

February 12, 2021

SUBMISSION TO HOUSE OF COMMONS ETHICS COMMITTEE

Re: MindGeek study

Prepared by Joyce Stigter, President of C.A.P.C.S. (Med. Hat) Society (Citizens of Alberta for Positive Community Standards)

Dear Members of the Ethics Committee:

Thank you for this opportunity to engage with you in protecting the privacy of young people and in submitting recommendations to that end. I am an educator (retired), parent of four adult children, and President of C.A.P.C.S. (Medicine Hat) Society. We are an incorporated society which has sought to bring awareness about the impact of pornography on society to our community for over 20 years now. We have worked with our municipal government, promoted speaking engagements, and offered support to local schools, churches, and the general public in their endeavours to equip families in our present online culture.

We cannot overstate how important this conversation is. Children's lives are at stake. You have heard testimony to that effect. I would submit that now is the time for strong and far-reaching action.

I would also submit that MindGeek's proposed improved safety and security policies are not enough, and may instead run counter to its own business model. The essence of pornography is domination and abuse. In my view, these characteristics are evident in MindGeek's business practices in these three ways:

Monopoly

As a primary player in the free porn industry, MindGeek is able to exert significant market power over porn producers "...who find themselves fragmented and squeezed financially as they supply cheap, usually unbranded commodity videos to the big distributor networks." ¹

David Auerbach of Slate.com says it this way:

"Even content producers that MindGeek owns have trouble getting their movies off MindGeek's tube sites. The result has been a vampiric ecosystem: MindGeek's producers make porn films mostly for the sake of being uploaded on to MindGeek's free tube sites, with lower returns for the producers but higher returns for MindGeek, which makes money off of the tube ads that does not go to anyone involved in the production side." ²

In this working environment, porn industry workers are left with few options.

Forbes reports: *"It's like I'm stuck between a rock and a hard place, in a way," actor Tasha Reign said on [an episode of Nightline last year](#). "Because if I want to shoot content, I kind of have to shoot for [MindGeek], because that's the company that books me, because they own almost everything."*⁴

*"The concentration of power with porn distributors and the fragmentation of production has hurt performers, who mostly toil without contracts or benefits in a "gig economy" controlled by the distribution platforms. They are paid per sex act, and [wages have declined](#) across the board. In addition, performers need to cover significant out of pocket expenses themselves, including HIV tests."*⁵

A few small production companies have found a niche, and manage to operate. The scope of their success is tenuous, limited by the vast array of free content available on platforms such as MindGeek. Very few porn workers say anything about what this does to their livelihoods, perhaps for fear of being blacklisted by monolithic porn conglomerates.

As NY Times writer Nicholas Kristof pointed out:

*"There are other major players in porn outside the Mindgeek umbrella, most notably XHamster and XVideos, but Mindgeek is a porn titan. If it operated in another industry, the Justice Department could be discussing an antitrust case against it."*⁶

Here is the latest data from MindGeek's statistics page:

- Pornhub is one of the most prolific adult websites, averaging over 100 billion video views a year. That's about 12.5 porn videos per person on earth.
- Over 100 million daily visits to Pornhub, and over 36 billion visits per year.
- Over 125 million daily visits to the Pornhub Network of sites including YouPorn and Redtube⁸.

According to Dr. Gail Dines, internationally acclaimed expert on how pornography shapes identity, culture and sexuality, Pornhub reported 4.79 million new videos uploaded in 2019 alone.⁹

When your company is this big, there must be extensive controls in place in order to moderate content. Facebook does it, Youtube does it. When it comes to the important issue of consent, the sheer volume of content that needs to be confirmed becomes a problem. How many content moderators does MindGeek employ? Will they even disclose this information? If not, why not?

Testimony given to this Committee challenges MindGeek's capacity and perhaps even its willingness to set appropriate controls.

