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Chair: Mr. Chris Warkentin

Standing Committee on Access to Information, Privacy and Ethics

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• (1230)

[English]

The Chair (Mr. Chris Warkentin (Grande Prairie—Mackenzie, CPC)): I'm going to call this meeting to order. This is the 18th meeting of the House of Commons Standing Committee on Access to Information, Privacy and Ethics. I do apologize for the delay, but we now have everyone connected.

We have two witnesses we will be hearing from. We have Ms. Serena Fleites, and we have Mr. Michael Bowe from the law firm of Brown Rudnick. Mr. Bowe is Serena's counsel, but he has testimony that he'll be sharing this morning as well.

For our two witnesses who have joined us, in terms of house-keeping, I want to remind you that there is direct translation. It's available at the bottom of your screen. If you click on the interpretation, you can select English. There may be some French questions that you'll receive later on. I just wanted to make a note of that.

Serena, thank you so much for being willing to come to our committee and tell your story. We want to ensure that you answer the questions that you want. We want to be flexible today for both of our witnesses. We very much appreciate your willingness to come.

We'll begin by giving you an opportunity to provide us your opening statements. Then we'll have some questions for you. Again, we'll make an effort to be flexible in terms of ensuring that you're able to answer the questions in a way that you feel most comfortable.

Ms. Fleites, perhaps you could begin with your opening statement, and then we'll turn to Mr. Bowe, if that order suits you.

Ms. Serena Fleites (As an Individual): Yes, that's fine.

I grew up in a small town in the mountains, and I didn't have Wi-Fi or really even running electricity up there. I never had an iPod or a phone or access to the Internet before I moved to the city. The school there was really small, too. There was only one school in the entire town, pre-K to grade 8. That was the school I grew up at. Then, when I moved to Bakersfield, there were 3,500 kids at one school and it was only two grades. I went from having five kids in my class all day to having 30 kids in a class, eight different classes in a day. It was all super new to me.

I'd never had a crush or a boyfriend or a first kiss or anything like that before, so I was picked on quite a bit for the first couple of weeks that I was attending school. They would make fun of me for not being up to date with everything. Being from the mountains, I didn't know the slang and I didn't know what was popular. And so,

when a guy finally did take notice of me and was interested in me—or I thought he was interested in me—we started my first relationship. After a while of being in a relationship with him, his friends would come up to us at school during the lunch break and ask us a bunch of questions and try to pressure me into doing different things like kissing him—when I'd never had my first kiss before—and just saying all sorts of things.

One night—this is during the last semester of my grade 7 year—the boy I was dating at the time asked me to send him a video of myself. I didn't really understand what he meant at first. He had sent me a video from Pornhub of a girl undressing herself and just basically showing herself off to the camera. He asked me to do that and I told him I wasn't really comfortable, so he continued to ask me every night after we got back from school. I had gotten my first iPod at this point and I'd gotten a messenger app on it called Kik to talk to people at school.

He would message me on that app every night after school, asking me to send the video, and I always told him no, I wasn't comfortable doing that, I didn't even know what to do. And he's like, "It's perfectly fine, you know. Everybody does it. Everybody our age is doing that. If we're really in a relationship, if you truly loved me, then you would send me something like that." I still, for a while, told him no. I wasn't really comfortable doing that. After a couple of weeks of it, he was like, "Fine then. You know what? This isn't even a real relationship. I don't know why I continue to bother you. If you're not even willing to send me something that I'm going to send you, then it will be over, whatever, unless you are going to send it and then I'll send you one, too."

And so I took a quick little video, like a minute long, and I sent it to him, and for the first couple of days afterwards I didn't notice any difference. But then his friend group started coming up to us during lunch and making little comments about my body and how I was a freak and about how they wish their girlfriends would do stuff like I do. And so, at that point, I was getting upset, because I had a feeling that he had shown it to them, when he had told me that he would delete it right afterwards.

After that, I started noticing even more kids at school would look at me or make little comments to me. That was about a week and a half, two weeks, after I had first sent it. That was when I found out that it had been sent around to most of the school. After that, summer break happened. I had broken up with him because I did find out he sent it to his friends and his friends sent it to their friends, who then sent it to their friends. And so, it went around the entire school and all the neighbouring schools.

During the summer break, before grade 8, we moved, so I thought things would be better. At that point, I didn't know that other people had seen it, or that it had been posted online. When I started at the new school, after about two weeks of being there, somebody sent me a link through Kik. Somebody who made an anonymous account sent me a link through Kik. It was the video I had sent to my ex-boyfriend. It had been posted on Pornhub with the caption "13-year-old brunette shows off for the camera".

After that, I started ditching school a lot. I started getting really depressed. I started getting into drug use. I begged my mom to transfer schools. I told her that this school was way ahead of what we had been learning up in the mountains, so I wasn't up to date. I asked her if I could just do home schooling instead, so I could get caught up. She was super busy, and she had five other kids to take care of on her own as a single parent. So obviously, she said no.

I just made it through grade 8. Before all of this, I was always a straight-A student. I was always on the honour roll or principal's list. I always got the achievement after every quarter, and at the end of the year. Toward the last quarter of grade 7, and all of grade 8, I barely passed my classes. My grades started rapidly slipping. It was mostly because I was no longer regularly attending school. I would ditch school a lot. Even on the days when I did go to school, I would hide in a bathroom stall for most of the day, or attempt to leave if I could.

After that, I messaged Pornhub to get the video taken down. I pretended to be my mother. I didn't want to tell my mom, because she was a single mother of six kids. She was raised Catholic. She had very strict views on stuff like this. I knew she would be angry. I knew it would cause problems for her. I didn't want to tell her.

