Hate Speech on the Internet

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Understanding Hate Speech

Stepping Back from Human Rights. Whenever the problem of hate speech is discussed, it's often in the context of the human rights tradition, where rights have to be balanced with one another and with corresponding responsibilities. For instance, the Council of Europe's Additional Protocol to the Convention on Cybercrime, which seeks to regulate hate speech on the Internet, invokes "the need to ensure a proper balance between freedom of expression and an effective fight against acts of a racist and xenophobic nature".[1]

But despite the common assumption that human rights are an eternal and morally unimpeachable way of understanding freedom, it's important to understand that the doctrine of human rights as currently applied and understood dates back only as far as the Second World War.[2] There is a libertarian tradition quite distinct from the human rights tradition, in which a select number of essential freedoms – including freedom of speech – are understood to be absolute, and not negotiable or subject to being balanced.[3] From this perspective, unless we're free to say what we believe, to experience

1 Council of Europe, Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems, 28 January 2003 <http://conventions.coe.int/Treaty/en/Treaties/Word/189.doc> (.doc 71KB), 2.

2 For an excellent critical history of human rights, see Kirsten Sellars, *The Rise and Rise of Human Rights* (Stroud: Sutton Publishing, 2002).

3 See Sandy Starr "The diminishing importance of constitutional rights in the internet age", *From Quill to Cursor: Freedom of the Media in the Digital Era* (Vienna: OSCE, 2003) <http://www.osce.org/documents/rfm/2003/04/41_en.pdf> (.pdf 399 KB), 57–72.

and express whatever emotion we like (including hate), and to hate whomever we choose, then we aren't really free at all.[4] As one senior UK judge has said, "freedom only to speak inoffensively is not worth having".[5]

Even though human rights are now central to European policy and jurisprudence, and it's difficult to envisage the human rights framework being substantially challenged in the foreseeable future, it's nonetheless useful to take a step back from this all-encompassing framework. Only then can we understand the contradictions and difficulties that are thrown up, when categories such as "hate speech" and "hate crime" enter into regulation

Once Free Speech is Limited, it Ceases to be Free. Those who argue for the regulation of hate speech often claim that they support the principle of free speech, but that there is some kind of distinction between standing up for free speech as it has traditionally been understood, and allowing people to express hateful ideas.

For example, the Muslim Council of Britain argues that "a free discourse... on the merits of Islam and Muslims ... is of course necessary in an open society, but to urge others to hate, and thereby oppress, an entire faith community must be unacceptable at all times and all places".[6] And the UK's Institute of Race Relations, in seeking to outlaw hateful content from the popular media, argues that "the 'press freedom' that was fought for in previous centuries ... is not the freedom of large corporations to be involved in the industrialised production of racism for profit".[7]

Elsewhere, the UK's home secretary David Blunkett, proposes to introduce an offence of incitement to religious hatred into British law. He insists that "people's rights to debate mat-

ters of religion and proselytise would be protected, but we cannot allow people to use religious differences to create hate".[8]

Divvying up the principle of free speech in this way, so that especially abhorrent ideas are somehow disqualified from its protection, is a more dubious exercise than these sorts of comments suggest. After all, it's not as though the right to free speech contains within it some sort of prescription as to what the content of that speech will consist of. Any such prescription would be contrary to the essential meaning of the word "free".

Free speech is an important prerequisite for the development of progressive ideas, but there's no getting around the fact that it will also be exploited by people with ideas that are far from progressive. We can't enjoy the benefits afforded by free speech, without accepting a concomitant obligation – to use this freedom to contest ideas we disagree with in the court of public opinion, rather than undermining this freedom by calling upon state or private censors to suppress ideas.

Admittedly, the right to free speech has traditionally been subject to certain exceptions, even outside of the human rights framework. In the American legal tradition, for instance, free speech does not provide a defence in instances of "clear and present danger". The "clear and present danger" exception has

4 See Mick Hume, "Don't you just hate the Illiberati?", *spiked*, 12 July 2004 <http://www.spiked-online.com/printable/0000000CA5E2.htm>

5 Stephen Sedley, *Redmond-Bate v. Director of Public Prosecutions*, 23 July 1999 <http://www.freebeagles.org/caselaw/CL_bp_Redmond-Bate_full.html>

6 Inayat Bunglawala, "Law on 'incitement to religious hatred' – responding to Will Cummins", Muslim Council of Britain, 16 July 2004 <http://www.mcb.org.uk/letter76.html>

7 Arun Kundnani, "Freedom to hate?", Institute of Race Relations, 20 May 2003 <http://www.irr.org.uk/2003/may/ak000012.html>, reproduced from *Campaign Against Racism and Fascism*.

8 David Blunkett, "New challenges for race equality and community cohesion in the twenty-first century", United Kingdom Home Office, 7 July 2004 <http://www.homeoffice.gov.uk/docs3/race-speech.pdf> (.pdf 104 KB), 12.

in turn been used as a justification for regulating hate speech. But upon closer inspection, this transpires to be a very specific and narrow exception, and not one that supports the idea of hate speech at all.

"Clear and present danger" was originally conceived by the Supreme Court Justice Oliver Wendell Holmes Jr, with reference to those exceptional circumstances where rational individuals can be said to be compelled to act in a certain way. In Holmes Jr's classic example – "a man falsely shouting fire in a theatre and causing a panic" – rational individuals are compelled to act by immediate fear for their safety.[9]

In the vast majority of instances, however – including incitement to commit a hateful act – no such immediate fear exists. Rather, there is an opportunity for the individual to assess the words that they hear, and to decide whether or not to act upon them. It is therefore the individual who bears responsibility for their actions, and not some third party who instructed that individual to behave in a particular way.

Distinguishing Speech from Action. This brings us to what is arguably the most problematic aspect of the category of hate speech – the fact that it implicitly confuses speech with action. In their attempts to tackle prejudice, policymakers are only too quick to conflate these two very different things.

Take Belgian prime minister Guy Verhofstadt's declaration, at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination held in Brussels in September 2004, that "there must be a coherent legal framework prohibiting discrimination and racism of whatever sort".[10] Interpreted literally, this statement would mean the authorities monitoring our every utterance and interaction, and intervening in any instance where our behaviour matched the

official definition of "discrimination and racism". Is this a society that anyone who genuinely cares about freedom would wish to inhabit?