Piracy:

Despite their industry status, MindGeek has come under fire for pirating content from those small companies that are still out there. According to this article in the Financial Post, *“They (MindGeek) came into the market with a business model based on piracy and completely destroyed the industry, putting many production studios and performers out of business,” says Erika Lust, a Barcelona-based adult film producer. She says her team sends MindGeek requests to remove her videos — both U.S. and EU regulation mandate copyright holders to monitor whether their material is shared illegally — from their sites “weekly, if not daily.”*³

Ironically, according to this Forbes article, MindGeek then “used their traffic to sell ad space to those same production companies they enabled theft from.”⁴

In the porn industry, piracy is not uncommon. In 2015, MindGeek went to court claiming multiple thousands of its videos had been illegally hosted on other platforms, being viewed millions of times, in total. According to this Forbes article, MindGeek was demanding \$150,000 for each of its videos that were illegally hosted.

Almost simultaneously, this happened:

*“In an ironic turn, another company filed a lawsuit making the same allegation against MindGeek, claiming the conglomerate [illegally hosted their videos on one of its own tube sites](#) called Pornhub. The plaintiff, Florida-based Hush Hush Entertainment, alleges that MindGeek hosted the videos on their free site. Worse still, Hush Hush claims MindGeek then transferred the videos to its subscription version, PornhubPremium, where they actively collected fees from users for accessing another company’s work.”*⁴

Clearly, MindGeek is committed to its own profit margins.

Another interesting example of proprietary dispute is the 2012 lawsuit and counter-suit where Jules Jordan sued Manwin (MindGeek’s company name at the time) and Scott Justice, former Jules Jordan Videos (JJV) who suddenly moved over to work at Manwin. AVN reports that:

*“Beginning just two business days after [Justice’s] abrupt departure, [JJV] learned that at least one of the newly departed employees was in touch with several of [JJV’s] customers, using the contacts that [Justice] previously informed the Manwin Defendants were confidential and proprietary.”*⁷

This confidential information included the contact information for JJV buyers. The article goes on to say:

*“Medina II (Jules Jordan parent company) also alleges that Justice ...exploited his position and company resources at JJV to gain employment with Manwin. It also claims that Manwin “aided and abetted” the acts and ratified the wrongful conduct by “hiring [Justice] and other [JJV] employees and receiving, accepting, and utilizing [JJV’s] property ... and confidential customer lists and customer contact information.”*⁷

Apparently, we shouldn't be surprised that porn companies steal from each other.

Jason Tucker, president of copyright enforcement consultancy 'Battleship Stance', tells us this:

"...porn is the most pirated content in the world simply because "it is the most desired content in the world".³

If we recognize that porn uploaded to platforms like MindGeek is routinely stolen by other platforms, we have to ask: can any content, consensual or otherwise, be protected from piracy? If MindGeek continues to allow downloads from its site, even limited by membership, is it not possible that other companies might find a way of stealing it and posting it on their platforms? How then can individual privacy be protected?

Manipulation:

Online porn has pioneered a number of technological advancements, for the sake of pushing content and increasing profit margins. These innovations include targeted advertising, pay-per-click and email marketing. The magnitude of online traffic has opened up another revenue opportunity for porn through its online ads: data mining.

"Prospective MindGeek employees are told they will be able to take "big data to the next level," uncovering "user habits overnight that take others months to gather." Every day, roughly 15 terabytes worth of videos get uploaded to MindGeek's sites, equivalent to roughly half of the content available to watch on Netflix."³

A platform for free porn content is a deliberate design, developed by the porn industry to entice the user to go beyond their original curiosity.

"It (the porn industry)...developed the "free platforms" model that monetize user traffic through sophisticated techniques that cross-link numerous websites and encourage upgrade to "premium" pay-to-play sites."¹

What the user doesn't realize is how carefully constructed this online experience is, to manipulate his or her choices. *"Users click through from site to site, without realizing that they are in a highly structured network optimized to maximize revenues."¹*

Not only does the free porn model bring in maximum revenues, it also encourages amateur porn. It is no longer necessary for paid professionals to produce material.

The free porn model is really why we are having this discussion. The issue of consent lies primarily with content that has been uploaded by members of the public. The availability to create and watch porn on a private electronic device has driven this model to where it is today. The Committee has been given testimony that our youth are not only the subjects of non-consensual porn but also its creators. It begs the question: why would your youth be creating free porn for internet platforms like Pornhub?