I tried to deal with it on my own by typing in the "Report a problem" on the video. I flagged it. I said, "Hey, this is my daughter. She's only 14. This is child pornography. Please take this down." They took a week or two to respond. Once they finally responded, it was like, "Yes, okay, we'll take it down", and then proceeded to wait another two weeks before they finally did take it down.

Doing my research, I was told there was a system in place that when a video was labelled as child pornography on their site, it was flagged and tagged, and it could no longer be re-uploaded. But of course, that wasn't true, because a week after it was taken down, it was re-uploaded. All of the people my age—a couple of grades above me and even a couple of grades below me—had seen the video, even though when I transferred schools after grade 8, I transferred to a school all the way on the other side of town for high school. They had all seen the video as well. After that, I basically dropped out of public school.

Ever since, I've been.... The videos.... People find them and send them to me. They send them to me all the time, saying, "Oh my God, is this you?" People on the Internet, people I have never met in person, will find my accounts on social media and they will send it to me and say, "This is you, isn't it?" They then will try to ask me certain questions, or be really creepy toward me, or try to dox me or harass my family members. A lot of people in the grades above me, mostly guys, would try to harass me and blackmail me, saying that if I didn't do stuff with them, or if I didn't send more videos to

them, they would send it to my family. They would send it to my grandma, to my mom, to all my sisters and my brother.

I just took myself off social media for a while. I stopped going to school. I got really depressed. I thought that once I stopped being in the public so much, once I stopped going to school, people would stop re-uploading it. But that didn't happen, because it had already been basically downloaded by people all across the world. It would always be uploaded, over and over and over again. No matter how many times I got it taken down, it would be right back up again.

• (1235)

That was the whole reason I ended up reaching out to Mike.

• (1240)

The Chair: Thank you.

Is there anything else you would like to add to finish your opening comments?

Otherwise, we'll turn to Mr. Bowe now.

Ms. Serena Fleites: I'm good.

The Chair: Thank you very much for telling us your story.

Mr. Bowe, we'll turn it over to you.

Mr. Michael Bowe (Lawyer, Brown Rudnick LLP, As an Individual): Thank you.

I'll just introduce myself briefly to the committee. My name is Michael Bowe. I'm a partner in Manhattan at the law firm of Brown Rudnick.

We have been investigating Pornhub and MindGeek, its parent, and its other sites for just about a year. Included in that investigation are hundreds of accounts that are similar to Serena's, of underage women who were children who had exploited material posted on Pornhub, of adult women who were raped and the rape was videotaped and put on Pornhub, of trafficked women who have had their videos put on Pornhub, and all sorts of other non-consensual content that has been put on Pornhub.

In the short time I have, I want to address four topics that hopefully will serve as somewhat of a road map for questions and follow-up: what is it that we're really here about; how did we get here; MindGeek's knowing decision to commercialize this type of conduct; and where do we go from here?

First, what are we here about? It's really a question of what we're not here about. In a second, I'll explain why I need to raise this right up front. This is about rape, not porn. It's about trafficking, not consensual adult performance or entertainment. This is not about policing consensual adult activity. It's not about religion. I think, even in these days, everybody can agree that no industry should be commercializing and monetizing in rape, child abuse and trafficked content. I think we all expect that any legitimate business or industry wouldn't do so and would do whatever it could to make sure that type of content doesn't pollute its product.

Why am I raising this? I'm raising this because, for the last year, when public scrutiny started to be focused on MindGeek, a Canadian company, about the fact that it knowingly commercialized and monetized this type of content, instead of acknowledging the problem and aggressively dealing with it, what it has aggressively done is conduct a gaslighting campaign in the media and social media to discredit victims and deflect from the issue and blame it on other things. I'll talk about that in a minute.

This is a real problem. It's real in the sense that it happens; it's not isolated and it's awful. It's significant; it is not one or two people here and there or certain things that slipped through the cracks. As I'll explain in a minute, this type of content is part of the business model, and not just for MindGeek, which is of particular importance to this committee because it's a Canadian company, but for its competitors and in the industry.

To drive home how real it is, let me give you just a few examples of other victims we've talked to and verified.

A girl was raped at 15, and a video was posted on Pornhub and distributed through a community. Pornhub refused to remove the video for three weeks, then said it had been removed when in fact it wasn't removed for another two months, with several hundred thousand additional views, downloads and distribution in that community.

A child younger than 10 was sold into trafficking and was the subject of child pornography for almost 10 years. Those videos were distributed on various MindGeek platforms where they could remain at least until later last year.

A 15-year-old was secretly filmed via computer hack and then extorted to do other videos. Those videos were posted on Pornhub with her personal information, distributed widely, including to her community and to her family, and subjected her to long-term abuse and stalking. When she raised the issue at Pornhub, it refused to search for the videos or take any other proactive steps to prevent their distribution. The trauma led her to consider suicide.

A woman was raped on videotape and it was distributed on Pornhub, including through her community.

A 17-year-old was secretly recorded by an underage boyfriend, and it was posted to Pornhub and distributed throughout her school community and to her family, subjecting her to harassment and extortion.

• (1245)

A woman was drugged and raped after meeting someone on a date. The rape was videotaped and posted on Pornhub. We believe it was sold on Pornhub by the person who posted it.

A 14-year-old was secretly recorded by her boyfriend, who posted the video to Pornhub and distributed it, again, through her school and community.