The British academic David Miller, an advocate of hate crime legislation, complains that "advocates of free speech tend to assume that speech can be clearly separated from action".[11] But outside of the obscurer reaches of academic postmodernism, one would be hard-pressed to dispute that there *is* a distinction between what people say and think on the one hand, and what they do on the other.

Certainly, it becomes difficult, in the absence of this basic distinction, to sustain an equitable system of law. If our actions are not distinct from our words and our thoughts, then there ceases to be a basis upon which we can be held responsible for our actions. Once speech and action are confused, then we can always pass the buck for our actions, no matter how grievous they are – an excuse commonly known as "the Devil made me do it".

In truth, it is not words in themselves that make things happen, but the estimation in which we hold those words. And if ideas that we disagree with are held in high estimation by others, then we're not going to remedy this situation by trying to prevent those ideas from being expressed. Rather, the only legitimate way we can tackle support for abhorrent ideas, is to seek to persuade people of our own point of view. This process, quaint though it may sound to some, is conventionally known as political debate.

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9 Oliver Wendell Holmes Jr, *Schenck v. United States* , 3 March 1919 <http://caselaw.lp.findlaw.com/scripts/printer_friendly.pl?page=us/249/47.html>

10 Guy Verhofstadt, "Speech by prime minister Guy Verhofstadt at the opening of the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination", 13 September 2004 <http://www.osce.org/documents/cio/2004/09/3508_en.pdf> (.pdf 24.2 KB), 2–3.

11 Ursula Owen and David Miller, "Not always good to talk", *Guardian*, 27 March 2004 <http://www.guardian.co.uk/print/0,3858,4889396-103677,00.html>

When the authorities start resorting to hate speech regulation, in order to suppress ideas that they object to, this is an indication that the state of political debate is far from healthy.

Hate Speech and the Health of Politics. That angst over hate speech goes hand in hand with the degradation of politics can be seen in recent European elections, such as the French presidential elections held in 2002 and the European Parliament elections held in 2004. The response by mainstream political parties, to the perceived threat posed by far-right parties in these elections, was to suggest that the main reason why people should bother to vote is to keep the far right out of power.

This notion – that if you don't vote, then you're automatically giving the far right a helping hand – is a kind of electoral blackmail. It sends out a message that is arguably even more destructive than the bigoted drivel put about by the far right, because if the best reason the political mainstream can offer people for voting is to keep the other lot out, then that's a tacit admission that the political mainstream doesn't actually have any ideas worth voting *for*.[12]

It's also the case that when politicians focus their attention and their policies upon the problem of hate speech and hate crimes, their concerns can become a self-fulfilling prophecy. Constantly flagging up the problems of hatred and prejudice, between people of different races, colours, or creeds, subsequently encourages those people to view their grievances in those terms. A vivid illustration of this was provided by the riots and clashes that occurred in the UK in 2001, in northern mill towns of Oldham, Bradford and Burnley.

The conventional view was that these violent incidents were stoked by the far right, but evidence actually suggests that the racial tensions in these towns owed more to the blan-

ket coverage and policing of hate speech and hate crimes. The police in these regions were so keen to demonstrate their commitment to dealing with hate, that they treated crimes committed by whites against Asians as racially motivated, even when they were not reported as such. It's not so much that these towns had a greater problem with racism than other towns in the UK, but rather that in these towns, the authorities made racism into a higher-profile issue – with explosive consequences.[13]

Distinguishing Prejudice from Emotion. In addition to distinguishing between speech and action, when assessing the usefulness of "hate speech" as a regulatory category, it is also useful to make a distinction between forms of prejudice such as racism on the one hand, and generic emotions such as hate

12 See Josie Appleton, "Defending democracy – against the voters", *spiked*, 23 April 2002 <http://www.spiked-online.com/printable/00000006D8AF.htm>; Dominic Standish, "Where are Le Pen friends now?", *spiked*, 29 April 2002 <http://www.spiked-online.com/printable/00000006D8BC.htm>; Mick Hume, "Who's afraid of the far right?", *spiked*, 3 May 2002 <http://www.spiked-online.com/printable/00000006D8D1.htm>; Brendan O'Neill, "The myth of the far right", *spiked*, 12 June 2002 <http://www.spiked-online.com/printable/00000006D931.htm>; Josie Appleton, "Cranking up the cranks", *spiked*, 3 June 2004 <http://www.spiked-online.com/printable/0000000CA564.htm>; Jennie Bristow, "Compulsory voting: turnout is not the problem", *spiked*, 16 June 2004 <http://www.spiked-online.com/printable/0000000CA591.htm>; Sandy Starr, "Blowing up the BNP", *spiked*, 16 July 2004 <http://www.spiked-online.com/printable/0000000CA5FC.htm>

13 See Brendan O'Neill, "Same Oldham story?", *spiked*, 29 May 2001 <http://www.spiked-online.com/printable/00000002D0F7.htm>; Brendan O'Neill, "Why banning the BNP is bad for democracy", *spiked*, 12 June 2001 <http://www.spiked-online.com/printable/00000002D121.htm>; Brendan O'Neill, "Oldham: unasked questions", *spiked*, 9 July 2001 <http://www.spiked-online. com/printable/00000002D179.htm>; Josie Appleton, "After Bradford: engineering divisions", *spiked*, 16 July 2001 <http://www.spiked-online.com/printable/00000002D19A.htm>; Kenan Malik, "The trouble with multiculturalism", *spiked*, 18 December 2001 <http://www.spiked-online.com/printable/00000002D35E.htm>; Brendan O'Neill, "Who divided Oldham?", *spiked*, 1 May 2002 <http://www.spiked-online.com/printable/00000006D8C1.htm>; Bruno Waterfield, "Imposing 'parallel lives'", *spiked*, 22 January 2003 <http://www.spiked-online.com/printable/00000006DBFE.htm>; Munira Mirza, "How 'diversity' breeds division" *spiked*, 19 August 2004 <http://www.spiked-online. com/printable/0000000CA690.htm>

on the other. Whereas racism is a wrongheaded prejudice that deserves to be contested, hatred is not objectionable in itself. Hatred is merely an emotion, and it can be an entirely legitimate and appropriate emotion at that.

When the Council of Europe sets out to counter "hatred", with its Additional Protocol to the Convention on Cybercrime, it uses the word to mean "intense dislike or enmity".[14] But are right-thinking people not entitled to feel "intense dislike or enmity" – towards racists, for example?

