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# Incident Report and Analysis

# YouTube User momlvx1



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Dr Andre Oboler July 2012

#### **About OHPI**

The Online Hate Prevention Institute (OHPI) is a charitable institution. OHPI seeks to be a world leader in combating online hate and a critical partner who works with key stakeholders to improve the prevention, mitigation and responses to online hate. Ultimately, OHPI seeks to facilitate a change in online culture so that hate in all its forms becomes as socially unacceptable online as it is in "real life". 2

## **Incident Background**

On the 26<sup>th</sup> of June 2012 a YouTube user with the name "thecutechongalt is a waste of oxygen. loser." and user id momlvx1 uploaded a total of 1710 videos to their YouTube account.<sup>3</sup> The YouTube account had originally been opened in 2009, but until this point had no videos uploaded to it.

This number of uploads in a single day suggests the content may have previously been hosted under another account which YouTube may have closed. This reasoning is further supported by the fact that almost all the videos have been uploaded to this user account more than once, perhaps to stop the video going off line if a single copy is found and removed.

The videos uploaded were a mix of hateful content (87%) and anime (13%). The hateful content is largely hate speech directed at groups within society. It is specifically racial vilification, and the vast majority of it is antisemitic in nature. A significant number of the videos relate to Holocaust denial and defence of Holocaust deniers. Some of the content attacks other groups such as blacks and Mormons. A number of videos accuse Jews or Israel of being behind the September 11 terrorist attacks on the United States.

One of the videos uploaded propagates racist hate speech and promotes Fredrick Toben, and it also solicits money for him. <sup>4</sup> Toben appeared before the Australian Federal Court in relation to a racial vilification matter and the court made a declaration that Holocaust denial content hosted by Toben was unlawful, and made orders for the material to be removed. <sup>5</sup> Toben eventually served time in jail for contempt of court related to this matter. <sup>6</sup>

One consequence of so many videos being uploaded, presumably automatically, is that most of the videos have no views. This also means, by definition, they have no complaints. The Toben video is an exception as the address of one copy of the video has been circulated by some individuals in order to encourage flagging of the video. This is not the only copy of this video in this account, 7 nor is this the only account hosting this video. 8 As YouTube has previously determined that this video breaches the

<sup>&</sup>lt;sup>1</sup> http://www.abr.<u>business.gov.au/SearchByAbn.aspx?abn=65155287657</u>

<sup>&</sup>lt;sup>2</sup> OHPI is supported by public donations. Donations to OHPI are currently not tax deductable in Australia, but any donations to support this important work are greatly appreciated. Direct deposits of any amount can be made to: Online Hate Prevention Institute; BSB: 633-000; Account: 146003587. Potential international supporters please contact <a href="mailto:ohpi@ohpi.org.au">ohpi@ohpi.org.au</a> for further information.

<sup>&</sup>lt;sup>3</sup> http://www.youtube.com/user/momlvx1

<sup>4</sup> http://www.youtube.com/watch?v=wdBXIBTUhvA

www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/federal ct/2002/1150.html

<sup>6</sup> http://www.austlii.edu.au/au/cases/cth/FCA/2009/354.html

<sup>&</sup>lt;sup>7</sup> Another is at <a href="http://www.youtube.com/watch?v=KUDro7zMaOE">http://www.youtube.com/watch?v=KUDro7zMaOE</a>

<sup>&</sup>lt;sup>8</sup> Another copy, for example, is at <a href="https://www.youtube.com/watch?v=GvfqwswVdgA">www.youtube.com/watch?v=GvfqwswVdgA</a>

terms of service and removed other copies of it, it would be expected that once it is reviewed, YouTube would remove it this time as well.

## **Analysis and Discussion**

The issue here is broader than the removal of a video of hate speech. The volume of content and the short time in which it was uploaded are indicative of a more serious violation. A comparison can be drawn to copyright law where commercial scale can tip the matter from a civil action into a criminal offence. The law in Australia does not currently differentiate racial vilification based on such a distinction, but arguably it should. YouTube's own terms of service, which have a lower threshold, are clearly violated but also lack degrees. The question that arises is whether a "serious violation" should be subject to greater sanctions both by the state and by the platform provider.

The most effective preventative action is to prevent the user from repeating this behaviour. This could be done in a number of ways and the options are presented here in decreasing order of severity.

