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**CANADIAN JEWISH CONGRESS**  
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December 6, 2006  
15 Kislev 5767

Acting Chief Commissioner David Langtry  
Canadian Human Rights Commission  
344 Slater Street, 8th Floor  
Ottawa, Ontario K1A 1E1

Dear Mr. Langtry:

Canadian Jewish Congress has, since 1995, worked to combat the spread of hate on the Internet. Our early efforts, focusing on educating users and opposing hate-mongers on list-servs and bulletin boards, was given a tremendous lift by the confirmation that section 13 of the *Canadian Human Rights Act* applied to the Internet. The subsequent conviction of Ernst Zundel for the antisemitic content of *Zundel'site* placed Canada in the forefront of the battle against cyber-hate.

In the years that have passed since that historic decision, the Canadian Human Rights Commission and the Tribunal have been active in countering the view that the internet provides hate-mongers an anonymous forum for promoting their view. Indeed, CJC, more than 10 years ago, observed that the internet might have the appearance of a wild frontier, but that it could be – and must be – tamed. Through your efforts and through those of organizations like CJC, Canada has developed a significant body of case law that sets an international standard not only for human rights proceedings, but for Criminal Code convictions as well.

According to statistics compiled by the Simon Wiesenthal Centre, there are now more than 5000 hate sites on the internet. We may draw some comfort from the fact that this number represents a small fraction of the number of sites that populate the world wide web, and be further comforted by the fact that only a small number of those 5000 sites are owned by residents of Canada (with virtually none hosted by Canadian ISPs). This is a tribute to the work that has been done by the Commission, advocacy groups and law enforcement agencies across the country. We will of course not be satisfied until the number of "Canadian sites" has been reduced to zero, but the work is well underway.

Over the past number of years we have been following the work of government and ISPs in other jurisdictions who have taken on the arduous task of dealing with the proliferation of child pornography on the Internet. The ground-breaking work of *British Telecom* and the *Internet Watch Foundation* has been widely studied and has recently been emulated in Canada through a partnership with Canadian ISPs, *Project Cleanfeed Canada* and *Cybertip.ca*. This is important work and we applaud the involvement of all parties who are working to preserve the safety of children every from such malignant predation.

We also believe that the time has come for us learn from those who lead the fight against child pornography. If service providers can develop a system and protocol to block access to foreign-based pornography sites then why can the same technology and protocols not be enlisted in the fight against internet hate?

CJC proposes that partnership be developed between Canadian police services that have developed an expertise in dealing with sections 318, 319, and 718 of the *Criminal Code of Canada*, the Canadian Human Rights Commission (which has expertise in the interpretation of section 13 of the *Canadian Human Rights Act*). The purpose of this partnership would be to analyze foreign websites to make a determination as to whether a particular site would, if it or its owner was located in Canada, be deemed sufficiently problematic to be referred to tribunal. Such a determination could then be passed to ISPs who would then block access.

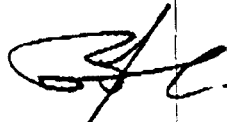
Based on conversation with a number of ISPs, we believe that they would be amenable to such an arrangement so long as they could refer to the determinations of a neutral body to guide their actions in this matter. Again, this mirrors the arrangement that has been developed with *Project Cleanfeed Canada*.

We believe that the Canadian Human Rights Commission, by virtue of its expertise and eminent standing is best positioned to lead the development of this program and to provide the rubric under which determination regarding the internet hate would be made.

We have had informal conversations with Harvey Goldberg, team leader of the Commission's Pro-Active Initiatives Team, who believes that this concept has merit and is worthy of further discussion.

We look forward to meeting with you in the near future to discuss this matter and will contact your office in a few days to make the necessary arrangements.

Yours truly,



Bernie M. Farber  
Chief Executive Officer  
Canadian Jewish Congress

## **Project Cleanfeed Canada Frequently Asked Questions**

### **1. Q. What is Cybertip.ca?**

Cybertip.ca is Canada's official tipline for reporting online child sexual exploitation including child pornography, luring, children exploited through prostitution and child sex-tourism. Cybertip.ca was launched as the national tipline in January 2005. The tipline triages reports from the public and forwards those that are potentially illegal to law enforcement in the appropriate jurisdiction. Cybertip.ca contributes to public education and prevention through its online safety strategies and national awareness campaigns.