Hate is something that most of us experience at one time or another, and is as necessary and valid an emotion as love. Even David Blunkett, the principal architect of initiatives against hate speech and hate crimes in the UK, has admitted that when he heard that the notorious serial killer Harold Shipman had committed suicide in prison, his first reaction was: "Is it too early to open a bottle?"[15] Would Blunkett's perfectly natural reaction be permitted, under a regime where hate speech was outlawed?

Hate speech regulation is often posited as a measure that will prevent society from succumbing to totalitarian ideologies, such as fascism. Ironically, however, the idea that we might regulate speech and prosecute crimes according to the emotions we ascribe to them, is one of the most totalitarian ideas imaginable.

Most countries already have laws that prohibit intimidation, assault, and damage to property. By creating the special categories of "hate speech" and "hate crime" to supplement these offences, and presuming to judge people's motivations for action rather than their actions alone, we come worryingly close to establishing in law what the author George Orwell called "thoughtcrime".

From Hate Crime to Thoughtcrime. In Orwell's classic novel *1984*, thoughtcrime is the crime of thinking criminal thoughts, "the essential crime that contained all others in itself".[16] Hatred is permitted, indeed is mandatory, in Orwell's dystopia, so long as it is directed against enemies of the state. But any heretical thought brings with it the prospect of grave punishment. Orwell demonstrates how, by policing language and by forcing people to carefully consider every aspect of their behaviour, orthodoxy can be sustained and heresy ruthlessly suppressed.

In *1984*, no hard evidence is necessary in order for someone to be held guilty of thoughtcrime. As with hate speech and hate crime today, the authorities in the novel have unlimited latitude to interpret people's words and actions as having suspicious motives. The preoccupation with language and etiquette of those who propose hate speech regulation, and the significance that they ascribe to words, are reminiscent of the strategies employed in *1984* to reduce people's capacity to think prohibited thoughts. As one character says in the novel, "in the end we shall make thoughtcrime literally impossible, because there will be no words in which to express it".[17]

The human instinct to question received wisdom and resist restrictions upon thought is, ultimately and thankfully, irrepressible. But inasmuch as this instinct can be repressed, the authorities must first encourage in the populace a form of wilful ignorance that Orwell calls "crimestop" – in *1984*, the principal means of preventing oneself from committing

14 Explanatory report, Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems, Council of Europe, 28 January 2003 <http://conventions.coe.int/Treaty/en/Reports/Html/189.htm>

15 See "Blunkett admits Shipman error", BBC News, 16 January 2004 <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/1/hi/uk_politics/3404041.stm>

16 George Orwell, *1984* (Harmondsworth: Penguin, 2000), 21.

17 Ibid., 55.

thoughtcrime. In Orwell's words: "*Crimestop* means the faculty of stopping short, as though by instinct, at the threshold of any dangerous thought. It includes the power of not grasping analogies, of failing to perceive logical errors, of misunderstanding the simplest arguments ... and of being bored or repelled by any train of thought which is capable of leading in a heretical direction. *Crimestop*, in short, means protective stupidity."[18]

Labelling speech that we disagree with "hate speech", and seeking to prohibit it instead of taking up the challenge of disputing it, points to a world in which we resort to "protective stupidity" to prevent the spread of objectionable ideas. Not only is this inimical to freedom, but it gives objectionable ideas a credibility that they often don't deserve, by entitling them to assume the righteous attitude of challenging authoritarian regulation.

Better to debate those we disagree with head-on, than make them martyrs to censorship.

Regulating Hate Speech on the Internet. The Internet continues to be perceived as a place of unregulated and unregulable anarchy. But this impression is becoming less and less accurate, as governments seek to monitor and rein in our online activities.

Initiatives to combat online hate speech threaten to neuter the Internet's most progressive attribute – the fact that anyone, anywhere, who has a computer and a connection, can express themselves freely on it. In the UK, regulator the Internet Watch Foundation (IWF) advises that if you "see racist content on the Internet", then "the IWF and police will work in partnership with the hosting service provider to remove the content as soon as possible".[19]

The presumption here is clearly in favour of censorship – the IWF adds that "if you are unsure as to whether the content is legal or not, be on the safe side and report it".[20] Not only are the authorities increasingly seeking out and censoring Internet content that they disapprove of, but those sensitive souls who are most easily offended are being enlisted in this process, and given a veto over what the rest of us can peruse online.

Take the Additional Protocol to the Convention on Cybercrime, which seeks to prohibit "racist and xenophobic material" on the Internet. The Additional Protocol defines such material as "any written material, any image or any other representation of ideas or theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors".[21] It doesn't take much imagination to see how the Bible or the Qur'an could fall afoul of such extensive regulation, not to mention countless other texts and artistic and documentary works.

In accordance with the commonly stated aim of hate speech regulation, to avert the threat of fascism, the Additional Protocol also seeks to outlaw the "denial, gross minimisation, approval or justification of genocide or crimes against humanity".[22] According to the Council of Europe, "the drafters considered it necessary not to limit the scope of this provision only

18 George Orwell, *1984* (Harmondsworth: Penguin, 2000), 220–21.

19 "Racial issues", on the Internet Watch Foundation website <http://www.iwf.org.uk/howto/page.20.27.htm>

20 "The hotline and the law", on the Internet Watch Foundation website <http://www.iwf.org.uk/public/page.31.htm>

21 Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems, Council of Europe, 28 January 2003 <http://conventions.coe.int/Treaty/en/Treaties/Word/189.doc> (.doc 71KB), 3.

22 Ibid., 4.

to the crimes committed by the Nazi regime during the Second World War and established as such by the Nuremberg Tribunal, but also to genocides and crimes against humanity established by other international courts set up since 1945 by relevant international legal instruments."[23]

This is an instance in which the proponents of hate speech regulation, while ostensibly guarding against the spectre of totalitarianism, are behaving in a disconcertingly authoritarian manner themselves. Aside from the fact that Holocaust revisionism can and should be contested with actual arguments, rather than being censored, the scale and causes of later atrocities such as those in Rwanda or former Yugoslavia are still matters for legitimate debate – as is whether the term "genocide" should be applied to them. The European authorities claim to oppose historical revisionism, and yet they stand to enjoy new powers that will entitle them to impose upon us *their* definitive account of recent history, which we must then accept as true on pain of prosecution.

