

Different responses to Illegal Content on the Internet - Child Pornography and Hate Speech

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Purpose

- Clarifying and differentiating the fight against child-pornography (whose borders are indisputable) and against hate-speech (which doesn't meet with any consensual definition) on the Internet. Those fights and the reasons for it are not similar.
- We think that too many people are confused and tend to consider both as part of a whole "evil Internet".
- By defining precisely what we are talking about, such a presentation would provide a good introduction and a necessary prerequisite to further discussions about hate speech on the Internet.



Presentation

- INHOPE
 - History
 - Sharing Expertise
 - Membership
 - Statistics
 - Success Stories
- Illegal content
- Hate Speech
 - UN, CoE
 - Germany, France, UK, Ireland
- Contact

29 August 2004

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Slide 4



INHOPE

History of INHOPE

- 1998 - INHOPE Forum established
- November 1999 - INHOPE Association founded
- Eight founding members
- EC-funded under the Internet Action Plan
 - INHOPE 1 from June 2000 – May 2002
 - INHOPE 2 from September 2002 – February 2004
 - INHOPE 3 from March 2004 – February 2006
- Now 20 members from 18 countries



Mission of Inhope

The mission of INHOPE is to facilitate and coordinate the work of hotlines in responding to illegal use and content on the Internet.

Red Herring, January 2002

RED HERRING
THE
**LOLITA
PROBLEM**

ILLEGAL CHILD PORNOGRAPHY IS BOOMING, THANKS TO THE INTERNET—AND THE UNWITTING SUPPORT OF CORPORATE AMERICA.

Three years ago, "Nika" was a typical sixth grader in St. Petersburg, Russia, who loved classical music. "Especially Beethoven," she says. But then she and her older sister, "Nadka," began posing nude for Internet sites.

AN INVESTIGATIVE REPORT BY ROBERT GROVE AND BLAISE ZEREGA

JANUARY 2002 • RED HERRING 47

INHOPE Objectives

- Exchanging expertise
- Exchanging reports
- Supporting new hotlines
- Interfacing with initiatives outside the EU
- Educating and informing policy makers, particularly at the international level

Staffing

- Executive
 - President
 - Vice-President
 - Treasurer
 - Executive Member without portfolio
 - Executive Member without portfolio
- Permanent Staff
 - Secretary General
 - Project Co-Ordinator
 - Technical and training Co-Ordinator



- Working Groups
 - Code of Practice
 - Portable Mobile Devices
 - Content,
 - Funding
 - Stats

Sharing Expertise

Sharing Expertise

- ☉ Members Meetings
- ☉ Training Seminars
- ☉ Members Mailing list(s)
- ☉ Extensive Website (www.inhope.org) including members area
- ☉ Best Practice, Policy and Technical Background Papers
 - (Staff recruitment and staff welfare, Exchange of Reports, Self-evaluation, Statistics CoP)
- ☉ Member's Pack
 - (Best Practice Papers, Statutes, Rules, Contracts, Meeting notes)
- ☉ New Hotline Starter Kit (Under Construction)
- ☉ Working Groups



Membership



Membership qualifications Article 5

Members must:

- provide a mechanism, other than reporting channels provided by law enforcement agencies, for receiving complaints from the public about alleged illegal content and/or use of the Internet;
- have effective transparent procedures for dealing with complaints;
- have the support of government, industry, law enforcement, and Internet users in the countries of operation;
- co-operate with other members in exchanging information about illegal content and use and share their expertise;
- make a commitment to maintain confidentiality; and
- respect the procedures of other members.



Membership Benefits

Benefits of membership

- Training and learning about common issues
- Bi-lateral learning opportunities
- Passing on and receiving reports
- Exchange experience
- Bursary programme
- Mentor programme
- Increase of credibility and efficiency

Support for new hotline

- Members Pack
- Bursary Programme
- Mentor Programme
- New Hotline Visits
- Vanguard Programme



Safeline visit
Greece in Jan-04

Safeline joined
INHOPE
in Feb-04

29 August 2004

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Slide 15



The Association of Internet Hotline Providers.