I would submit that our children have been manipulated by the porn industry. The old model of magazines and physical storefronts has largely disappeared from our culture. Now, the porn platforms are in our kids' back pockets, and we as adults have no idea what they are watching. A recent Canadian documentary¹⁰ called **Over18** details how even young children are exposed to porn on their devices through pop-up ads. They are not searching for content; instead, the content is searching for them. Parental safeguards and supervision help shield children from this unwanted exposure, but curious kids are resourceful and often find a way around the parental controls. A friend's house, a library, or another space where parents are not present will often be the place where children are exposed to porn. Often, parents have no idea as to what kind of free porn their children are actually seeing.

The sheer volume and variety of free porn is staggering. Stephanie Ebbert, writing for the Boston Globe, describes what a free porn site such as Pornhub has to offer. *"Consider that free Internet porn is rife with images of male aggression and female degradation, often featuring rough anal sex, name-calling, hair-pulling, spanking, women being strangled during sex, and women being gagged with body parts."*⁵

Dr. Gail Dines speaks to what happens to children when they view porn:

*"...porn is altering sexual expectations, skewing gender norms, and teaching young people that women enjoy painful or degrading sex acts."*⁵

In other words, the porn that children and youth (primarily boys) are seeing makes them believe that sexual coercion, degradation, sexual violence, etc. are normal. They believe that it is okay to force a girlfriend to perform sex acts for their recording pleasure. They believe it's okay for them to share those images and actions with whomever they like, because girls and women are predominantly sexual objects. They believe all this because porn comes to them when they are developmentally vulnerable and not able to cognitively process what they are taking in.¹¹ Essentially, their perspective of sexuality is manipulated by an industry that is designed to profit from that perspective.

The free porn model manipulates internet access to change how children think so they will create and upload more free porn. This process looks very similar to the 'vampiric' model of monopoly described earlier. It is simply in MindGeek's best interests as a company to keep porn free and available to as many people as possible.

Just imagine. If there was no free porn on the internet, if every site required bitcoin or e-transfer or credit card payment as well as government-issued identification, would we even be here having this discussion?

I would like to believe that porn companies like MindGeek would change the way they do business, for the sake of protecting people who are under 18. Not so. In 2002, the Free Speech Coalition (an

American lobby group funded by ManWin/MindGeek) in *Ashcroft vs. Free Speech Coalition*, argued that *“the (American) 1996 Child Pornography Prevention Act – which prohibited any image that “is, or appears to be, of a minor engaging in sexually explicit conduct” – limited the pornography industry’s free speech.”*¹²

The FSC was successful in narrowing the scope of the law so it would apply to only the *images* of actual minors. From that point on, the porn industry was cleared to make legal-age performers look much younger, providing pedophiles with realistic content. After the Ashcroft decision, the industry realized how lucrative the ‘young’ or ‘teen porn’ market was, as the content exploded all over the internet.

But that wasn’t enough. Despite this apparent business success, the Free Speech Coalition (FSC) appeared in court in 2013, this time to argue against federal regulation 2257, which requires porn production companies to keep records that their performers are at least 18 years of age. This time, the FSC *“challenged 2257 on First Amendment grounds claiming that the law is overly burdensome and chills free speech.”*¹²

Judge Bylson upheld the 2257 regulations in 2013. However, in 2018 when the FSC again challenged 2257. This time, the same Judge essentially gutted 2257 to exempt major distributors or secondary producers from any record-keeping requirements. The 2018 ruling was vital to MindGeek and other distributors of porn. *“MindGeek and other distributors source porn content from a large number of fragmented low-cost producers, who are increasingly located around the globe. The growth of the market segment featuring young-looking females represented a potential legal threat. And distributors of porn – like other internet companies and social media platforms – want to avoid responsibility for content that could expose them to substantial legal and financial liabilities.”*¹²