Remarkably, the restrictions on free speech contained in the Additional Protocol could have been even more severe. Apparently, "the committee drafting the Convention discussed the possibility of including other content-related offences", but "was not in a position to reach consensus on the criminalisation of such conduct".[24] Still, the Additional Protocol as it stands is a significant impediment to free speech, and an impediment to the process of contesting bigoted opinions in free and open debate. As one of the Additional Protocol's more acerbic critics remarks: "Criminalising certain forms of speech is scientifically proven to eliminate the underlying sentiment. Really, I read that on a match cover."[25]

Putting the Internet into Perspective. The Internet lends itself to lazy and hysterical thinking about social problems. Because of the enormous diversity of material available on it, people with a particular axe to grind can simply log on and discover whatever truths about society they wish to. Online, one's perspective on society is distorted. When there are so few obstacles to setting up a website, or posting on a message board, all voices appear equal.

The Internet is a distorted reflection of society, where minority and extreme opinion are indistinguishable from the mainstream. Methodological rigour is needed, if any useful insights into society are to be drawn from what one finds online. Such rigour is often lacking in discussions of online hate speech.

For example, the academic Tara McPherson has written about the problem of deep-South redneck websites – what she calls "the many outposts of Dixie in cyberspace".[26] As one reads through the examples she provides of neo-Confederate eccentrics, one could be forgiven for believing that "The South Will Rise Again", as the flags and bumper stickers put it. But by that token, the world must also be under dire threat from paedophiles, Satanists, and every other crackpot to whom the Internet provides a free platform.

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23 Explanatory report, Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems, Council of Europe, 28 January 2003 <http://conventions.coe.int/Treaty/en/Reports/Html/189.htm>

24 Ibid.

25 Thomas C. Greene, "Euro thought police criminalise impure speech online", *Register*, 11 November 2002 <http://www.theregister.co.uk/2002/11/11/euro_thought_police_criminalize_impure/print.html>

26 Tara McPherson, "I'll take my stand in DixieNet", in Beth E. Kolko, Lisa Nakamura, Gilbert B. Rodman (eds.), *Race in Cyberspace* (New York: Routledge, 2000), 117. For a review of this book, see Sandy Starr, "Race in Cyberspace", *Global Review of Ethnopolitics*, vol. 1, no. 4 <http://www.ethnopolitics.org/archive/volume_I/issue_4/issue_4.pdf> (.pdf 903 KB), 132–34.

"How could we narrate other versions of Southern history and place that are not bleached to a blinding whiteness?", asks McPherson, as though digital Dixie were a major social problem.[27] In its present form, the Internet inevitably appears to privilege the expression of marginal views, by making it so easy to express them. But we must remember that the mere fact of an idea being represented online, does not grant that idea any great social consequence.

Of course, the Internet has made it easier for like-minded individuals on the margins to communicate and collaborate. Mark Potok, editor of the Southern Poverty Law Centre's *Intelligence Report* – which "monitors hate groups and extremist activities"[28] – has a point when he says: "In the 1970s and 80s the average white supremacist was isolated, shaking his fist at the sky in his front room. The net changed that."[29] French minister of foreign affairs Michel Barnier makes a similar point more forcefully, when he says: "The Internet has had a seductive influence on networks of intolerance. It has placed at their disposal its formidable power of amplification, diffusion and connection."[30]

But to perceive this "power of amplification, diffusion and connection" as a momentous problem is to ignore its corollary – the fact that the Internet also enables the rest of us to communicate and collaborate, to more positive ends. The principle of free speech benefits us all, from the mainstream to the margins, and invites us to make the case for what we see as the truth. New technologies that make it easier to communicate benefit us all in the same way, and we should concentrate on exploiting them as a platform for our beliefs, rather than trying to withdraw them as a platform for other people's beliefs.

We should always keep our wits about us, when confronted with supposed evidence that online hate speech is a massive problem. A much-cited survey by the web and e-mail

filtering company SurfControl concludes that there was a 26 per cent increase in "websites promoting hate against Americans, Muslims, Jews, homosexuals and African-Americans, as well as graphic violence" between January and May 2004, "nearly surpassing the growth in all of 2003". But it is far from clear how such precise quantitative statistics can be derived from subjective descriptions of the content of websites, and from a subjective emotional category like "hate".

SurfControl survey unwittingly illustrates how any old piece of anecdotal evidence can be used to stir up a panic over Internet content, claiming: "Existing sites that were already being monitored by SurfControl have expanded in shocking or curious ways. Some sites carry graphic photos of dead and mutilated human beings."[31] If SurfControl had got in touch with me a few years earlier, I could still easily have found a few photos of dead and mutilated human beings on the Internet for them to be shocked by. Maybe then, they would have tried to start the same panic a few years earlier? Or maybe they wheel out the same shocking claims every year, in order to sell a bit more of their filtering software – who knows?

Certainly, it's possible to put a completely opposite spin on the amount of hate speech that exists on the Internet. For example, Karin Spaink, chair of the privacy and digital rights

27 Tara McPherson, "I'll take my stand in DixieNet", in Beth E Kolko, Lisa Nakamura, Gilbert B Rodman (eds.), *Race in Cyberspace* (New York: Routledge, 2000), 128.

28 *Intelligence Project*, section of the Southern Poverty Law Centre website <http://www.splcenter.org/intel/intpro.jsp>

29 Quoted in: Nick Ryan, "Fear and loathing", *Guardian*, 12 August 2004 <http://www.guardian.co.uk/print/0,3858,4991037-110837,00.html>

30 Michel Barnier, French Ministry of Foreign Affairs, "Opening of the meeting", OSCE Meeting on the Relationship Between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crimes, 16 June 2004 <http://www.osce.org/documents/cio/2004/06/3105_en.pdf> (.pdf 19.2 KB), 2.