Child pornography posted on Pornhub of an individual had hundreds of thousands of views and an unknown number of downloads. When confronted, Pornhub failed to report it to the authorities. That's something I'll talk about in a second.

A 16-year-old was coerced into a sexual act that was videotaped and posted on Pornhub without her knowledge or consent.

A 16-year-old girl was trafficked by two American men who filmed the sexual acts as part of the trafficking. In fact, that was what she was offered for. Those acts were posted to Pornhub. This individual is aware of other women in that trafficking ring who were sold for the same purpose.

An underage girl was trafficked for years by a business colleague of her father's. Videos were monetized on Pornhub. She reported the incident, but the videos were not taken down for an extended period of time.

An underage girl attempted suicide multiple times and turned to drugs after videos were posted on Pornhub.

Those are just a few examples. We've found many, many examples. We've investigated hundreds. We've talked to several dozen victims whom we've been able to verify. We've talked to advocates, investigators, media people, industry people and whistle-blowers. These are not isolated incidents. It's a real problem.

How did we get here? Well, we got here like we've gotten to many places at this stage in our culture—because the Internet was a major disrupter in the pornography industry. Prior to Tube sites, the pornography industry had a policing mechanism. There were statutes. We have section 2257 in the States. It requires anyone who's going to produce pornographic material to have written consent that says they've verified the age and that the stuff is consensual. If you were going to distribute it, if you were going to sell it, if you were going to stream it on the Acme Hotel Company entertainment centre, if you were going to put it on a cable channel, then everything you were going to distribute had to have that disclosure on it saying that in fact those rules had been complied with. That system worked relatively well. It wasn't perfect, but it worked.

Enter the Tube site, where anyone could post anything at any time. Millions and millions of videos were posted in a given year. In our view, section 2257 applies to much of MindGeek's business model. It might not apply to all. It's pretty clear that MindGeek and the industry's view is that it doesn't apply at all. As a result, there was no requirement of the posters. There was no compliance on behalf of the Tube sites.

Then you add in how the business model for Tube sites works and search engine optimization. The goal, of course, is to end up number one in Google searches so that if someone types "porn" with a particular topic into Google, it will pull up your site first. All of these sites—MindGeek and its competitors—were basically in an arms race to be number one.

I don't have anywhere near enough time, nor probably enough understanding, to fully explain all the elements of search engine optimization, but I can tell you certain simple truths. Content is king. Search terms are king. Long search terms are king. Descriptions are king. The more content you have, the more titles you have, the more tags you have—all of that is gold [*Technical difficulty—Editor*] optimization.

So [*Technical difficulty—Editor*] not by the [*Technical difficulty—Editor*], including by this Canadian company, which essentially became the Monsanto of porn, that it would just simply not put any limits on content that was coming on to the site. We've talked to whistle-blowers and industry insiders. As soon as you start to try to somehow police and filter the content on your site, you start losing content. You start delaying upload times. You start losing the search engine optimization race.

- (1250)

The fact of the matter is that they knew and decided not to do anything about this.

How do we know that they knew? The evidence is overwhelming. First of all, before Tube sites, it was common knowledge in the industry that absent policing, non-consensual content—children, women being trafficked and rape videos, which are the metaphor of a snuff film—would find their way into commerce. That's why we had statutes, studies and congressional hearings on this. It was common knowledge. You couldn't be in this industry and not know that if you took those away and just simply distributed anything, you would end up with this content.

Then you have the fact that search engine optimization is at the core of their business. In fact, if you go to MindGeek's website, you would not know that it is the largest Internet pornography company in the world. You would think it is a tech company. That is how it describes itself. It describes itself as an expert in search engine optimization, which means knowing what's on its site, selling advertising to people who want access to those users, selling it smartly and profitably and selling the data back to those people from that product. Put simply, in terms of knowledge, a search engine optimization company like MindGeek that is running this business model on its sites knows as much about what's on that site as NASA knows about what's going on in the space capsule. That is to say, it knows everything that's going on. It does that on a daily basis. It optimizes that on a real-time basis.

At the centre of all this is an algorithm. If you go to the site and you're drawn to that site with a particular search, the algorithm then figures out what else to send you to. It needs to know exactly what it is that's on its site to know what it is it's sending people to. For people who would search for child pornography or for titles that we know are child pornography, they would pull up a search and MindGeek itself—its algorithm—would begin directing the user to more and more of that content. It knew what was on its site like NASA knows what's in its space capsule.

Moderators purportedly reviewed all the uploads. According to MindGeek's public statements and pronouncements, it reviews all the content that is uploaded to its site, which is an admission that it reviewed all the child pornography that's found on that site.

The people it externally calls moderators, it doesn't call them that internally. It calls them "formatters". That's important because it shows you where the emphasis is. It's not really a moderator screening for content. It's a formatter making sure that content is in the right format to maximize search engine optimization. How so? Is the title right? Are the tags right? Is the video the right length?

Whatever you call it, they reviewed it. It's on their site. They knew it was there and they chose to let it be there.

Their treatments of complaints, comments and red flags.... You've heard Serena's story. If you've read accounts in the press—and certainly from people we've seen who were victims, good Samaritans, appalled users—they've essentially been stonewalling over the years when someone would raise a complaint. To say it was non-responsive does not accurately characterize it. It was hostile. It was discouraging. It was designed to make people go away.

Again, a search engine optimization company understands and is using all of this content to maximize the value of its content and monetization.

- (1255)

The comment sections of many of these videos, where people are explicitly saying that this is obviously rape, where you have a woman who is clearly passed out drunk—where the person videotaping is opening her eye and poking her in the eye—and being raped, where you have people saying that this person clearly can't even be 12 years old—this is all content that MindGeek is scanning and is aware of on its site, yet those videos remained for years, and they weren't the only videos.