### **Q. What is Child Pornography?**

Child pornography is child sexual abuse. For it to be created, a child has to be assaulted or posed deliberately in a sexualized manner. Child pornography is never accidental and its effects are substantial and widespread. The Criminal Code of Canada defines child pornography under Section 163.1.

### **Q. What is the scope of the problem?**

Every day Canadians are encountering child pornography on the Internet, using Cybertip.ca to report over 11,000 suspected cases. While it is virtually impossible to estimate the volume of child pornography on the Internet, our sister agency in the United States, the National Center for Missing and Exploited Children's Cybertipline, provides recent statistics that speaks to a growing problem.

On average, the U.S. tipline receives 700 – 1,100 reports per week. In addition, the Cybertipline reviews 75,000 – 100,000 images/videos a week, forwarded from U.S law enforcement.

### **Q. What authority does Cybertip.ca have to access child pornography and how is it held accountable?**

In its establishment, Cybertip.ca was mandated by Manitoba's Attorney General to accept reports from the public about the sexual exploitation of children on the Internet. In adherence to policies and procedures approved by the National Law Enforcement Steering Committee and Justice Manitoba, Cybertip.ca analysts obtained Special Constable Status in and for the Province of Manitoba for the purpose of carrying out their respective duties. Letters of support were received from various Attorneys General and the Deputy Prime Minister of Canada. In May 2004, the Government of Canada announced Cybertip.ca as Canada's national tipline for the public to report online child sexual exploitation.

Cybertip.ca is a national program owned and operated by the Canadian Centre for Child Protection Inc. (formerly known as Child Find Manitoba). The Canadian Centre for Child Protection is a registered charitable organization overseen by a broadly representational Board of Directors.

As deemed necessary by the Winnipeg Police Service and the RCMP D Division (Winnipeg), officers overseeing the Integrated Child Exploitation Unit conduct compliance inspections to ensure Cybertip.ca handling of reports complies with the tipline's Policy and Procedure Manual.

**Q. What type of training does a Cybertip.ca content analyst receive?**

Analysts receive training in report preparation, complaint analysis, sexual maturation rates, and cybercrime investigative techniques. Training has been developed in concert with law enforcement, justice officials, and experts in the area of child development. Additionally, Cybertip.ca's Policy and Procedure Manual serves as the principal guide for management and staff. It was reviewed and approved by the National Law Enforcement Committee (comprised of RCMP officials and Chiefs of Police).

**Q. How will Project Cleanfeed Canada work?**

Cybertip.ca will create and maintain a regularly updated list of specific foreign-hosted Internet addresses (URLs) associated with images of child sexual abuse and will provide that list in a secure manner to participating ISPs. The ISPs' filters will automatically prevent access to addresses on the list. There is essentially no "human" intervention on the part of participating ISPs. ISPs do not have input into creating the list nor knowledge of what is contained on it.

**Q. How does Cybertip.ca amass the URL list?**

Cybertip.ca receives complaints from Canadians regarding websites potentially hosting child pornographic images. Once in receipt, analysts assess and validate the reporting person's information. Reports deemed potentially illegal are forwarded to the appropriate law enforcement jurisdiction. Child pornography websites meeting the necessary criteria are amassed on the Project Cleanfeed Canada distribution list which is pulled automatically by participating ISPs.

**Q. Is there a legal obligation to do this?**

There is no legal obligation to do this; it will be entirely voluntary. ISPs may have technical or other reasons for not adopting the system. Enquiries should be directed to the ISPs themselves.

**Q. Will the system filter legitimate, non-child pornography sites?**

The system is built to prevent access to Internet addresses specifically containing child pornography images and to avoid "collateral damage". Content is assessed such that a minimum of 2 analysts will be required to approve the URL before submission. Other automated checks are also performed to ensure the integrity and accuracy of information on the list.

Additionally, while the child pornography provisions under the Criminal Code recognize children under 18, the tipline will only be adding URLs displaying images of

prepubescent children being assaulted or who are posed deliberately in a sexualized manner.

**Q. Are blocked sites limited to those outside Canada?**

Yes. Only those URLs hosted outside Canada will be added to the database. Law enforcement will proceed with their normal course of investigation for those sites hosted within Canada. IP address lookup software will be used to automate the exclusion of Canadian URLs.

**Q. How often does Cybertip.ca review the sites contained on the blocked list?**

An automated process will be put in place whereby the list content is checked for modification on a weekly basis. This automated process iterates through the list of URLs, and will flag any records that have had content changes. Records containing changes will be manually reviewed by an analyst to determine whether the URL now contains legal or illegal content.