31 SurfControl, "SurfControl reports unprecedented growth in hate and violence sites during first four months of 2004", 5 May 2004 <http://www.surfcontrol.com/news/newsitem.aspx?id=650>

organization Bits of Freedom, concludes that "slightly over 0.015 per cent of all web pages contain hate speech or something similar" – a far less frightening assessment.[32]

It's also inaccurate to suggest that the kind of Internet content that gets labelled as hate speech goes unchallenged. When it transpired that the anti-Semitic website Jew Watch ranked highest in the search engine Google's results for the search term "Jew", a Remove Jew Watch campaign was established, to demand that Google remove the offending website from its listings.[33] Fortunately for the principle of free speech, Google did not capitulate to this particular demand – even though in other instances, the search engine has been guilty of purging its results, at the behest of governments and other concerned parties.[34]

Forced to act on its own initiative, Remove Jew Watch successfully used Googlebombing – creating and managing web links in order to trick Google's search algorithms into associating particular search terms with particular results – to knock Jew Watch off the top spot.[35] This was fair game, and certainly preferable to Google (further) compromising its ranking criteria.[36] Better still would have been either a proper contest of ideas between Jew Watch and Remove Jew Watch, or alternatively a decision that Jew Watch was beneath contempt and should simply be ignored. Not every crank and extremist warrants attention, even if they do occasionally manage to spoof search engine rankings.

Conclusion. If we ask the authorities to shield us from hate speech today, the danger is that we will be left with no protection from those same authorities tomorrow, once they start telling us what we're allowed to read, watch, listen to, and download.

According to the Additional Protocol to the Convention on Cybercrime, "national and international law need to provide adequate legal responses to propaganda of a racist and xenophobic nature committed through computer systems".[37] But legal responses are entirely *inadequate* for this purpose. If anything, legal responses to hateful opinions inadvertently bolster them, by removing them from the far more effective and democratic mechanism of public scrutiny and political debate.

"Hate speech" is not a useful way of categorizing ideas that we find objectionable. Just about the only thing that the category *does* usefully convey is the attitude of the policymakers, regulators and campaigners who use it. Inasmuch as they can't bear to see a no-holds-barred public discussion about a controversial issue, these are the people who really *hate speech*.

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32 Karin Spaink, "Is prohibiting hate speech feasible – or desirable?: technical and political considerations", Bits of Freedom, 30 June 2004 <http://www.osce.org/documents/rfm/2004/06/3263_en.pdf> (.pdf 50.1 KB), 14.

33 See the Google <http://www.google.com> and Jew Watch <http://www.jewwatch.com> websites.

34 See "Replacement of Google with alternative search systems in China: documentation and screenshots", Berkman Center for Internet and Society, September 2002 <http://cyber.law.harvard.edu/filtering/china/google-replacements>; Benjamin Edelman and Jonathan Zittrain, "Localised Google search result exclusions", Berkman Center for Internet and Society, October 2002 <http://cyber.law.harvard.edu/filtering/google>; Benjamin Edelman, "Empirical Analysis of Google SafeSearch", Berkman Center for Internet and Society, April 2003 <http://cyber.law.harvard.edu/people/edelman/google-safesearch>

35 See John Brandon, "Dropping the bomb on Google", *Wired News*, 11 May 2004 <http://www.wired.com/news/print/0,1294,63380,00.html>

36 For more on the technology and politics of Google search results, see Sandy Starr, "Google hogged by blogs", *spiked*, 15 July 2003 <http://www.spiked-online.com/printable/00000006DE60.htm>; "Giddy over Google".

37 Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems, Council of Europe, 28 January 2003 <http://conventions.coe.int/Treaty/en/Treaties/Word/189.doc> (.doc 71KB), 2.

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Media Regulation on the Internet

For hundreds of years the only means of communicating with a large number of people were the spoken word and the printed page, which also had only limited circulation. It is only over the last 50 or 60 years that telecommunications, radio and television developed as mass media and have become widely available. Major debates on politics, social issues and social change now take place through the mass media.

Until recently, only large public or private corporations have had the means to produce material for and through these media, because the cost and complexity of the technology involved were prohibitive. In the Internet age, however, Internet and multimedia technologies are available on every computer and ordinary people now have the opportunity to use mass media, both as audience and producer.

The Internet is a type of mass media with an added quality. Every Internet user has the potential to publish via the Internet and be read or seen by hundreds of millions of people. Due to the continuously growing population of Internet users – the European goal is to reach universal access – the number of people, who are potentially reachable with web publications, is widening constantly.

Paradoxically, although every website can be accessed by hundreds of millions of people, in reality more than 95 per cent of websites will not be seen by many people at all. This is due to the dazzling array and variety of websites on the Web, language barriers and people's usual preference for

"local" services and content. To use the Internet as mass media, substantial financial resources are necessary. Advertising, powerful hardware, distributed servers and broad connectivity together with attractive and up-to-date content are minimum requirements and need significant funds. This means that again only the financially powerful institutions and corporations are able to use these new media as mass media. In this way the traditional, large media companies also have a significant advantage on the Internet over other enterprises; indeed the potential leverage via the Internet can be much greater than for other media.

Media Regulation is Content Regulation. If we talk about media regulation we talk predominantly about regulating content. The content published on the Web is expected to comply with societal values, which are reflected in the local legal system. If content infringes a provision of criminal law or is adjudged to be incompatible with civil law, it must be modified or removed. But it must be made very clear: content that is not illegal must be allowed on the Internet. The Internet offers immense potential for civil society and it is in the interests of civil liberties that the public's access and use of this new medium should not be unduly restricted.

The Internet is a global medium, but applicable legal systems are usually confined to national borders. In many instances national laws differ quite substantially, which can lead to certain difficulties. For example, in some Central European countries there is strict legislation against right wing extremism (neo-Nazism), but this is absent from most other countries. Therefore there are some neo-Nazi sites on the Web, which cannot be removed because their servers are located in countries where there are no legal grounds for their removal.

Such scenarios normally give rise to calls for "filtering" or "blocking". Filtering is the selective removal of certain content from the flow of data, whereas "blocking" is the practice of making it impossible to reach certain web pages (URLs). Both methods are cost intensive, have very limited effectiveness and can lead to significant "collateral damage" to other parties (false positives). They are simply not feasible or sensible options.

The organization and technology of the Internet does not permit the use of these techniques in a successful way. On the Internet, central nodes, where you could effectively monitor the data flow, just don't exist. At the point of origin, content is split into many small data packets that seek their way through the networks on their own and are reassembled at the point of destination. There are many, many routes to get from "A to B" on the Internet. Remember: the Internet consists of a myriad of IP networks and Internet service providers can only see and monitor their own small part. Except for totalitarian States, where the Internet is seen as a threat and not as an advantage, the practice of "filtering" and "blocking" is not widely used – thank goodness!

