

To the Ethics Committee of the Canadian Parliament. From John Carr OBE, Secretary, UK Children's Charities' Coalition on Internet Safety

Honourable Members of the Ethics Committee, please find below some remarks on the behaviour of MindGeek as a company. I draw on our experience in the UK, and in particular I refer to analogous challenges which we had to address in respect of children gaining unlawful access to online gambling web sites. As you will doubtless know the UK Government and all of the UK's major political parties are committed to introducing age verification to restrict children's access to sites such as PornHub although it is taking a little longer to get it going than many of us had imagined it would. Nevertheless, just before Christmas the Government restated its commitment in that regard and this was well received by all the major political parties and children's organizations.

Many thanks for your attention.

John Carr

To many people the very idea of discussing whether or not a porn site can operate within an ethical framework will seem absurd because the porn industry itself is founded on unethical premises. I do not discuss that point. I limit myself to discussing the behaviour of porn companies, from an ethical standpoint.

It is well established that not everything that is legal is also necessarily ethical. In the case of PornHub, and all commercial online porn companies of which I have any knowledge, what we typically see are investors realising there was a gap or an ambiguity in the law and in public policy then deciding to exploit it.

Many of the investors or their advisers were already in the porn business but all that does is underline the knowing nature of their ethical transgression. This is because, and here my comments apply to amateur and commercial sites alike, they all knew or ought to have known that if they set up as porn providers in the physical world they would have been caught by and would have had to comply with long established and (relatively) effective, enforceable rules.

Thus, by choosing to operate over the internet, they were intentionally or recklessly ignoring and bypassing those limitations and norms. In effect they were smirking and saying "Catch me if you can".

Cynically latching on to the new libertarian spirit of the internet age they, equally cynically, often donned the cape of free speech and artistic expression when really, all along, at least for the larger commercial players such as Mindgeek who are the main concern of your Committee, it was just about making money. Alternatively porn publishers might claim, or it was claimed on their behalf, they had a valuable role to play in providing sex education. It would be difficult to conjure up a more grotesque proposition.

The policy and legal gap or ambiguity which porn companies exploited emerged solely because the speed of technological change had completely outpaced the capacity of public policy makers and law makers to keep up. Some of the more far thinking porn merchants likely calculated that, eventually, public policy and the law would draw level but they would make a lot of hay while the sun continued to shine.

So while, in most jurisdictions, porn providers may not have behaved illegally, they most certainly behaved unethically.

The reasons which lie behind the previously established real world rules about access to porn did not vanish, nor were they reduced or materially altered just because the mode of delivery changed. On the contrary, the way the internet massively increased indiscriminate and unlimited access rather added to the ethical burden, a burden porn companies failed to discharge.

In the UK we had an analogous child protection problem in the late 1990s and early 2000s when children started using online gambling web sites. The legal age limit for gambling unambiguously was and is 18. The same as it is to buy porn or go to a public cinema showing porn. Instances of a child being able to place a bet at a race course, at a football match or in a bookie's shop were extremely rare for the very simple reason the child could be seen and proof of age demanded. Penalties for failure to comply were severe.

When the internet arrived and gambling companies set up in cyberspace, every one of them acknowledged they were aware that children were using their services, placing bets via debit cards banks issued to account holders aged 12 or above. The gambling companies all said they were "very concerned" about the problem but actually almost all of them did nothing until the law compelled them to introduce age verification. Once they introduced age verification we never heard of another case of a child simply ticking a box to say they were an adult and proceeding to gamble. The fact that a handful of gambling sites did take some steps to limit children's access e.g. by disallowing debit cards that they knew could be used by children, rather amplified the ethical shortcomings of the majority, who did nothing, claiming that asking everyone to tick the box showed they were doing their best.

The law requiring age verification to be introduced on gambling sites was passed in 2005 and became operative on 1st September 2007. Since that moment no company, or indeed any business providing "adult content" or age restricted goods such alcohol, tobacco and the like, had an ethical leg to stand on, at least not in any of the many jurisdictions around the world where data sources exist which are similar to those in the UK. Where such data sources do not exist porn companies and others could have invested in creating them as a prior condition of establishing or continuing to do business. Alternatively they could have ceased trading until they had developed an ethically sound system for keeping children away from their sites, and for preventing adults from accidentally landing on their home page. They did not do that. Like the UK's gambling companies, the world's porn companies are waiting to be forced to improve their behaviour. I hope Canada succeeds in bringing that about."