The treatment of illegal content, when they were called out and when they were forced to do something.... You would think that the entire post would be deleted, that the user's account would be deleted, that they would look at the user's other accounts for similar content, that they would ban that content. But in fact, the only thing that would happen was that the video would be disabled. The link is still there; the page is still there; the search terms are still there; the tags are still there. They're there because now they can still use them in attempting to maximize their search engine optimization.

In fact, last week I typed in a title for a notorious example of a child rape that occurred, which was taken down last year around this time. Even though MindGeek had taken down 10 million of its videos and that video had been taken down in the spring under public scrutiny, lo and behold, Google took me right back to Pornhub, that exact search. This shows you how it works and why it was left up there. All of that was left up there. The user might not get the video, because it was disabled, but the algorithm would then steer them to other content like it—other content that...people had clicked on that and also watched something else.

Oftentimes, when people put some public scrutiny on things, or when NCMEC, the U.S. authority on this, would direct them to take it down, they would post something that would say, "Taken down at the direction of NCMEC", which I think they're required to do. When they are forced to take it down, oftentimes instead they would say, "Taken down due to a copyright violation", even though they knew that wasn't what it was. We also have examples of cases, when public scrutiny has been drawn to non-consensual content based on comments and tags, of them going in and not removing the video but removing the content and tags.

The other evidence of their knowledge and intent, to a trial lawyer like myself, is what they did over the course of the last year when all of this really finally got the public scrutiny it required. As someone who advises companies that sometimes end up in a jam because someone or something or the company did something they shouldn't have done, I would say we all know what the right formula is: You acknowledge the problem; you indicate that you are going to fix the problem; you hire whoever it is from the outside and give them whatever resources they need to do that; and then you go ahead and do it. That's what real companies do, what responsible companies do—certainly companies that are running businesses in industries that are as lucrative as this.

But that's not what happened. The reason I started out my presentation with something that you might have thought was obvious—by saying what we're here about and what we're not here about—is that for a year, in response to this, despite the fact that nobody knew what was on Pornhub's site better than Pornhub and MindGeek, MindGeek has run a gaslighting campaign that has denied this was a problem, denied its extent, discredited victims, discredited advocates, and essentially attempted to silence everyone and deflect. They say to this day.... Not just MindGeek, but its agents, its allies, its industry networks are running a vicious social media astroturf campaign attempting to disparage anyone who pops up to speak about what is really happening, all the while saying not only that this stuff isn't true, but that the people who are saying it are intentionally misleading, that they're lying. But they're not lying.

• (1300)

They have accused people of raising these issues for ulterior motives, because they have a problem with porn or consensual conduct or they are some sort of religious zealot. The fact is that it's not about any of that. That's just a way to distract people from what the real problem is.

Of course, it was only when the New York Times exposed the problem after looking at it and found what everyone else finds when they look at it—and then Visa and Mastercard had been told about this problem but had also ignored it until the New York Times wrote its piece—that MindGeek, while still claiming that it takes all of this very seriously and always has, took down 10 million videos because it obviously had no idea whether those videos are consensual or not.

The astroturf campaign that has been run on social media has ended up doxing people. People have been hacked. We were representing a victim in Montreal who felt threatened, who felt for her safety, who had tires slashed and who then disappeared. I don't know where she is. We have investigators trying to find her. We're talking to law enforcement. I got a text message from somebody who claimed to be her roommate, who said she'd had a car accident and was in a coma. That wasn't true. I don't know what happened to her.

I have other examples like that. That's what's going on behind the scenes. Part of what we have been investigating for this year is who it has been. I'm not going to reveal that now, but we will soon. It's a very dangerous, reckless campaign that's being conducted to attempt to defend the indefensible.

What are the solutions? Real quick, one, we have to do our job and defend the victims who have been victimized and who continue to be victimized by people spreading lies about them and who, in certain instances, have been subjected to much worse conduct. We're going to do that.

What prevents it from continuing? MindGeek has taken down 10 million videos, but it has competitors that have not gotten any scrutiny. It is the flagship. It is the metaphor for the whole industry. It is a big problem. However, the problem is much bigger.

It seems to me there are two things. One, everyone agreed many years ago, before the Internet disrupted so much of our lives in good ways and bad, that, with respect to pornography, it was reasonable to have certain requirements for people who were going to produce, distribute or transfer content that required them to ensure that it was consensual. Back then, that system worked pretty well, because the industry was, compared to what it is on the Internet, somewhat finite and smaller.

It worked. There were disclosures. People had to make sure. People had to keep paperwork. Also, if you were going to distribute it, you had to make sure they had that paperwork. That made sense then, and that makes sense now. There is no way we are going to stop this or have any effective mechanisms to limit it unless we have some of those mechanisms. I don't think it's very hard, and I don't think it's unfair to require an industry that's making billions of dollars a year to have some basic compliance and moderating requirements.

There are other things I think we definitely need to do. Canada, the U.S. and most countries have the equivalent of NCMEC that child pornography is sent to, which then can make directions to take down videos and notify law enforcement. There are a few things that are obvious to me. The scope of this problem in the Internet age requires that those functions be dramatically developed and built up and that they become much more robust.

Two, I think there needs to be more transparency. [*Technical difficulty—Editor*] report [*Technical difficulty—Editor*] can look at with significantly more transparency, because obviously that will make a big difference. It will help prevent companies from denying problems simply because they know what's going on and we don't.