The Responsibility of Internet Service Providers. The European Union's Directive on Electronic Commerce[1], which was adopted in 2000, defines the different roles and liabilities of Internet service providers. Section 4 deals with the liability of intermediary service providers and differentiates between "mere conduit", "caching" and "hosting".

Article 12, relating to "mere conduit", states: "Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, Member States shall ensure that

the service provider is not liable for the information transmitted, on condition that the provider: (a) does not initiate the transmission; (b) does not select the receiver of the transmission; and (c) does not select or modify the information contained in the transmission."

"The acts of transmission and of provision of access referred to […] include the automatic, intermediate and transient storage of the information transmitted, in so far as this takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission."

In Article 13, "caching" is defined as the "automatic, intermediate and temporary storage" of information. The liability of ISPs is treated more or less like "mere conduit", with the addition that "the provider acts expeditiously to remove or to disable access to the information it has stored, upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement."

Article 14 deals with "hosting", which consists of the storage of information provided by a recipient of the service. It asserts that: "Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that: (a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent; or (b) the provider, upon obtaining such

1 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

knowledge or awareness, acts expeditiously to remove or to disable access to the information."

Finally, Article 15 affirms there shall be "no general obligation to monitor". "Member States shall not impose a general obligation on providers, when providing the services covered by Articles 12, 13 and 14, to monitor the information which they transmit or store, nor a general obligation actively to seek facts or circumstances indicating illegal activity."

In most Member States this Directive has been transposed into national law and constitutes the basis for the manner in which European ISPs handle illegal content on the Internet. In some countries, including Austria, this set of rules constitutes the background for more precise and detailed self-regulation by ISPs. A code of conduct[2] tries to fill the gaps in the law by clearly defining what an ISP must do in different situations.

In an effort to eradicate criminal law issues like child pornography or right-wing extremism on the Internet, ISPs established hotlines in many countries (or have assisted in their establishment). These hotlines are run by legal experts, who check incoming complaints about criminal content. If the complaint is found to be legitimate, the hotline in the implicated server's country of origin will be contacted and the criminal content will then be removed from the Net by the provider or the appropriate law enforcement agencies. This remains the only really effective method to eradicate illegal material from the Net – it focuses on "removal at source".

Freedom of Communication and Information on the Internet. Excellent guidelines on the issue of freedom of communication and information on the Internet were prepared by the Ministerial Committee of the Council of Europe and adopted on 28 May 2003.[3] In this declaration seven principles are postulated. Excerpts are quoted on the following pages:

- Principle 1 postulates that Member States should not subject content on the Internet to restrictions which go further than those applied to other media.
- Principle 2 states that Member States should encourage self-regulation or co-regulation regarding content disseminated on the Internet.
- Principle 3 calls for an absence of prior state control. Public authorities should not, through general blocking or filtering measures, deny the public access to information and other communication on the Internet, regardless of frontiers. This does not prevent the installation of filters for the protection of minors, in particular in places accessible to them, such as schools or libraries.
- Principle 4 argues for the removal of barriers to the participation of individuals in the Information Society. Member States should foster and encourage access for all to Internet communication and information services on a non-discriminatory basis at an affordable price. Furthermore, the active participation of the public, for example by setting up and running individual websites, should not be subject to any licensing or other requirements having a similar effect.
- Principle 5 asks for freedom to provide services via the Internet. The provision of services via the Internet should not be made subject to specific authorization schemes on the sole grounds of the means of transmission used. Member States should seek measures to promote a pluralistic offer of services via the Internet, which caters to the different

2 For Austria, see: Allgemeine Regeln zur Haftung und Auskunftspflicht des Internet Service Providers, <http://www.ispa.at/www/getFile.php?id=22>

3 Council of Europe's Declaration on freedom of communication on the Internet, adopted by the Committee of Ministers on 28 May 2003 at the 840th meeting of the Ministers' Deputies.

needs of users and social groups. Service providers should be allowed to operate in a regulatory framework that guarantees them non-discriminatory access to national and international telecommunication networks.

- Principle 6 demands a limited liability of service providers for Internet content. Member States should not impose on service providers a general obligation to monitor content on the Internet, to which they give access and transmit or store, nor that of actively seeking facts or circumstances indicating illegal activity. Furthermore Member States should ensure that service providers are not held liable for content on the Internet when their function is limited, as defined by national law, to transmitting information or providing access to the Internet. In cases where the functions of service providers are wider and they store content emanating from other parties, Member States may hold them co-responsible if they do not act expeditiously to remove or disable access to information or services as soon as they become aware, as defined by national law, of their illegal nature or, in the event of a claim for damages, of facts or circumstances revealing the illegality of the activity or information. When defining under national law the obligations of service providers as set out in the previous paragraph, due care must be taken to respect the freedom of expression of those who made the information available in the first place, as well as the corresponding right of users to the information.
- Principle 7 argues that anonymity on the Internet should be preserved. In order to ensure protection against online surveillance and to enhance the free expression of information and ideas, Member States should respect the will of users of the Internet not to disclose their identity. This

> does not prevent Member States from taking measures and co-operating in order to trace those responsible for criminal acts, in accordance with national law, the Convention for the Protection of Human Rights and Fundamental Freedoms and other international agreements in the fields of justice and the police.

With the above-mentioned issues in mind, media regulation on the Internet has to, on the one hand, protect and preserve freedom of communication and information, aiming to secure access for all, and on the other, regulation has to take into account the organizing principles and technology of the Internet if it aims to fight Internet-related crime effectively. At the same time, regulation has to respect and acknowledge the global nature of the Internet. This will not be an easy task for politicians and legislative bodies. Nevertheless, Internet service providers remain willing to contribute their expertise and experience to initiatives that help to curtail illegal activity via the Internet, and at the same time increase users' confidence in this most valuable medium.

Cormac Callanan

Best Practices for Internet Hotlines

The INHOPE[1] association is five years old in November 2004 and, starting from 8 hotlines, has now grown to 20 hotlines located in 18 countries. INHOPE has members from 16 European Union States and outside Europe has members from Australia, South Korea, Taiwan and the United States of America. INHOPE provides a central co-ordination function to the work of Internet hotlines fighting illegal content and illegal use of the Internet.

