

Sept 2006

Dear police and justice colleagues:

As you know, the Canadian Human Rights Commission has a special mandate to deal with allegations of hate on the Internet pursuant to section 13 of the *Canadian Human Rights Act*.

In December 2005 the Commission was host to a conference, which some of you attended, entitled *A Serious Threat: A Conference on Combating Hate on the Internet and Section 13 of the Canadian Human Rights Act*. I have attached a pdf copy of a special edition of *Canadian Issues* magazine highlighting some key papers presented at the conference.

Several police officers who attended the conference suggested that it would be beneficial to bring together a small group of police and Commission staff to share knowledge on investigative techniques, discuss cooperation between organizations, and possibly begin to build a national network of hate on the Internet investigative bodies.

With these objectives in mind, the Commission would like to invite your organization to send a representative to a meeting at our headquarters in Ottawa on October 16 and 17, 2006. I would appreciate it if you would let me know if your organization can attend the meeting.

It would also be helpful if you could advise me of any other police services that you think should be invited. Right now we are inviting the following services to send a representative(s):

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The meeting will be small (maximum 25 participants) and informal, with an emphasis on discussion and information sharing and with a minimum of formal presentations. The meeting will be open only to select Commission staff, relevant federal government officials and police officers.

We have not yet drafted an agenda, because we wanted to seek your ideas before doing so. Following are some the main topics/issues we would propose to cover:

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- A roundtable update from all organizations on their work regarding hate on the internet;
- Latest techniques and technology for investigating hate on the Internet;
- Possibilities for mutual assistance between organizations to investigate hate on the Internet and related cases;
- The interplay between the *Criminal Code* and the *Canadian Human Rights Act* and how to use them effectively; and
- The possibility of establishing an ongoing network of hate on the Internet investigators.

I hope your organization will be able to send a representative to this important meeting.



CANADIAN  
HUMAN RIGHTS  
COMMISSION

COMMISSION  
CANADIENNE DES  
DROITS DE LA PERSONNE

December 23, 2005

Dear

On behalf of the CHRC and the ACS I am writing to thank you for participating in "A Serious Threat". The explanation you gave of the need to link police, human rights commissions, and other organizations fighting hate was very helpful in giving participants at the conference a comprehensive understanding of hate mongers and their activities. We have had very positive feedback from participants at the conference and that is largely due to the excellence of the presentations.

We are having your slide presentation translated and plan to post it and the other presentations on our website in the new year. If you agreed to write an article for the special edition of the Association for Canadian Studies Magazine, please forward it to at the ACS by January 21, 2006.

Yours truly,

Harvey Goldberg  
Team Leader  
Proactive Initiatives

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**BRIEFING NOTE**

**Issue: Hate on the Internet**

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- Discussions have begun with internet service providers and other stakeholders;
- The Commission has developed a working relationship with the Media Awareness Network whose excellent educational work prepares Canada's youth to be web aware;

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## **BRIEFING NOTE**

### **Issue: Hate on the Internet**

#### **Key Messages**

The Commission is taking a proactive approach to combating hate on the internet by ensuring that all section 13 complaints are pursued effectively and expeditiously while at the same time working with Internet Providers and other elements of civil society to develop non-complaints based approaches to combating hate.

#### **Justice Canada Position**

In March 2005 the government released *Canada's Action Plan Against Racism: A Canada for All*. The Action Plan includes two commitments relating to hate on the Internet:

- Justice Canada proposes to combat the communication of hate propaganda via the Internet by working to establish a tip line for reporting it.
- Justice Canada also proposes to provide public education and information on criminal legislation prohibiting hate-speech. This includes helping Internet service providers identify online hate propaganda.

Justice Canada has not yet implemented these commitments.

#### **Background**

In late 2001, the Canadian Human Rights Act was amended to make it clear that the section 13 provisions dealing with hate messages included hate transmitted by means of the Internet. Since 2002, 27 complaints have been accepted under section 13. Of those, 21 have been referred to the Tribunal for further investigation; 3 are still under investigation, and 3 files were closed.

So far the Tribunal has issued four decisions, determining in all cases that the respondents had contravened section 13 of the Act and ordering them to cease and desist from their activities.

In order to facilitate the processing of section 13 complaints, the Commission has launched several initiatives:

- A section 13 complaint team was established which includes investigative, legal and policy officers with specialized expertise in issues relating to section 13. ct. In

the last four months of 2005, 17 cases were referred to the Canadian Human Rights Tribunal for hearing;

- Investigative procedures have been reviewed to ensure cases are dealt with expeditiously and thoroughly;
- Discussions have begun with internet service providers and other stakeholders;
- The Commission has developed a working relationship with the Media Awareness Network whose excellent educational work prepares Canada's youth to be web aware;
- Innovative legal approaches are being pursued at the Tribunal and in the Courts including, most recently, a successful application for an injunction ordering a respondent to cease his activities pending a Tribunal determination of the complaint against him.