EN	FR	DE	ES	ABOUT US	THE PROBLEM	FACTS BY COUNTRY	NEWS / EVENTS	OUR PARTNERS	MEMBERS AREA
MAKE A REPORT	AUSTRALIA	DENMARK	GERMANY	IRELAND	SOUTH KOREA	TAIWAN			
CHOOSE COUNTRY	AUSTRIA	FINLAND	GREECE	ITALY	SPAIN	U.K.			
	BELGIUM	FRANCE	ICELAND	NETHERLANDS	SWEDEN	U.S.A.			

www.inhope.org

WELCOME TO INHOPE

The mission of INHOPE is to facilitate and co-ordinate the work of internet hotlines in responding to illegal use and content on the Internet.

ANNOUNCEMENTS

- **INHOPE launches updated website and Annual report**
ECPAT Taiwan joins INHOPE, ADA becomes full member
New Executive Members for INHOPE

LATEST NEWS

- 16-06-2004
INHOPE participates at OSCE Meeting on the relationship between racism, xenophobic and anti-Semitic propaganda on the Internet and hate crimes
[Read Speech](#)
- 14-05-2004
INHOPE Report launched describing the work of INHOPE over the last two years.
[Read Details](#)
- 14-05-2004
INHOPE Code of Practice launched
[Read Details](#)

Supported by: EUROPEAN COMMISSION
INFORMATION SOCIETY

Rated By:

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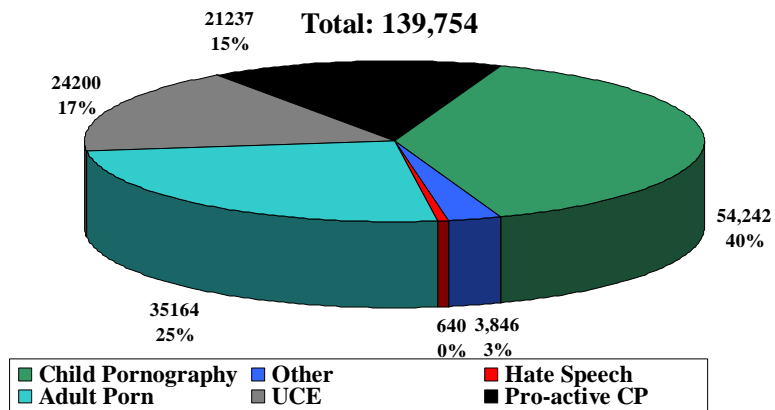
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Slide 16