• (1305)

Most of all, this industry has to begin acting like a real industry, like a real business industry that actually cares about what it's peddling, as opposed to some chemical company from the seventies that didn't care but was making money and was poisoning people. There's a reason MindGeek is called "the Monsanto of pornography". What everybody needs to do is to make that an impossible position to maintain in this industry.

Thank you.

The Chair: Thank you, Mr. Bowe.

We will now turn to my colleagues here for some questions. We'll begin with Mrs. Stubbs to lead off.

Colleagues, again I want to ensure that we have flexibility with the time so that everybody can get some questions in. Take the time that you need, but if you don't take the full time, we'll move on to the next questioner.

Mrs. Stubbs, we'll turn to you.

Mrs. Shannon Stubbs (Lakeland, CPC): Thank you, Mr. Chair.

Serena, thanks for being here and for talking to us about your experiences. I want to tell you it's rare in life to be in the presence of someone who has the rare and incomparable strength and resilience you have clearly demonstrated here. I hope that through this process, you're able to empower yourself. You own your power. No one gives it to you; it's inherent in you and it's clear. It's powerful within you. I also hope you know right now—or one day you will—the scope and the scale of what you're doing, not just speaking on behalf of yourself but for—clearly, from both your testimony and your lawyer's testimony—what is actually the experience of millions of people around the world. Thank you both.

I wonder, Serena, if there's anything else that you would like us to know about your experiences and the impact on you in your encounters with the representatives to try to get the images of you taken down. Is there anything more you want us to know about the ongoing impact of those experiences on your life?

Ms. Serena Fleites: As Mike was talking, he was telling you about some of the other victims. I'm one of the people who ended up homeless, ended up dropping out of school, ended up on drugs, completely detached from my family. I ended up trying to kill myself many times. I ended up in mental hospitals. There were instances where the video would have literally 2.7 million views, and it would still be on Pornhub despite hundreds of comments saying, "Oh, this is definitely child pornography. That girl can't be any more than 14 or 13." And yet Pornhub still wouldn't take it down, even when I messaged them multiple times. It would take forever, and then when I did get a response, they would hassle me for all these other details. I would have to go through the whole process of sending them pictures of me with my face next to my ID, over and over again, to prove that, yes, that video is child pornography. Even after I proved all that stuff, it would still take a while for them to take it down, which would gain hundreds of thousands more views.

Like Mike said, they optimize that. The titles would always be something like "Pre-teen", "Young Teen", "Fourteen", "Thirteen". They would always list an age or an age category in the actual title as well as in the tags. That was actually something you could search on Pornhub before they made this whole big wash of the videos deleting a huge amount of them.

It still affects me. I have anxiety to this day. I had always been a very bubbly, open, friendly person. I'm still friendly and I'm still a nice person, but I'm not so bubbly anymore. I don't go up and introduce myself to people. I don't really have many friends. I've distanced myself from everyone. I've spent and still spend more time with my dogs than I do with actual humans, because just being around other people now causes me anxiety, due to what happened when I was experiencing the most backlash from when the video ended up on Pornhub. Guys from school would literally follow me home from school harassing me the whole way to get me to do sexual acts with them, or to get me to make videos with them, or send them more content. They'd tell me, "Well, it's already on there. Why did you share it with him if you can't share it with us? Obviously you don't care. You must have posted it to the site yourself." They were saying all these things, and then in addition to that, they were trying to blackmail me, saying that they would send it to my mother, send it to the rest of my family. It caused this huge buildup of anxiety and depression in me, which caused me to turn to drugs to try to forget about it, to turn to suicide to try to end it.

Even to this day, it's still hard talking about it and dealing with it, because even after The New York Times came out...once Pornhub did that whole deletion of a bunch of videos, I still had a lot of comments. They wouldn't be sent directly to me because I "privatized" and changed the names on most of my social media accounts. People would comment in other articles or in discussions on my Twitter account. They would drop my name in there, saying I was responsible for ruining their lives because they could no longer watch their favourite videos. And then there would be people who actually did find my social media accounts, who, even after I changed my name, changed my profile pictures, changed everything about my profile so that it would be harder to find, and put my accounts on private, would still send me a message and try to send me a friend request like, "Oh, I saw your videos. Your body is really nice." I was 13, 14, in those videos.

It still affects me even to this day, even after everything they said they were doing to fix it.

• (1310)

Mrs. Shannon Stubbs: Yes.

Well, you're a leader in what you're doing right now. What we're here to do is figure out what we can do to help you fix it.

If you had the opportunity, what would you like us to know about what you would say to MindGeek, to the people who run it?

Ms. Serena Fleites: I would tell them that they're really selfish. They need to really look at themselves in the mirror because they're prioritizing money and content over actual human beings' lives, because obviously, they don't care that much. They didn't make any major moves until the banks decided they wouldn't be supporting them anymore. They'd always gaslight and would claim denial that any of the claims against them.... They would say they were all untrue. When my videos were uploaded over and over and over again, they'd always tell themselves that they couldn't do anything unless they were reported, but even when they were reported, they still lagged on doing anything to fix the problem.

I would tell them to look in the mirror and re-evaluate themselves. They need to figure out where their real priorities are and not be so focused on money and content rather than real humans' lives and what they're doing to them.

• (1315)

The Chair: Thank you.

Mrs. Shanahan, we'll turn to you.

Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.): Thank you, Chair.

I too, Ms. Fleites, am so grateful for your courage in coming before us here today and sharing your experience. I'm thinking of other young women who maybe have been in the same situation that you found yourself in. Certainly bringing this out in the open is helping that conversation to happen. I'm thinking of parents, of teachers, of adults. When you described what happened at your school, I feel you were let down in so many ways that you had to deal with this yourself as a minor.