The options are by denying them:

- access to the internet;
- access to the YouTube site; and
- the ability to upload videos to YouTube (without restricting access to view and comment on video)

A lesser option would be to issue them with a warning and only move on to a denial of some for of access after a repeat violation.

Any action needs to be proportionate to the violation and to the need to protect the public from harm.

Some solutions require cooperation between YouTube and other parties. Internet connection can only be terminated if the user's IP address, the address uniquely identifying their connection to the internet, is given by YouTube to their Internet Service Provider. In reality the ISP has no incentive to terminate a user's account, so external requests or orders may be needed. The contractual relationship between the user and the ISP does not prevent the ISP terminating the account, as a term of the service agreement will likely prohibit unlawful use of the account, and if it does not, it is likely to be considered an implied term. Where the user is in Australia, there is a potential role for the Australian Human Rights Commission to play in putting the ISP on notice that a user is acting unlawfully. There is also a role for the legal system in potentially making orders related to a level of prohibition from access described above. Such orders are useful as their proven violation could result in a finding of contempt of court and lead to serious penalties such as imprisonment.

A less effective solution is to simply remove the content. There is a scale of proportionate responses to the removal of content. The options are:

- the entire user account could be closed (this would remove the channel hosting the videos as well as any user comments on other videos);
- the channel could be closed while leaving the account open;

- the channel could be left open, but all content in it removed;
- the channel could be given priority by YouTube staff and each item of content could be individually considered and either removed or not removed;
- only items of content that are over a reduced threshold level for the number of complaints they receive could be considered by YouTube staff (the others would remain available without being submitted to a review – this may be all of them, at least initially);
- only items that are over the regular threshold would be considered, and only in the regular way and in their regular turn in the queue (this effectively ignores the fact that there is a serious and serial violation occurring).

The removal of content, without more, is a disproportionately low response in the case of serious violations. It results in a version of "whack a mole" where the content is simply re-uploaded to a new account. In this case it appears this may already be a re-uploading of a previously terminated account. The evidence presented here, that well over a thousand videos were uploaded in a single day by a single user, suggests it may take significantly more effort to remove the content than to publish it. In such an approach the video poster has an advantage, and the volume of hate across the system as a whole will gradually increase. A lowering of the threshold for the removal of content, for example removing the entire channel in cases where serious violations are suspected, will assist in redressing the balance. On the assumption that a minority of users create most problems, a removal of access to those users helps the system as a whole.

#### **Recommendations**

In this case we would recommend YouTube responds by notifying us of either the poster's country of origin, or of the IP address of the poster (from which the same can be determined). OHPI can then turn the matter over to an appropriate body in the jurisdiction of the poster.

YouTube should flag for internal review by YouTube any other accounts accessed via the same IP address.

If this, or a similar situation, resulted in evidence a poster was in Australia, there is a gap between the mandates and powers of different government agencies. Ideally the Australian Human Rights Commission would be able to take action on its own initiative – to enable this may require legislative change. Alternatively, the Australian Communications and Media Authority should have the authority to bring a complaint for unlawful racial vilification before both the Australian Human Rights Commission and ultimately a Court. This would be a fundamental change in the ACMA's role.

YouTube should remove the user's access to this account and take it out of the publically accessible part of their system. The content should be retained for analysis by YouTube and any investigating authority with jurisdiction over the poster.

YouTube should, but not as a matter of priority, review each video and create digital fingerprints of each file determined to be in violation of the terms of service. YouTube should maintain a database of such fingerprints and routinely scan the content it hosts and automatically remove any repetitions. Such repetitions should be logged and the accounts hosting them flagged for review. Where an account has only content in violation of the terms of service, the channel should be removed and the ability to upload via that account suspended.

#### **Conclusions**

This incident highlights the need for an overarching strategy to prevent YouTube being used as a channel for hate. Action needs to be taken both by YouTube and by other stakeholders not only to resolve this incident, but to improve our ability to manage such incidents in the public interest.

# **Appendix**

This appendix contains screen captures of the video listings in the single account discussed in this report. For clarity, all these videos were uploaded by a single user in a single day. Where there are repetitions (most items are repeated at least once) this is evidence of the same material being uploaded multiple times by the user. The repetitions indicate an additional copy of the material, and where uploading the material is a violation of YouTube's terms of service, or constitutes an unlawful act, each repetition is an additional violation or act.

The remaining videos not shown here are all Anime. This appendix is otherwise a complete account of all material uploaded by this user using this account.





































































































































































































































