

To the Standing Committee on Access to Information, Privacy and Ethics Re. Protection of Privacy and Reputation on Platforms such as Pornhub

February 22, 2021

We applaud the Canadian Government for working to hold MindGeek accountable for facilitating and profiting from sexual abuse and exploitation.¹ MindGeek, which owns Pornhub and at least 160 other hardcore pornography websites, has received criticism for facilitating and profiting from criminal acts including sex trafficking, filmed sexual abuse of children, and non-consensually recorded and distributed pornography.² By investigating these criminal acts, the Standing Committee on Access to Information, Privacy and Ethics has set an example of a commitment to the protection of the rights of some of the most vulnerable members of society, particularly children who are victims of or at risk of sexual abuse.

As experts, survivors, and advocates combating sexual violence and exploitation, we found the February 5, 2021, testimonies of MindGeek executives Feras Antoon, David Tassillo and Corey Urman to the Committee notably egregious in their failure to take responsibility for the destruction of countless victims' lives over the past decade.³

Antoon, Tassillo and Urman appeared to be obfuscating their current and historical business practices⁴ in the obtaining, distributing and advertising of child sexual abuse images,⁵ rape, trafficking⁶ and non-consensually recorded and/or distributed pornography.⁷ MindGeek executives appeared to mislead the Committee and the public regarding MindGeek's role in enabling and profiting from a range of criminal content that was uploaded and distributed through their platform.⁸

Based on the evidence,⁹ including testimony of victims and the potentially criminally implicating testimony of MindGeek executives on February 5, it appears that MindGeek has violated

¹ House of Commons Canada, "Meeting No. 16 EHTI: Minutes of Proceedings," December 11, 2020, www.ourcommons.ca/DocumentViewer/en/43-2/ETHI/meeting-16/minutes; Luca Carusa-Moro, "MindGeek Executives Testify before Ethics Committee over Allegations of Illegal Content on Pornhub," *CTVNews.ca*, February 5, 2021, montreal.ctvnews.ca/mindgeek-executives-testify-before-ethics-committee-over-allegations-of-illegal-content-on-pornhub-1.5296887.

² 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.

³ House of Commons Canada, "Meeting No. 19 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 5, 2021, https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210205/-1/34697?Language=English&Stream=Video#info_.

⁴ 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://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210222/-1/34824?Language=English&Stream=Video>.

⁵ "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.

⁶ "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.

⁷ 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/>.

⁸ House of Commons Canada, "Meeting No. 20 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 19, 2021, <https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210219/-1/34789?Language=English&Stream=Video>.

⁹ House of Commons Canada, "Meeting No. 21 EHTI," *ibid*.

Canada's child protection laws, particularly child pornography¹⁰ distribution and reporting laws¹¹ as written in the *Criminal Code of Canada*. For example, MindGeek executives stated in the hearing that their company reviews each video before it is publicly posted,¹² thus implying that they knowingly and willfully distributed child sexual abuse materials. It also appears that MindGeek has violated Canada's laws on publication of intimate images without consent.¹³ MindGeek must be held accountable. The Canadian Government must urge law enforcement agencies to investigate MindGeek. Anything less than full legal accountability is an injustice to victims whose lives have been damaged as a result of MindGeek's knowing and willful actions.

Moreover, in actions that may be consumer fraud, MindGeek has admitted to enabling some Canadian citizens to violate the *Criminal Code of Canada* by encouraging the download and possession of images of child sexual abuse (i.e., child pornography).¹⁴

By its failure to implement age verification during pornography content upload and pornography consumption, MindGeek has facilitated harms against large numbers of children, both in front of the screen—through exposing children to pornography—and behind the screen—through facilitating images and films of child sexual abuse.

Based on MindGeek's testimony and its longstanding business practices, it is clear to us that MindGeek cannot be trusted to self-regulate.

A central role of government in a just society is to protect its most vulnerable. In this spirit, we call on the Canadian Government to encourage the Royal Canadian Mounted Police to conduct a full criminal investigation into MindGeek, and to hold its leadership accountable to the fullest extent of the law.

We call on governments, NGOs and concerned citizens across the world to encourage and support the Canadian government to take immediate legislative and regulatory action to protect children from this predatory and unethical corporation.

Signed, **104 survivors, 525 NGO's from 65 countries**

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¹⁰ *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>).

¹¹ <https://laws-lois.justice.gc.ca/eng/acts/l-20.7/page-1.html>

¹² 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*.

¹³ <https://laws-lois.justice.gc.ca/eng/acts/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*.

¹⁴ 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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