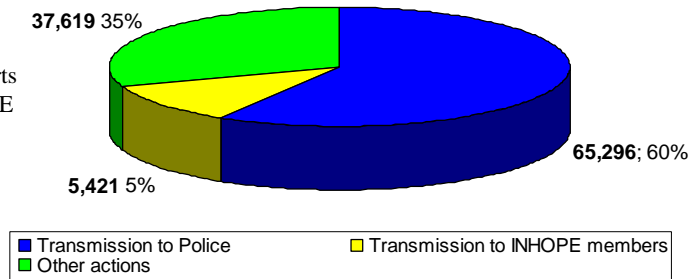
Statistics

Reports received by Inhope
Sept 2003-Feb 2004



Actions taken - report based Sept 2003. - February 2004

From 139,754 reports
received by INHOPE
111,733 reports
required action

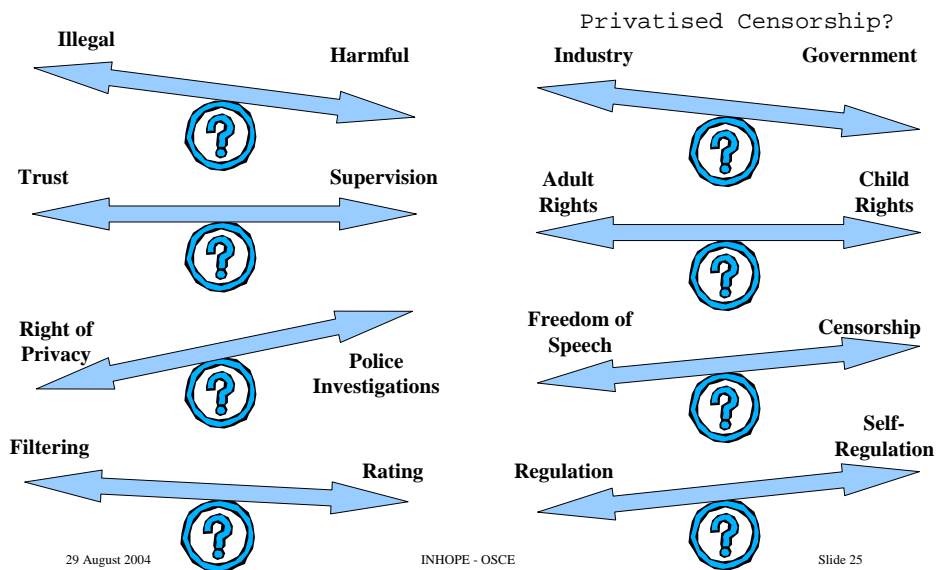


Hate Crimes on the Internet

An important distinction...

HARMFUL
VS
ILLEGAL

Internet Balance



Language

- The language we use
 - Hate Speech
 - Racism
 - Right-wing extremism
 - Xenophobia
 - Agitation of the People
 - Neo-Naziist
- The language of hate speech
 - C18
 - 88
 - 311
 - 14
 - SWP
 - WPWD
 - Songs
 - “political” speech

Illegal Internet Content

- Child Pornography
 - Image emphasis
 - Global Issue
 - Common Approach
 - Similar legislation
 - International instruments
 - Council of Europe Cybercrime Convention
 - Narrow focus
 - Age 18 (21) or younger involved in sexual activity
 - Easy to identify
- Hate Speech/Racism
 - Text emphasis rather than image
 - Global agreement on problem but no global agreement on solution
 - Different approaches
 - Different legislation
 - Broad focus
 - Religious
 - Ethnic
 - Minority
 - etc
 - Hard to identify
 - Scarce expertise
 - Hidden language

Legislative Instruments

- Council of Europe
- United Nations
- Germany
- France
- United Kingdom
- Ireland

Council of Europe



- Convention on Cybercrime
CETS No.: 185
 - Open for signature 23 Nov 2001
 - Entry into Force 1 July 2004
 - 32 signatories
 - 6 ratifications (2 EU states, HU and LI)
- Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems
CETS No.: 189
 - Open for signature 28 Jan 2003
 - Not yet ratified
 - 23 signatories

- ☉ 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.

- ☉ “*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.



UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Defines racism as follows:

“Any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.”

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Slide 32



Germany

German Legislation

- Freedom of speech is guaranteed by Article 5 of the German Grundgesetz ("basic Law").
- There are some restrictions - for example personal insults or hate speech (Volksverhetzung) are restricted.
- Hate Speech includes the propagation of neo-nazist ideas (§ 86 Strafgesetzbuch) and the use of nazist symbols like the swastika (§ 86a Strafgesetzbuch), except for purposes of art, science or education.
- These restrictions are justified with the argument that they are necessary to protect the democratic constitution of Germany. Please see below for a more detailed description of the restricting laws.
- Xenophobia, the fear of strangers or foreigners (Xenophobie: Die Angst vor Fremden, Ausländern) as well as its punishable proactive counterpart, racism, are not formally defined in German law.

German Legislation-1

- The UN definition is transposed into German penal law as a corpus delicti for "Agitation of the People" (§ 130 Strafgesetzbuch) as follows:
 1. Whoever, in a manner that is capable of disturbing the public peace:
 1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or
 2. assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population, shall be punished with imprisonment from three months to five years.

(1) Whoever:

1. with respect to writings (Section 11 subsection (3)), which incite hatred against segments of the population or a national, racial or religious group, or one characterized by its folk customs, which call for violent or arbitrary measures against them, or which assault the human dignity of others by insulting, maliciously maligning or defaming segments of the population or a previously indicated group:
 - a) disseminates them;
 - b) publicly displays, posts, presents, or otherwise makes them accessible;
 - c) offers, gives or makes accessible to a person under eighteen years; or
 - d) produces, obtains, supplies, stocks, offers, announces, commends, undertakes to import or export them, in order to use them or copies obtained from them within the meaning of numbers a through c or facilitate such use by another; or
2. disseminates a presentation of the content indicated in number 1 by radio, shall be punished with imprisonment for not more than three years or a fine.