During the period from March 2003 to February 2004 the INHOPE network processed more than 263,000 reports on illegal content and use of the Internet. While not all members of INHOPE handle reports about hate speech, approximately 1,500 of the reports received related to racial hatred or content against human dignity. In the six-month period from March 2004 until August 2004 INHOPE received approximately 1,700 reports in this same area. In comparison, there were over 57,000 reports about illegal child pornography during the same six months.

One of the impressive facts and strengths about INHOPE is that it brings together a wide range of know-how and varying primary interests with one basic goal – to eliminate illegal material or activity on the Internet!

The members of INHOPE are aware of how the Internet has positively transformed everyone's life and how it continues to do so. INHOPE realizes that when the Internet is used correctly it is a wonderful tool. The benefits are educational, informative and entertaining. It is also an efficient and inex-

pensive method by which to communicate with friends and family worldwide. However, INHOPE is also conscious that there can be negative aspects, particularly when it comes to its use by children or by those wishing to spread illegal racist/hate speech.

But what is an Internet hotline? Internet hotlines provide a mechanism for receiving complaints from the public about alleged illegal content and/or use of the Internet. Hotlines must have effective transparent procedures for dealing with complaints and need the support of government, industry, law enforcement, and Internet users in the countries of operation.

INHOPE is deeply conscious of the problems created by illegal content and the complexity of responding to such issues as they relate to the Internet. The reason a hotline exists is to cause the removal of illegal material from the Internet quickly, efficiently and transparently, to enable a swift investigation by law enforcement and to collaborate at an international level with other members of INHOPE.

In addition, members of INHOPE co-operate with other members in exchanging information about illegal content, share their expertise, and make a commitment to maintain confidentiality and respect the procedures of other members.

Hotline Procedures. Once a report is received by a hotline, it is logged into the hotline database system and, if the report has not been submitted anonymously, a confirmation of receipt is sent to the reporter. Hotline staff members, who are

1 INHOPE co-ordinates the work of 20 Internet hotlines in 18 countries around the world. Internet hotlines are an essential element in a co-ordinated response to the illegal and harmful use of the Internet. The work of a hotline would be greatly weakened if it operated alone and isolated from the wider world. The knowledge and training a hotline receives from INHOPE is invaluable and essential to its success.

specially trained in assessing Internet content, examine whether or not the reported material is illegal under their local legislation.

If the material is not illegal, the report is not processed any further. However, the hotline may still forward the report to a partner hotline following the INHOPE Best Practice Paper on the Exchange of Reports.

If the reported material is likely to be illegal under the local legislation of the hotline, the hotline carries out an examination to identify the origin of the material. This examination is time-consuming and requires technical expertise.

If, for example, a website is reachable under a domain name ending with the country code top level domain ".at", which stands for Austria, that does not mean that the web server is actually operated in Austria. It only means that the domain name has been registered with the Austrian domain name registry.

A domain name can be used to refer a user to any web server around the world as the domain name system only provides for the resolution of a domain name into an IP, which is used to establish a connection with a web server. Therefore the IP number has to be traced to find out where the web server is located.

In cases where the reported material is hosted on a locally based server, the hotline involves law enforcement and/or the Internet service provider in accordance with its procedures.

The decision to initiate a criminal investigation is a matter for law enforcement. The Internet service provider is responsible for timely removal of the specified potentially illegal content from their servers to ensure that other Internet users cannot access the material. Once such notifications are carried out, the hotline can close the case.

If the material is located on a server in a foreign country, matters become more difficult. In most cases the hotline does not have direct co-operation with foreign stakeholders.

However, hotline activity must not stop at national borders when a global medium like the Internet is concerned. At this stage, international co-operation is required. More importantly, in such a sensitive area, best possible measures have to be taken to ensure that co-operation is carried out in a trustworthy and secure environment. That is the reason why the INHOPE Association was established.

So, what do hotlines deal with? Even though each country has its own individual legislation relating to illegal material on the Internet, the original focus of INHOPE members related to illegal Internet child pornography and online abuse of children. However, increasingly Internet hotlines now deal with crimes of xenophobia, hate speech and racism.

For example, in the specific area of child pornography, although there is widespread international agreement that such material is abhorrent in modern society there are sometimes substantial, and sometimes subtle, variations in the regulatory environment. It is worth noting that in 2002 UNICEF estimated that 80 per cent of paedophile-related investigations involved more than one country, and 90 per cent involved the Internet. The broad geographical coverage by INHOPE hotlines is a very successful response to this global problem.

INHOPE also respects the different legal and cultural values which different countries observe. Material which might be considered illegal in Ireland, will not be illegal in the United States. Material which the United Kingdom considers illegal, is not illegal in the Netherlands.

While the definition of child pornography is perhaps the most closely resembled legislation across the globe, INHOPE

strives to ensure a consistent response in a world of small-but-significant variations. We strongly welcome the development of the Council of Europe Cybercrime Protocol on racism as a significant step forward to clarify and standardize the definitions of hate-style criminality on the Internet. We would strongly encourage governments around the world to further harmonize their legislation and anti-hate initiatives. This would also support the work of Internet hotlines active in this area. This is essential if we are to prevent a proliferation of legislative imperialism – attempts to apply individual, sometimes contradictory, national legislation in a global Internet environment. It is in all our interests if we can approximate our understanding of what is destructive to the common good of society.

Why and how hotlines co-operate. INHOPE also juggles with many different cultural priorities. Illegal activities that are considered of major importance in one country are not given the same level of severity in another country. For example, National Socialist offences, anti-Semitism on the Internet, are of major importance in countries such as France, Germany and Austria, while Internet chat rooms and child grooming are major concerns in the United Kingdom and Canada. This does not suggest that one is more important than the other but each country must establish national priorities and allocate resources.

The work of a hotline would be greatly weakened if it operated alone and isolated from the wider world. The knowledge and training a hotline receives from INHOPE is invaluable and essential to its success. Issues such as tracing material on the Internet, exchange of reports about material located in other jurisdictions and new techniques used by criminals for the exchange of illegal material on the Internet have helped a hotline perform its core activities since the beginning of INHOPE.

Of course, the work of the hotlines and INHOPE is just one of a range of responses to illegal activity on the Internet. Other responses recognized by the EU Safer Internet Action Plan include rating and filtering technologies and awareness programmes.