What would you like other young women to know or what would you say to them about the experience that you've gone through?

Ms. Serena Fleites: If you take me, for example, I took so long to tell anybody. I always tried to deal with it myself and it caused me years and years of anxiety and depression, which still to this day I have to deal with. I still have trouble communicating with people and actually going out in the world, like leaving my room and being out in real life because of what happened and because I tried to deal with it all by myself.

I would tell them to talk to somebody they trust. If they feel like they can't tell their mother or their father, maybe there's an aunt or an uncle or another person, like a principal or a counsellor at school, just anybody. I waited until two days before the article came out to even tell my family what was going on. For all those years, they never knew what was happening. They were a little upset, of course, at first, but once they realized that all their previous assumptions as to why I was ditching school, why I was having mental health episodes, why I had tried to kill myself, why I had turned to drugs, that all of that was based on just, you know.... They had no idea what was really going on.

I would tell them to really let somebody know. It's not going to help just dealing with it on their own.

Mrs. Brenda Shanahan: Thank you. Thank you so much, Ms. Fleites. I do believe that your words here today are going to help many other people who are in a similar situation, so thank you so much for your continued courage in coming forward.

You described the actions that you took to flag the material to Pornhub and MindGeek. I can only share the frustration of sending out this message and not knowing how it's going to turn out. I wonder if you or Mr. Bowe can share with us whether those processes that were there were adequate in so far as the current regulations are concerned. Are they the appropriate processes to have in place? Are the processes now improved to take down content that is illegal and causes harm? I guess I'm looking for a difference between the processes and then the enforcement of those processes.

Ms. Serena Fleites: I'm not very knowledgeable on all the different kinds of processes, but what I can say is that Pornhub always said that they had no idea what was on their site. Anybody could post and anybody could download what was on there, so they didn't know unless people would flag it and report it. And they said that they would take whatever was flagged and reported seriously, review it, and then take it down. But even with that, before all of this happened, before The New York Times article came out and the banks pulled out of supporting them, even when people would comment directly on the video, when they would flag it, report it, and even when I would message them over and over and over again telling them the actual age I was in the video and telling them that it is clearly child pornography and that it is me in the videos and that I would like them taken down, they would still take a while to respond to me, and then when they did respond to me, they would always try to feign ignorance and say, sorry, we didn't see this until now. They wouldn't apologize. They'd be like, oh, we didn't see this until now. Then they would basically tell me that I wasn't really telling the truth. They'd ask me to verify my identity over and over and over again to make sure I really was the girl who was in the video.

It was very frustrating talking to them, because I would sit there and type out a heartfelt response about how I was truly feeling about that video being online and what it was doing to me, and they would respond with "Prove it's you" and "Sorry, we can't do much other than that." Even when it was very clear.... I still look young now. I have a little makeup on right now, but I'm told all the time that I look a lot younger than I actually am, because I hit puberty really late due to a hormone disorder I have that makes me age very slowly. So when I was 13 and 14, I still looked like I was nine or 10 years old, and it was very obvious that it was child pornography. Even without me having to verify my identity over and over and over again just to get one video taken down, they could still blatantly see that it was a child in the video.

On top of that, they told me that once a video was flagged as child pornography, it would be sent over to the authorities, to the people in America who deal with child pornography, who catalogue it, and that the actual video itself would be tagged so that it couldn't be uploaded again onto their site. That very obviously wasn't true, because the video would be uploaded over and over and over again. It wasn't that hard to find. It usually had around the same name or the same title and the same tags. It would always have the "pre-teen" or "young teen", "teen brunette", "petite 13-year-old" or "small 14-year-old girl". It was very blatantly obvious that it was marketed towards people who were looking for child pornography.

I believe that they really didn't care to make a change at all and that even under public scrutiny they were really dragging their feet to get on with it, to do what they said they were going to do, until money became involved, until the two big banks pulled out and said that they wouldn't allow it to be used on their platform anymore. Then all of a sudden, Pornhub can do anything they want about the videos. They can delete 10 million videos in a day, when before it took them weeks and sometimes even months, letting the videos get up to 3 million views of a 14-year-old girl before deleting them.

I don't know all the laws and everything, but I believe Pornhub's reaction to it was very delayed and was very money-based, not actually about protecting children or people in general.

• (1320)

The Chair: Thank you.

Madame Gaudreau, we'll turn to you.

[*Translation*]

Ms. Marie-Hélène Gaudreau (Laurentides—Labelle, BQ): Good afternoon.

This is quite an honour for us.

First of all, Serena, I would like to....

[*English*]

The Chair: Pardon me. I do apologize. I just want to ensure that our two witnesses have their translation turned on.

At the bottom of your screen, you may see an icon that says "interpretation".

Ms. Serena Fleites: Yes. I just got it turned on now.

The Chair: Perfect.

We'll turn back to my colleague.

Ms. Serena Fleites: She'll have to repeat herself.

[*Translation*]

Ms. Marie-Hélène Gaudreau: I will speak slowly, so that you can understand the interpretation.

[*English*]

Ms. Serena Fleites: Yes.

[*Translation*]

Ms. Marie-Hélène Gaudreau: I would like to begin by commending you on your courage. I am a mother of two young adults like you. I honestly see you as a role model. I hope you know that every action you take can help change legislation. It is people like you who will help us get there. Some changes have already taken place, especially when it comes to credit companies.