So "Agitation of the People" in German penal law has two alternative elements, both of them containing the characteristics of racism:

The broader, more general regulation of subsection (1) is an offense of abstract endangering, so it is not necessary for a certain behavior to have actually caused a disturbance of public peace to be punishable. The capability is enough. On the other hand, victims of the crime are restricted to be part of the (German) population.

Subsection (2) clings closer to the ICERD-definition of racism, as it refers to a distinction of a certain group - national and / or international - by inciting hatred or calling for violent or arbitrary measures against them.

A special subsection (3), which is connected indirectly with the punishment of racism, is dedicated to the denial of certain national-socialistic crimes:

Whoever publicly or in a meeting approves of, denies or renders harmless an act committed under the rule of National Socialism of the type indicated in Section 6 Subsection 1 and Section 7 Subsection 1 Codes of Crimes against international Law, in a manner capable of disturbing the public peace shall be punished with imprisonment for not more than five years or a fine.

German Legislation-4

*Codes of Crimes against international Law:
Section 6 (1) says:*

Whoever, with the intent of destroying as such, in whole or in part, a national, racial or religious group or one characterized by its folk customs by:

- *1. killing members of the group;*
- *2. inflicting serious physical or emotional harm, especially of the type indicated in Section 226 on members of the group;*
- *3. placing the group in living conditions capable of leading, in whole or in part, to their physical destruction;*
- *4. imposing measures which are intended to prevent births within the group;*
- *5. forcibly transferring children of the group into another group,*
shall be punished [...]

Section 7 (1) formulates crimes against humanity.

France

French Hate Speech Legislation

Provocation publique à la discrimination, à la haine ou à la violence nationale, raciale ou religieuse.	Art 23, 24 alinéa 6 et 7 Art 42 de la loi du 29 juillet 1881	1 an d'emprisonnement et 45.000 €d'amende
Contestation de crime contre l'humanité	Art 23, 24 bis et 42 de la loi du 29 juillet 1881	1 an d'emprisonnement et 45.000 €d'amende
Diffamation raciale publique	Art 23, 29, 32 alinéa 2 et 3 Art 42 de la loi du 29 juillet 1881	1 an d'emprisonnement et 45.000 €d'amende
Injure raciale publique	Art 23, 29, 33 alinéa 3 et 4 Art 42 de la loi du 29 juillet 1881	6 mois d'emprisonnement et 22.500 €d'amende
Provocation non publique à la discrimination, à la haine à la violence nationale, raciale ou religieuse.	Art R 625-7 du code pénal	Contravention de 5e classe: 1.500 €d'amende
Diffamation raciale non publique	Art R624-3 du code pénal, et art 29 alinéa 1 de la loi du 29 juillet 1881	Contravention de 4e classe 750 €d'amende
Injure raciale non publique	Art R624-4 du code pénal, et art 29 alinéa 1 de la loi du 29 juillet 1881	Contravention de 4e classe 1881 750 € d'amende

29 August 2004

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Slide 41

France: Loi n° 2004-575 du 21 Juin 2004 pour la confiance dans l'économie numérique

- Article 6 al 7 of the law implementing the EU eCommerce directive in France ([Loi n° 2004-575 du 21 Juin 2004 pour la confiance dans l'économie numérique](#)) obliges access and hosting providers to create an alert button to enable internet users to report racist content (or child pornography material) AND to alert LEA when they are aware of such content

29 August 2004

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Slide 42

France: Loi n° 2004-575 du 21 Juin 2004 pour la confiance dans l'économie numérique

7. Les personnes mentionnées aux 1 et 2 ne sont pas soumises à une obligation générale de surveiller les informations qu'elles transmettent ou stockent, ni à une obligation générale de rechercher des faits ou des circonstances révélant des activités illicites. Le précédent alinéa est sans préjudice de toute activité de surveillance ciblée et temporaire demandée par l'autorité judiciaire.

