


ANTISEMITISM POLICY TRUST

Special Briefing



THE ONLINE
HARMS BILL:
Top Lines

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Introduction

The Antisemitism Policy Trust believes the forthcoming Online Harms Bill will be an important tool in the fight against anti-Jewish racism. It is therefore critically important that the Bill be strong. Below are some top-line recommendations for inclusion in the legislation, in advance of the Government's full response to its Online Harms White Paper.

A Regulator

Whilst the Trust is supportive of the formation of the online harms regulator and is satisfied that Ofcom can fulfil the role as proposed, we are concerned that this new regulator should work alongside, and in partnership with, other existing regulators in the online space. For example, the Trust has worked closely with the British Board of Film Classification (BBFC) and

Two of the most important aspects of the forthcoming Online Harms Bill are the proposed introduction of a regulator and a statutory Duty of Care that addresses reasonably foreseeable harms.

respects its unparalleled understanding of harmful content. Sara Khan, the Lead Commissioner for the independent Commission for Countering Extremism has already suggested that her commission could help the new regulator in defining and understanding extremist content. That would be a welcome step.

A Duty of Care

The Trust is concerned that **fulfilling the proposed statutory Duty of Care should mean companies are bound to follow a number of Codes of Practice** (or having systems equal to them) and that it would be **insufficient to only require companies to have minimum Terms and Conditions** (the Government's White Paper made clear that this is not sufficient). Bitchute (similar to YouTube but filled with extreme content) is but one example of a so-called 'alternative' platform with poor Terms that should be borne in mind as part of this policy development.

The Government's White Paper and interim response suggest that the Home Secretary will have oversight of the Codes of Practice relating to Child Sexual Exploitation and Abuse, and on Terrorism. These are given special status in the proposals. However, given there are already advanced measures in place to address these harms, **giving additional prominence to the Hate Crimes/Harms Code of Practice would be welcome**. These codes are due to set out systems-level requirements for companies, in a proportionate way, and it is the Trust's hope that not just illegal, but also legal but harmful content will be captured.

On Penalties

Contravention of the Duty of Care will result in penalties. Fines can provide a useful incentive but in some cases, social media companies are worth Billions of dollars. To that end, **in extremis, individual liability for senior management of companies in scope**

should be introduced, as exists in the financial sector, and similar to that in Health and Safety legislation. Other penalties like a public adverse behaviour warning would also be welcome.

On Anonymity

The Trust believes the concept of 'Know Your Client (KYC) should apply in the online world, as it does in the financial one. There are two key principles:

1. People will simply tend to behave better if they know that ultimately their identity is known to the host platform.
2. A reputable newspaper would not publish a reader's letter without being confident of the true identity of the sender: but the impact of an anonymous social media account can be far greater than that of a letter in a newspaper.

content. This allows for whistle-blowers, victims of domestic abuse, and others to remain anonymous online on the platforms due to be regulated by Bill.

However, if a crime or a libel has been committed in the UK on the regulated platforms and they cannot or will not provide proof of identity, where a magistrate's court order demands it (subject to an appropriate burden of proof), then a range of options could be considered. It might be that the civil or criminal liability should pass to the platform itself (this would be in line with the e-commerce directive), or fines and corrective measures be put in place.

Anonymity for users on social media platforms can have the effect of exacerbating online hate and abuse. It should be up to the platform itself to decide upon how much anonymity it wants to give users, and how to incentivise such accounts not to produce hateful

Further reading:

1. Online harms - Offline harms:

<https://antisemitism.org.uk/wp-content/uploads/2020/08/Online-Harms-Offline-Harms-August-2020-V4.pdf>

The online world can no longer be considered in a silo. Extremism, Terrorism and Policing require online and offline responses, too often these are poorly co-ordinated, if considered at all. Policies should be designed for contiguity between online and offline elements.

2. Publisher Liability and Online Harms

<https://antisemitism.org.uk/wp-content/uploads/2020/08/Online-harms-publisher-liability-August-2020.pdf>

This document explains the Trust's approach to considering online platforms as publishers.

3. Holocaust Denial (a legal harm):

<https://antisemitism.org.uk/wp-content/uploads/2020/10/Holocaust-Denial-October-2020.pdf>

Holocaust denial is a good example of a legal harm.

As a society, we are in danger of outsourcing our values to individuals and companies across the globe. Harmful content online must be considered in respect of the impact it has. These new technologies cannot be considered through existing matrixes of decision making and regulation.

4. Coronavirus and antisemitism:

<https://antisemitism.org.uk/wp-content/uploads/2020/06/Coronaviru-antisemitism-May-2020.pdf>

<https://cst.org.uk/data/file/d/9/Coronavirus%20and%20the%20plague%20of%20antisemitism.1586276450.pdf>

The adaptability of online hate actors, and their responsiveness to particular situations can be ahead of technological abilities to cope. With facial manipulation software and other new inventions on the horizon, responsiveness, and address for reasonably foreseeable harms will be critical.

5. Misogyny and antisemitism:

<https://antisemitism.org.uk/wp-content/uploads/2020/06/Web-Misogyny-2020.pdf>

Intersectional harms are rising online, as this briefing proves. The intersection of identities and ability of online actors to impact in intersectional ways means we require a new approach to understanding hate online. The Law Commission's current review of hate crime law will give us an opportunity to raise these issues but thought should be given to the way in which the law might require change to capture harms like this.

6. Big Data/hidden harms report:

<https://antisemitism.org.uk/wp-content/uploads/2020/06/APT-Google-Report-2019.1547210385.pdf>

This report explores search and post trends on Google and the far-right website Stormfront. It evidences that small changes by a technology company can lead to significant address for harm. The responsibility for such companies to have a duty of care to their users is clear.

7. Online Harms white paper

<https://antisemitism.org.uk/wp-content/uploads/2020/06/web-extended-online-harms-briefing-2020.pdf>

Though now overtaken by recent developments, this was the Trust's initial response to the Online Harms White paper.

8. 'Alternative' sites

<https://cst.org.uk/news/blog/2020/06/11/hate-fuel-the-hidden-online-world-fuelling-far-right-terror>

Sites like Bitchute, Telegram, 4chan and 8Chan are responsible for significant harms online. It is important that any policy to address digital harms not be concentrated on mainstream sites like Facebook and Twitter alone.

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The Antisemitism Policy Trust's mission is to educate and empower parliamentarians, policy makers and opinion formers to address antisemitism. It provides the secretariat to the British All-Party Parliamentary Group Against Antisemitism and works internationally with parliamentarians and others to address antisemitism. The Antisemitism Policy Trust is focussed on educating and empowering decision makers in the UK and across the world to effectively address antisemitism.

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Antisemitism Policy Trust



mail@antisemitism.org.uk