

Au Comité permanent de l'accès à l'information, de la protection des renseignements personnels et de l'éthique

Protection de la vie privée et de la réputation sur les plateformes telle Pornhub

Le 22 février, 2021

Nous félicitons le gouvernement canadien de s'être efforcé de tenir MindGeek responsable de la facilitation et d'avoir profité des abus et de l'exploitation sexuels.^[1] MindGeek, propriétaire de Pornhub et au moins 160 autres sites Web de pornographie hardcore, a été critiqué pour avoir facilité et tiré profit d'actes criminels, y compris le trafic sexuel, l'abus sexuel filmé d'enfants, ainsi que de la pornographie enregistrée et distribuée sans consentement.¹ En enquêtant sur ces actes criminels, le Comité permanent de l'accès à l'information, de la protection des renseignements personnels et de l'éthique a donné l'exemple d'un engagement à protéger les droits de certains des membres les plus vulnérables de la société, en particulier les enfants victimes ou à risque d'abus sexuel.

En tant qu'experts, survivants et défenseurs de la lutte contre la violence et l'exploitation sexuelles, nous avons trouvé les témoignages du 5 février 2021 des dirigeants de MindGeek Feras Antoon, David Tassillo et Corey Urman au Comité, particulièrement flagrants dans leur incapacité à assumer la responsabilité de la destruction de la vie d'innombrables victimes au cours de la dernière décennie.²

Antoon, Tassillo et Urman semblaient obscurcir leurs pratiques commerciales actuelles et historiques³ dans l'obtention, la distribution et la publication d'images d'abus pédosexuels,⁴ de viol, de trafic⁵ et de pornographie non consensuellement enregistrée et/ou distribuée.⁶ Les dirigeants de MindGeek ont semblé induire en erreur le Comité et le public en ce qui concerne le rôle de MindGeek en permettant et en tirant parti d'une gamme de contenus criminels téléchargés et distribués via leur plateforme.⁷

¹ Nicholas Kristof, "The Children of Pornhub. Why Does Canada Allow this Company to Profit Off Videos of Exploitation and Assault?" *The New York Times*, December 4, 2020, www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html.

² House of Commons Canada, "Meeting No. 19 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 5, 2021, https://parl.vu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210205/-1/34697?Language=English&Stream=Video#info_.

³ House of Commons Canada, "Meeting No. 21 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," Standing Committee on Access to Information, Privacy and Ethics," February 22, 2021, <https://parl.vu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210222/-1/34824?Language=English&Stream=Video>.

⁴ "Jane Doe #1 and Jane Doe #2 v. MG Freesites, LTD, d/b/a "Pornhub", MG Freesites II LTD, MindGeek S.A.R.L., MindGeek USA, Incorporated, MG CY Holdings LTD, MindGeek Content RT Limited d/b/a MindGeek, MG Billing LTD," *Class Action Complaint*, U.S. District Court N.D. of Alabama, Case 7:21-cv-00220-LSC, February 12, 2021, https://endsexualexploitation.org/wp-content/uploads/Doe-v-MindGeek_Complaint.pdf.

⁵ "Jane Doe Nos. 1 through 40, inclusive individuals v. MG Freesites, LTD., aba 'Pornhub,' MindGeek S.A.R.L., and MindGeek USA Incorporated," *Complaint for Damages Pursuant to 18 U.S.C. § 1595*, United States District Court Southern District of California Case No. '20CV2440W RBB, December 15, 2020, beta.documentcloud.org/documents/20425190-mindgeekjanedoes1-40.

⁶ Jacob Bogage, "Hidden Camera Footage of Female College Athletes Posted to Porn Site, Police Say," *The Washington Post*, October 26, 2019, <https://www.washingtonpost.com/sports/2019/10/24/hidden-camera-footage-female-college-athletes-posted-porn-site-police-say/>.

⁷ House of Commons Canada, "Meeting No. 20 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 19, 2021, <https://parl.vu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210219/-1/34789?Language=English&Stream=Video>.

Sur la base des preuves,⁸ y compris les témoignages des victimes et les témoignages potentiellement criminels des dirigeants de MindGeek le 5 février, il semble que MindGeek a enfreint les lois sur la protection de l'enfant du Canada, en particulier les lois qui régissent la production et la distribution de pornographie juvénile tel que stipulé par le *Code Criminel du Canada*.⁹ Par exemple, les dirigeants de MindGeek ont déclaré lors de l'audience que leur entreprise examine chaque vidéo avant qu'elle ne soit diffusée publiquement,¹⁰ ce qui laisse entendre qu'ils ont sciemment et volontairement distribué du contenu d'abus sexuels sur des enfants. Il semble également que MindGeek a enfreint les lois canadiennes sur la publication d'images intimes sans consentement.¹¹ MindGeek doit être tenu responsable. Le gouvernement canadien doit exhorter les forces de l'ordre à enquêter sur MindGeek. Demander moins qu'une responsabilité juridique totale serait une injustice envers les victimes dont la vie a été sérieusement endommagée en raison des actions délibérées et volontaires de MindGeek.

De plus, dans des actions pouvant constituer une arnaque, MindGeek a admis avoir permis à certains citoyens canadiens de violer le *Code criminel du Canada* en encourageant le téléchargement et la possession d'images d'abus sexuels sur des enfants (c.-à-d. de la pornographie juvénile).¹²

En ne mettant pas en œuvre la vérification de l'âge lors du téléchargement de contenu pornographique et de la consommation de pornographie, MindGeek a facilité des préjudices à un grand nombre d'enfants, à la fois devant l'écran - en exposant les enfants à la pornographie - et derrière l'écran - en facilitant des images et des films d'abus sexuels sur des enfants.

Sur la base du témoignage de MindGeek et de ses pratiques commerciales de longue date, il est clair pour nous que nous ne pouvons faire confiance à MindGeek pour son autorégulation.

Un rôle central du gouvernement dans une société juste est de protéger les plus vulnérables. Dans cet esprit, nous demandons au gouvernement canadien d'encourager la Gendarmerie royale du Canada à mener une enquête criminelle complète sur MindGeek et à tenir ses dirigeants responsables dans toute la mesure de la loi.

Nous appelons les gouvernements, les ONG et les citoyens concernés du monde entier à encourager et à soutenir le gouvernement canadien à prendre des mesures législatives et réglementaires immédiates pour protéger les enfants de cette entreprise prédatrice et contraire à l'éthique.

Signé, 104 survivants, 525 ONG de 65 pays

⁸ House of Commons Canada, "Meeting No. 21 EHTI," *ibid*.

⁹ Criminal Code of Canada (R.S.C., 1985, c. C-46, § 163.1, <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-163.1.html>).

¹⁰ Statement of Feras Antoon, "Because every single piece of content is viewed by our human moderators," before the House of Commons Canada, "Meeting No. 19 EHTI," (time marker 00:11:27), *ibid*.

¹¹ <https://laws-lois.justice.gc.ca/fra/lois/C-46/section-162.1.html>; Statement of David Tassillo, "It- it i- it is possible that people committing crimes are able to circumvent our systems," before the House of Commons Canada, "Meeting No. 19 EHTI," (time marker 01:33:19), *ibid*.

¹² Statement of Serena Fleites, ". . . it had already been basically downloaded by people all across the world. It would always be uploaded, over and over and over again. No matter how many times I got it taken down, it would be right back up again" before the House of Commons Canada, "Meeting No. 18 EHTI," (time marker 1:36:53), *ibid*.

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