We often hear the expression "business is business", but we are talking about human beings here. It is clear that your personal life has not been respected, and your consent even less so. So, I hope that everything you told us today will not only have done you good, but also given you back even more confidence. I am looking at you now, and it is obvious that the future is yours. You have really good support behind you. All the proposals Mr. Bowe made today will help us go a bit further.

I have a question I would like you to answer. Would you like us to keep in touch with you in order to explain the various stages of this legal process? This could benefit you, as well as any other women going forward.

I would like to hear what you think. You have really shared even more than we could have hoped for, and I thank you very much for that.

• (1325)

[*English*]

Ms. Serena Fleites: Thank you. I appreciate that.

I would like to continue to be updated on how the laws are changing, on what that will basically demand Pornhub and MindGeek to do, and on what that will basically entail for them to follow. I'm not very updated. I don't have a lot of knowledge on laws.

The Chair: Thank you.

We'll turn to Mr. Angus now.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you, Ms. Fleites and Mr. Bowe—

Ms. Serena Fleites: I think I have to turn off the language thing.

Mr. Charlie Angus: Yes.

Ms. Serena Fleites: Okay. Now I can hear you.

Mr. Charlie Angus: Can we start over?

The Chair: We can start over, yes.

Mr. Charlie Angus: Thank you.

Ms. Fleites and Mr. Bowe, I want to thank you so much for your extraordinary testimony and for what you've done by coming forward as witnesses. It was you who put Pornhub on the run. It wasn't the big MasterCard and Visa. It was your willingness to be a voice and to step forward. To follow up from my colleague Madame Gaudreau, we thank you for your courage.

As to why we are here, it might seem like a bunch of people on a screen asking strange questions, but this is how we make laws in our country. We get witness testimony. You tell us that you're not an expert in laws. Well, you are helping to shape the laws of the future to protect other survivors. Your testimony is so important to us today, because we are going to take action. We are going to hold these guys to account. That is our job as legislators and as parents, because the system failed you.

You've given us so much. I won't make you repeat all the amazing things you said, but I was really struck by what you said about how they hassled you when you, as a child, were trying to get control of your life again from the exploitation, from the criminal acts that were done to you. They, as a massive corporation, hassled you.

Could you explain to me what that means? What do you think we should make them do so that they don't hassle any other young women anywhere in the world?

Ms. Serena Fleites: Basically, when the videos were first uploaded online and I didn't want to tell my mom about them—and I pretended to be my mom—they would say, like, “Oh, well, it's not actually you in the video, so to provide proof that's your daughter and that she's underage, you're going to have to provide....” like, pictures of me next to some sort of identification. They would ask for all these different things. Even after I sent one picture next to whatever identification they asked for, they would ask for another

picture next to a different sort of identification, and so on and so forth. They were just dragging out the process for so long even though it was very obvious it was a child in the video. Even if, say, it wasn't me in the video, they could still tell that was a child in the video, yet they were still dragging out this process. They didn't want to take the video down because it had, at that point, millions of views. It was bringing them ad revenue and clicks to their site. It would be at the top of Google for the searches.

It amazes me that they continue to do that even after hearing that so many other people went through this and knowing that I wasn't the only one they would do this to. I don't understand how they can be okay with it and how they can sit here and think, “Okay, well, this isn't the girl in the video, or I'm going to make her prove over and over and over again that it is her in the video, even though we can see it's child pornography. We're just going to make sure it's she who wants it taken down before we take it down”, even though they should have just taken it down because it was child pornography.

• (1330)

Mr. Charlie Angus: Thank you.

I'm going to ask Mr. Bowe about this. If MindGeek is promoting a video that says “13-year-old girl” or “14-year-old-girl”, in Canada, we have very strong child pornography legislation and it's anyone under 18. The fact that the corporate response to this young woman, this child, was that they didn't believe she was the one in the video or they didn't believe she was the mother—she was pretending to be her own mother—the fact that they would have to go through that level of proof, when what they were promoting was criminal behaviour....

Do you believe, under American law or under Canadian law—we are looking at Canadian law—that they are criminally liable for the fact that they were aware and they were promoting child pornography online to their viewers for monetization?

Mr. Michael Bowe: Yes. I think this is something where the law can be improved upon, because the law was written before the Internet Tube sites. But I have no question that under American law there are criminal violations here.

For example, I raised section 2257 for a reason. It's so basic. Before the Internet, the American law required that if you were going to produce pornographic material, explicit material, you had to have paperwork showing that the person was of age and that it was consensual, and you had to keep the paperwork. Then, if you were going to send it and give it to somebody to sell, broadcast or whatever, you had to have a disclaimer on it that showed “This is what I did and here is where you can find the paperwork.”

The point is that it was the responsibility of the people producing it to make sure that it was consensual, and if you were going to distribute it, transfer it or show it, you had to make sure that that person had made sure. That is common sense. It wasn't controversial when it was enacted way back in the nineties. I think we should all agree on it now.

But the default in this industry is that it's consensual and adult until you prove otherwise, which shouldn't be the standard, can't possibly be an effective standard and I don't think actually is the standard. Lawyers could argue over which aspects of MindGeek's business section 2257 applies to and which it doesn't, but it clearly applies to transferring pornographic material.

When a person uploads to Pornhub, perhaps lawyers could argue that Pornhub is just receiving the information, and under the various definitions that were there before Tube sites, lawyers could argue whether section 2257 applies to them at that point. I think it does, but there's an argument, and that's why legislators should probably update that law.

But they almost immediately then take that content from Pornhub and push it out to their other sites, which clearly falls under section 2257, in my view. They don't have the required documents, and there is no disclaimer on that material.

