Statement from the Internet Archive to the European Commission on the Impact Assessment on Illegal Content Online

June 21, 2018

In consideration of various types of content, including extremist content, we urge the Commission and lawmakers not to overlook the case of non-profit organizations, archives, and libraries and to avoid enacting legislation that could endanger the ability of these organizations to operate online and handle controversial content consistent with their missions and values. The very foundational purposes of such organizations often include preserving historically significant information and enabling diverse and free speech. They also very often have less resources than their for-profit counterparts. As an example, our organization has approximately

We are deeply concerned that legislation imposing time limits for processing or mandating outcomes for content and requests would risk:

- requiring non-profits to overly divert resources from their core missions and activities or worse, shut down (or never be founded) for lack of resources to adequately safeguard against penalties;
- significantly favoring the largest platforms with dramatically greater resources and clear commercial priorities;
- encouraging a default practice on the part of providers to take down reported material or material that is ambiguous in any way without sufficient review, consideration, or safeguards against censorship;

We have been fielding legal requests of many kinds for more than a decade and it is our experience that for any site with a very large and diverse collection there is a likelihood of receiving a significant number of requests with complex or ambiguous factors that require time, staff resources, and due consideration, even where there has been a thoroughly careful effort to delineate and anticipate problematic content.

Even very experienced and adept reporters may make mistakes or fail to recognize some of the salient aspects of a particular piece of content. For example, the Internet Archive has received take down notices from normally trusted referrers (including governmental Referral Units, in some instances) that have targeted:

- Parodies of extremist content (when read attentively, the intent to mock well-known extremist groups is clear).
- An artistic visual collage of images drawn from different diverse sources that incorporate logos or graphics of combat taken from content produced by extremist groups. This collage appears to be a person's artistic expression and commentary with no clear intent to promote said groups and their ideology.
- Instances of extremist materials posted by users seeking to preserve the materials as historical documents for study and researcher access with no promotional intent whatsoever.
- Archives of hacked webpages of extremist groups wherein the content was altered by activists seeking to mock and discredit such groups.

Automation may play an increasingly important role for many in handling such content and the Internet Archive has begun to explore ways that it might streamline our process. However, any assumption that automation avoids producing unacceptable outcomes, obviates the need for attentive human review, and is affordable for all applicable sites and platforms, including sites like ours, is highly premature. There is no shortage of examples of false positives identified and taken down by automated filters developed and run by the largest, wealthiest online platforms. We do not yet see evidence that automation works very well with the current conception of extremist material and can be readily implemented with our site (to say nothing of the full range of companies and organizations that might be subject to regulations). Even if this were the case, it is impossible to predict all of the ways that such material might morph and present new challenges for management by site owners in years to come.

These are some of the reasons why the Internet Archive is committed to undertaking our own human review as a necessary step in our processing of take down requests.

The Internet Archive takes the issue of extremist online content seriously and has strong incentives to do so. Attempted use of archive.org as an outlet for violent and extremist propaganda is antithetical to our mission and ethos. Such activity is resisted and scorned by the Internet Archive, its users, funders (including public and private foundations and "small donors"), partner organizations (including many governmental organizations in the US, EU, and elsewhere), the greater Internet community, and the public as a whole.

Ongoing and regular interactions and collaboration with government and other companies engaged in this issue demonstrate that organizations such as the Internet Archive are motivated and best able to address the challenge of extremist content in a thoughtful and socially-responsible way without further regulatory strictures that cannot assess and predict the full range of factors involved (in the present, let alone in the years ahead) for private hosts, including non-profits, archives, and libraries such as archive.org.