. This approach has already been followed in the United Kingdom, through the partnership between British Telecom,

the Internet Watch Foundation and other stakeholders. In other words, ISPs must work cooperatively to stem the tide and, in so doing, become good corporate citizens.

Certainly, the implementation of such a process of self-regulation would not be simple. How would it be determined which sites should be blocked? What criteria would be employed and how would it be applied? Who would be seated at the table? From where would the funding come to develop a database of prohibited sites that could be shared amongst Canadian ISPs?

Hate on the Internet will not disappear overnight. But the intractability of the problem does not absolve us of the responsibility to engage in its resolution. The very size of the problem requires us to pursue multiple approaches for partnership with government, police services, schools, community groups and service providers. It is work that needs doing.

Endnotes

[1] *Sabina Citron and Toronto Mayor's Committee on Community and Race Relations v. Ernst Zündel,* Canadian Human Rights Tribunal, T.D. 1/02, January 18, 2002