Experiences: Legislation. There are significant differences between dealing with child pornography and tackling hate speech on the Internet. With child pornography there are clearer, succinct and more closed definitions in international legal instruments, while hate speech has broader, more open and therefore more ambiguous definitions. The Council of Europe Cybercrime Convention is a useful example. The definition of child pornography is:

> For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:
>
> a. a minor engaged in sexually explicit conduct;
>
> b. a person appearing to be a minor engaged in sexually explicit conduct;
>
> c. realistic images representing a minor engaged in sexually explicit conduct.

However, in the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, hate speech is defined as:

> "racist and xenophobic material" means any written material, any image or any other representation of ideas or theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors.

The definition of child pornography is clear and succinct but even the underlined parts of b) and c) can be a challenge to apply. However, the second definition is a major test to match with possible illegal material. Whereas illegal child pornography is primarily image focused with similar global definitions, illegal hate speech is based on text rather than images with very different approaches and different legislation around the world. Hate speech also uses hidden language to avoid detection.

National legislation normally makes it illegal for anyone to knowingly distribute, produce, print, publish, import, export, sell or show any child pornography. However, differences start to emerge immediately after this statement. The definition of a child varies across Europe and the world. In Europe the upper age limit of a "child" ranges from 14 to 18 years. In some countries knowingly possessing child pornography is also a criminal offence. Sometimes the definition of child pornography includes computer generated or altered images. Sometimes it includes cartoon characters. Most definitions require the image (text, etc.) to show a child engaged in explicit sexual activity. This use of the words "explicit sexual activity" has created some difficult problems in relation to pictures of children being abused but with no sexual activity involved.

Regardless of the range of specific legal and jurisdictional definitions, each individual member of INHOPE operates a hotline within a single legal jurisdiction that means that any interpretations of law are subject to critical evaluation of reported material. The problems arise when material is reported to one hotline that is located in a separate jurisdiction from the reported material. If material is not illegal in the country where the hotline receives the report, the report is not usually processed any further. If the material is likely to be illegal in the country where the hotline receives the report, the report

is forwarded to the hotline in the country where the material is located. The hotline in that country then determines if the material is likely to be illegal under the local law. If it is not illegal no further processing on the report is performed.

It is perhaps obvious to those with a legal background but the clear definitions included in national legislation are extremely difficult to apply in daily practice. All hotlines receive a broad range of reports for processing. These reports encompass such issues as child pornography, hate speech, adult pornography, unsolicited adult e-mails, virus attacks, financial scams and enquiries about filtering software solutions. There have been many requests for advice about best practices in dealing with non-illegal, yet harmful material on the Internet for the younger Internet surfers. The difference between what is illegal and what is harmful is at the forefront of every assessment performed by the hotline.

Processing Reports. Experience has now confirmed that tracing and tracking illegal Internet content following a report can be time-consuming and difficult. There are major difficulties about a hotline retaining material for law enforcement purposes since there are no exemptions under national law for the work of the hotline service. Therefore INHOPE best practice discourages any hotline from storing illegal content although some hotlines have specific agreements with national police forces to enable them to forward illegal content for investigation. Where hotlines do not keep or pass on specific Internet content a timely investigation is required from all parties to ensure a rapid response to the further spread of illegal content on the Internet.

Lessons Learned. It is clear from the feedback received by the hotlines that Internet users are pleased with the existence of the INHOPE hotline network and the opportunity they provide

for Internet users to respond to illegal material on the Internet. It is also clear from the volume of reports processed by the hotlines and the number of convictions which can be linked to successful processing of reports that hotlines play a valuable role in the fight against illegal content on the Internet.

Activities of INHOPE. INHOPE carries out a vast range of activities and the members currently meet at least three times a year. INHOPE facilitates the exchange of reports and expertise among members. When a report is received in one country about material in another, the country hotlines involved are notified for quick and efficient processing. INHOPE also provides training at every meeting from a wide range of experts on issues ranging from technical and psychological to legal and managerial matters. There is a bursary programme for hotline staff which permits the exchange of staff among hotlines for cross-training and one-to-one training and sharing. The programme is highly appreciated by the hotlines that have benefited directly from the scheme. A mentor programme is also in place which follows on from the bursary programme. This gives one-to-one assistance from an experienced INHOPE member to a new hotline initiative. A Vanguard programme permits INHOPE to invite key personnel from a new hotline initiative to participate at an INHOPE members' meeting to enable essential early contacts to develop.

Conclusion. INHOPE has moved progressively from informal to formal co-operation and this move has meant that the organization has had to put in place mechanisms for decision-making that are acceptable for all the different types of organizations involved.

INHOPE is a very successful response to illegal use and content on the Internet. The broad network coverage, the exchange of reports about illegal content, the varied backgrounds and expertise of its membership organizations, the sharing of expertise and knowledge and the respect for cultural and legal diversity across the membership base has demonstrated the effectiveness of the hotline network. INHOPE is an effective response to illegal use and by carefully developing best practice and identifying criminal trends is also able to empower government, law enforcement, child welfare and industry to adopt the appropriate strategies to combat illegal use and content on the Internet.

The original members of INHOPE were mainly ISPs; however the INHOPE network naturally expanded and now includes hotlines set up by children's charities and public bodies, for example. All of them work closely with law enforcement at a national level and across borders. Getting co-operation to work across borders is difficult enough and getting it to work politically across such different types of organizations is an important success.

The experience of INHOPE over the last number of years is that major success can be achieved only with a co-ordinated, cross-sector, cross-cultural response to online illegal content. It is critical to identify key areas of agreement, to clarify the language we use to ensure consistency, to seek consensus on definitions and on priorities in order to enhance co-ordination, to identify good practice in different regions and countries and to prioritize based on our capabilities.

Outreach, training, awareness and education are essential responses to illegal content – especially hate speech. Raising awareness is of major importance in the fight against hate speech, since hate speech cannot be banned from the Internet

completely. The inconsistencies of hate speech need to be exposed and the truth needs to be promoted so that the floor is not left only to those who publicize hate speech.

The EU Safer Internet Action Plan has been essential to the success of INHOPE. Without the financial support received under the plan, it is unlikely that so much could have been achieved. Of course, more resources – financial and otherwise – are needed to increase the scope and activities of INHOPE. INHOPE would specifically pay tribute to the staff of DG Information Society for their support and encouragement during the last number of years.