France Loi n° 2004-575 du 21 Juin 2004 pour la confiance dans l'économie numérique

Compte tenu de l'intérêt général attaché à la répression de l'apologie des crimes contre l'humanité, de l'incitation à la haine raciale ainsi que de la pornographie enfantine, les personnes mentionnées ci-dessus doivent concourir à la lutte contre la diffusion des infractions visées aux cinquième et huitième alinéas de l'article 24 de la loi du 29 juillet 1881 sur la liberté de la presse et à l'article 227-23 du code pénal.

A ce titre, elles doivent mettre en place un dispositif facilement accessible et visible permettant à toute personne de porter à leur connaissance ce type de données. Elles ont également l'obligation, d'une part, d'informer promptement les autorités publiques compétentes de toutes activités illicites mentionnées à l'alinéa précédent qui leur seraient signalées et qu'exerceraient les destinataires de leurs services, et, d'autre part, de rendre publics les moyens qu'elles consacrent à la lutte contre ces activités illicites.

Tout manquement aux obligations définies à l'alinéa précédent est puni des peines prévues au 1 du VI.

United Kingdom

Government Guidelines

Home Office Guidelines on Racially Inflammatory Material on the Internet

- Feb 2002
- <http://www.iwf.org.uk/about/policies/hogde3-2.htm>
- Government Policy
- The Law - Part III of the Public Order Act 1986
- Incitement to racial hatred offences
 - Section 18 – using threatening, abusive or insulting words or displaying material.
 - Section 19 – publishing or distributing written material
 - Section 20 – public performance of a play
 - Section 21 – distributing showing or playing a recording
 - Section 22 – broadcasting or including a programme in a cable programme service
 - Section 23 – Possession of racially inflammatory material



Ireland

Ireland

☉ Prohibition of INCITEMENT to Hatred Act, 1989

2.—(1) It shall be an offence for a person—

(a) to publish or distribute written material,

(b) to use words, behave or display written material—

1. (i) in any place other than inside a private residence, or

2. (ii) inside a private residence so that the words, behaviour or material are heard or seen by persons outside the residence,

or

(c) to distribute, show or play a recording of visual images or sounds,

➤ if the written material, words, behaviour, visual images or sounds, as the case may be, are threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred.

Irish Initiatives

- National Anti-Racism Awareness Programme
- National Consultative Committee on Racism in Ireland (NCCRI)
- Irish Human Rights Commission (IHRC)
- Immigrant Council of Ireland
- Equality Authority www.equality.ie
- Office of the Director of Equality Investigations
www.odei.ie
- Irish Council for Civil Liberties (ICCL) www.iccl.ie

Recommendations

Review

- Awareness raising is of utmost importance as 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 publicise hate speech.
- Hotlines are important and can exchange reports on the International level - successes of INHOPE prove that this is efficient.
- Hotlines in the country of origin can help to inform people who can do something in their mother tongue (police forces, ISPs, content providers) better than people operating from a foreign country.
- Hotlines can remind ISPs of their acceptable use policies, if they are in place. This can also work in countries where certain publications are not illegal but against the terms of service.
- Participation in a network makes the sum of the activities stronger than individual activity.

Recommendations based on INHOPE Experience

- Identify areas of agreement
- Clarify our language
- Reach consensus and enhance co-ordination
- Outreach, training, awareness and education
- Identify good practice in different areas/countries
- Identify priorities based on capability and necessity
- Focus – one step at a time
- Develop common tools/Common NTD procedures
- Work with relevant stakeholders



New Technologies and Policies

TECHNOLOGIES

- ☉ Handheld/3G/Mobiles
- ☉ Peer-to-peer networking
- ☉ Encryption – Steganography, public-key, proprietary
- ☉ Re-diverts
- ☉ Dialer-Software
- ☉ Age Verification Technologies
- ☉ Proprietary Clubs/Groups
- ☉ Online Video Streaming

POLICIES

- ☉ Racism/Right Wing
- ☉ Grooming
- ☉ Online enticement
- ☉ Virtual Child Pornography
- ☉ Unsolicited/Anonymous eMail
- ☉ Inter-Agency Collaboration on Child Sex Tourism

29 August 2004

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Slide 54



Contact Details

visit website www.inhope.org !

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29 August 2004

INHOPE - OSCE

Slide 55