**Q. What is the appeal process?**

In the rare event that a "legitimate" address is inadvertently filtered, an appeal process will be in place to correct the situation. A customer or content owner contacts an ISP with a complaint regarding a site being inaccessible. Upon receipt, the complaint is escalated within the ISP to determine if the issue concerns a blacklisted site. Once Cybertip.ca receives the complaint from an ISP (or directly from a content owner), Cybertip.ca reassesses the material. As a final check point, Cybertip.ca seeks an independent judgment of the content from a national law enforcement entity. Their decision is final as to whether the URL remains on the list. The appeal process is modeled after the UK's Internet Watch Foundation system for addressing complaints arising through the BT Cleanfeed filtering initiative. Since BT implemented Cleanfeed in 2004, the IWF has not received a single request for appeal.

**Q. Will people be able to tell which addresses are filtered under this system? Should they be able to do so?**

No. They'll get a standard message indicating they are unable to access the Internet address. The purpose of this initiative is to reduce accidental access, not to highlight problematic content.

**Q. Is this the solution to online child pornography? Or can the system be circumvented?**

As with any Internet filtering system, determined and net-savvy individuals may be able to circumvent the system to access addresses that will otherwise be filtered. Accordingly, this is not, nor is it meant to be, a perfect solution to the battle against online child sexual exploitation and child pornography. The system is intended to reduce accidental access to child sexual abuse images as well as create a disincentive for those trying to access or distribute child pornography.

**Q. Some ISPs in the past have insisted they won't take down content they host unless they receive a court order confirming that it is illegal, yet you're willing to block content that Cybertip.ca, which is not a court, has deemed to be illegal. How can you justify these different positions?**

ISPs do not consider themselves qualified to make determinations regarding the legality of content on their networks. The Criminal Code establishes a regime for a judge to make such legal determinations for child pornography content on the Internet and to issue take-down orders if such content is hosted in Canada, and so ISPs rely on the courts in adherence to that legislated regime. No such regime exists for child pornography content hosted outside of Canada so filtering access to it based on the Cybertip.ca list represents an effective way to deal with such foreign content. Cybertip.ca is recognized by the federal and provincial governments and domestic law enforcement agencies for its expertise in assessing the likely illegality of alleged child pornography online.

**Q. Will Canadian ISPs' Acceptable Use Policies (AUPs) and Terms of Service permit them to filter access to child pornography content?**

Typically, ISPs' AUPs and Terms of Service permit this action in these types of circumstances.

**Q. Will ISPs filter access to other content, such as hate propaganda, obscenity, terrorist sites, suicide assistance sites, bomb-making sites, phishing sites etc.?**

No. It is illegal in Canada to access child pornography on the Internet. There is a designated organization (Cybertip.ca) with the expertise and widely-accepted authority to assess that such content would clearly be criminal in Canada. The same circumstances do not currently exist for any other form of online content.

**Q. Will the police have access to, or be able to obtain through warrant, traffic logs identifying customers who have tried to access sites on the Cybertip.ca list?**

No. The system has been deliberately designed to NOT log traffic to the filtered sites on the Cybertip.ca list. This initiative is intended to prevent inadvertent access. ISPs are not law enforcement and this is not a law enforcement tool.



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Sent via courier

January 18, 2007  
28 Tevet 5767

Chief Commissioner David Langtry  
Canadian Human Rights Commission  
344 Slater Street, 8<sup>th</sup> Floor  
Ottawa, ON K1A 1E1

Dear Mr. Langtry:

On December 6, 2006, Canadian Jewish Congress chief executive officer Bernie M. Farber sent a letter to your attention outlining an approach for combating hate on the internet. Broadly speaking, the recommendation is for a partnership between Canadian police services and the Canadian Human Rights Commission to analyze foreign-based website to make a determination as to whether a particular site would, if it or its owner was located in Canada, be deemed sufficiently problematic to be referred to tribunal. Such a determination could then be passed to Canadian Internet Service Providers who would then block access.

We welcome the opportunity to discuss this matter with you in greater detail. Mr. Farber travels to Ottawa on a regular basis and would be pleased to meet with you and your associates in person, with other parties joining by conference call as appropriate.

We look forward to meeting with you on this important matter and will contact your office in the next few days to determine potential meeting dates.

Yours truly

Len Rudner  
National Director of Community Relations  
Canadian Jewish Congress

cc. Bernie M. Farber, CEO Canadian Jewish Congress

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