**Considerations/Analysis (as required)**

The Chief Commissioner wrote to the previous Minister of Justice expressing the Commission's concerns with regard to the proposal for an hate on the Internet hot line. Of particular concern to the Commission is how the tip line would work in conjunction with the Commission's existing intake process and its statutory mandate under section 13.

Commission officials have been in contact with Justice officials on this issue and they have been receptive to the Commission's involvement in developing this proposal. However, no substantive discussions have taken place, or work commenced, as a result of delays in the Department of Justice.

**Letter signed June 21**

The Honourable Irwin Cotler, P.C., O.C., M.P.  
Minister of Justice and Attorney General of Canada  
284 Wellington Street  
Ottawa, Ontario  
K1A 0H8

Dear Minister,

I read with great interest your May 9 speech, *Towards a National Justice Initiative Against Racism and Hate*, especially your comments concerning hate on the Internet. The Commission applauds your strong commitment to combatting hate and I want to assure you of the Commission's full cooperation. As you are well aware, this is an issue of direct concern to the Commission given our statutory mandate under section 13 of the Canadian Human Rights Act.

The CHRA was amended in late 2001 as part of Bill C-36 to clarify that section 13 of the CHRA, originally designed to deal with telephonic hate messages, also covers hate messages transmitted via computer systems. Since then the Commission has received approximately twenty-five complaints alleging a violation of section 13. Four cases have been successfully argued before the Canadian Human Rights Tribunal with cease and desist orders having been made against the respondents as well as financial penalties and special compensation being ordered.

The Commission believes that section 13 is a powerful tool to combat hate. Even before 2001, going back to inception of the Commission, section 13 was used successfully to curtail the hateful activities of people such as John Ross Taylor. In that case Mr. Taylor served jail time as a result of his defiance of a Canadian Human Rights Tribunal order. A Tribunal decision which finds that a respondent has violated section 13 sends a powerful message of social solidarity with those targeted: there is no place in Canada for hate.

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As part of the Commission's ongoing change process the Commission is introducing special measures to ensure that section 13 complaints are dealt with efficiently and effectively. This includes the implementation of a section 13 strategy which addresses both operational and policy issues.

I noted the commitment in *A Canada for All: Canada's Action Plan Against Racism* to establishing a tip line for reporting hate on the Internet. While some material reported to a tip line might be appropriate for investigation by the police under provisions of the Criminal Code, the Commission believes that many, if not most, valid tips would come under the jurisdiction of the Commission. It is therefore critically important that the design and implementation of the proposed tip line be carried out in consultation with the Commission in order to ensure that tips submitted by concerned citizens are pursued appropriately.

Likewise the proposal to provide public education on the criminal aspects of hate on the internet to internet service providers should, in our view, be developed in close consultation with the Commission in order to ensure that there is a clear understanding of the difference between the Criminal Code provision regarding hate propaganda and section 13 of the CHRA. Both laws are important and have a role to play, however, as the Supreme Court noted in the Taylor case, they have distinct purposes.

As you outlined in your May 9 speech, hate on the Internet is part of a national and transnational problem which must be confronted by both governments and civil society. To this end the Commission believes it is important to work with the police, government departments, and NGOs that have a common interest in combatting hate on the Internet. Recently the Commission hosted an interdepartmental briefing at which officials from various departments were present including representatives from your department, Canadian Heritage, the RCMP, Industry Canada, Public Security and Emergency Preparedness. The purpose of this meeting was to update these departments on the Commission's mandate and the steps we are taking pursuant to section 13. We will pursue other such initiatives in the future, including a small conference on Hate on the Internet that we are tentatively planning for next fall. I have enclosed, for your information, copies of the deck presented to the interdepartmental meeting.

While the Commission must of course maintain its independence we believe that combatting hate on the internet is a matter on which the interests of the Government of Canada and the Commission are congruent. We were disappointed that the Commission was not consulted during the development of *A Canada for All*, particularly in light of the fact that some of the actions outlined in the *Action Plan* have direct implications for the Commission.

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I hope you find this information on the Commission's ongoing efforts to fulfill our mandate pursuant to section 13 useful. I would be pleased to discuss this matter with you in person should you wish.

Yours sincerely,

Mary Gusella

cc: The Honourable Raymond Chan  
Minister of State (Multiculturalism)

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