While it remains to be seen if the U.S. Dept. of Justice will appeal this ruling, out of concern for an upsurge in Child Sexual Exploitation Material (CSAM), it is apparent that the porn industry is determined to put its business model first before the interests of young people. *The porn industry – including MindGeek - is essentially manipulating the regulatory environment to suit its business model.*

Nicholas Kristof said it well: *“Mindgeek’s moderators are charged with filtering out videos of children, but its business model profits from sex videos starring young people.”*⁶

Concluding thoughts:

Sadly, Canada and many nations around the world have experienced a sudden upsurge in child sexual exploitation on the internet as many children and adults are spending more time at home in front of their screens.¹³ Could this increase in child sexual abuse be related to the decision by MindGeek to offer its premium content for free during the early lockdown months of Covid? Could it be that increased traffic on TikTok and other social media platforms are resulting in more video uploads onto Pornhub?¹⁴

The scope and gravity of the actions and inactions of MindGeek over the past many years, both in Canada and abroad, is mind-numbing. I feel the eyes of the world on us here in Canada, where we have such strong laws against Child Sexual Exploitation but are seemingly powerless against hosting and distributing it.

Recommendations:

In my opinion, adherence to the law, respect for individual privacy and responsible business practices are not compatible with a porn conglomerate such as MindGeek.

The Canadian Centre for Child Protection has put together excellent recommendations in its summary entitled 'Reporting Child Sexual Abuse Material Reporting Functions on Popular Platforms.'¹⁵

I agree with Nicholas Kristoff that downloads should be prohibited.⁶

I would recommend that the free porn model be made illegal, so that each transaction must be paid for and government identification presented.

I also agree with Gail Dines, when she concluded her testimony on Motion 47 in 2017:

*"We ...need to define pornography as a violation of women's civil rights and ask what matters more: the right of a group of predatory capitalists to profit from violence against women and children, or the rights of women and girls to live as equal and free citizens? You can't have it both ways."*¹⁶

I feel the sting of those words today, four years later. We must take strong, far-reaching action.

I signed the petition, and I am asking for the Canadian government to: Shut. It. Down.

With respect,

Joyce Stigter,

President, C.A.P.C.S. (Medicine Hat) Society

¹<https://theconversation.com/porn-disruption-makes-stormy-daniels-a-rare-success-in-increasingly-abusive-industry-94534>

²<https://slate.com/technology/2014/10/mindgeek-porn-monopoly-its-dominance-is-a-cautionary-tale-for-other-industries.html>

³<https://financialpost.com/financial-times/the-secretive-world-of-mindgeek-the-montreal-based-company-behind-pornhub-and-redtube>

⁴<https://www.forbes.com/sites/michaelthomsen/2015/11/30/mindgeek-is-both-plaintiff-and-defendant-in-two-new-dmca-lawsuits/?sh=61f2be3e34e6>

⁵<https://www.bostonglobe.com/2020/09/06/metro/how-build-your-childrens-resilience-porn/>

⁶<https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

⁷<https://avn.com/business/articles/legal/jules-jordan-sues-manwin-scott-justice-for-5-million-472659.html>

⁸<https://www.pornhub.com/press>

⁹<https://www.youtube.com/watch?v=LhD6fH9Lw-Q>

¹⁰<https://www.amazon.com/Over-18-Jared-Brock/dp/B07XKW7X1N>

¹¹<https://www.yourbrainonporn.com/relevant-research-and-articles-about-the-studies/brain-studies-on-porn-users-sex-addicts/>

¹²<https://www.counterpunch.org/2013/08/01/a-rare-defeat-for-corporate-lobbyists/>

¹³<https://www.cbc.ca/news/politics/pandemic-child-sexual-abuse-1.5645315>

¹⁴<https://www.rollingstone.com/culture/culture-news/tiktok-dance-pornhub-nonconsensual-porn-1064794/>

¹⁵https://www.protectchildren.ca/pdfs/C3P_ReviewingCSAMMaterialReporting_Summary_en.pdf

¹⁶<https://www.ourcommons.ca/DocumentViewer/en/42-1/hesa/meeting-50/evidence>