So this entire industry.... One of the members asked about the process. I've been a lawyer for 30 years. [*Technical difficulty—Editor*] I have never seen a situation where there was so much disregard for and indifference to what was obviously child pornography, rape, trafficking content—illegal content—on this site. There was no process.

That's why this issue of gaslighting is so important to me. This entire year, if you were simply listening to the public pronouncements of MindGeek, of its agents in its network of performers and otherwise, of its allies in the industry, you would think they have all this process and all this technology and that this stuff is just mistakes that were made.

I'm telling you that when we're done and the proof comes out.... If you're able to do the type of investigation we've done, you will find out that this is just a bunch of BS. There was no process.

The moderators—

• (1335)

Mr. Charlie Angus: I'm sorry. This is really important. I think we're going to have to draw you back as a witness on this, but I'll defer to the chair on that.

Section 162(1) of the Criminal Code in Canada says it is illegal to record or film a person who has "a reasonable expectation of privacy". It is an offence to distribute such content or possess such content. It is an offence to distribute if the person did not consent. That leads us into section 163, about the distribution of child pornography.

These are the laws. We also have a law from 2011 on the obligations of ISPs to report flagged examples of child pornography, and yet we have Ms. Fleites raising known issues of child pornography and being told, "Prove it to us before we do anything."

I just want to ask you, with my time left.... I'm going to read one other statement. It's from Pornhub's terms of reference. Pornhub claims:

The Websites take a powerful stand against any form of child exploitation or human trafficking. If we discover that any Content involves underage individuals or any form of force, fraud, or coercion, we will remove the Content and submit a report to the proper law enforcement authorities. If you become aware of any such Content, you agree to report it to the Websites by contacting legal@pornhub.com.

I would end with a simple question for Ms. Fleites and Mr. Bowe. Is that promise made by Pornhub worth the paper it's printed on?

Ms. Fleites.

Ms. Serena Fleites: No. As the study shows, Pornhub reported only so many accounts of child pornography being on their site, and they always try to shift the responsibility from themselves to the people who are uploading the content, when it's their site. They should require people to verify their age and verify who they are and that they're actually the people in the video before it can be uploaded, instead of just letting whatever be uploaded and then downloaded from their site, and then, oops, now that it's flagged as child pornography we're going to make people prove it's child pornography before we actually do something.

At the end of the day, they really don't want to remove the videos. In reality, their whole process should have been, from the beginning, having people verify their age and identity before the video can even be uploaded. So I don't think their promise is worth the paper at all.

Mr. Charlie Angus: Mr. Bowe, should we take them at their word, that if these issues are identified, they will take action?

• (1340)

Mr. Michael Bowe: Those statements are categorically lies; they just are. "If you discover", "if we discover".... What do they mean by "discover"? Does someone have to come in and get a judgment and prove something because you can't believe your eyes? Does it mean victims can't come in and tell them these things? "If we discover"—no.

Look, they have said.... I emphasize this because it tells you the company you're dealing with. You are dealing with a rogue company. You don't know who owns it; I don't know who owns it; no one really knows who owns it. Its behaviour here is completely out of bounds. It's just in a different universe from the way even bad mainstream corporate citizens work.

Those statutes that you cited...I have no doubt. We have analogues in the U.S. Lawyers can argue about exactly where they apply and in what aspects, but they clearly apply.

For example, MindGeek has servers in the United States; I believe it has servers in Canada. I believe those servers have been among the largest, if not the largest, repositories of child pornography in North America.

Mr. Charlie Angus: Thank you.

The Chair: Thank you, colleagues. I apologize that the time got away on us, but Mr. Angus, I wanted you to finish those questions, because we had many colleagues who stated that in fact they wanted answers to those questions.

Mr. Charlie Angus: Thank you so much, Mr. Chair.

The Chair: I also know that some of you, colleagues, need to leave now; I appreciate that we've gone over time in a significant way.

Ms. Fleites and Mr. Bowe, thank you for your testimony. Thank you for your patience with the technology.

We look forward to continuing in this study. We hope we can rely on both of you, maybe, in the future as well. I know that committee members have already indicated they'd like to continue a dialogue with you on a number of fronts.

Mr. Angus, I'll recognize you.

Mr. Charlie Angus: I'm sorry to interrupt, Chair.

I just wanted to ask Mr. Bowe, as we're beginning this study... This is very new terrain for us. We have a number of powers, as a parliamentary committee, for summoning witnesses, for obtaining documents, for production of documents. If there are areas that you believe we should be looking at, would you be willing to share that information with our clerk so that we are better prepared to undertake a thorough investigation? This will be about bringing to Parliament suggested changes in the laws, if we find that there has been an absolute failure, and it looks very concerning to us right now.

Mr. Michael Bowe: Absolutely.

The Chair: Thank you so much, colleagues.

We'll turn to Mr. Viersen. I see that he's indicating that he has a question.

Mr. Arnold Viersen (Peace River—Westlock, CPC): This is for Mr. Bowe.

We have invited Feras Antoon and David Tassillo to our committee. We're hoping that they make an appearance. Those are some of the executives of MindGeek whom we've been able to track down.

Is this your understanding as well? Are those the people we should be after? Or are there other executives as well whom we may have missed?

Mr. Michael Bowe: I think you need to speak to a gentleman named Corey Urman, who's there. I think you need to talk to those individuals about who actually owns the company, in what form, and from whom they take direction.

I know these people have been publicly fronted as owners. I suppose there are different ways you could call someone an owner, but our information, and other public information, is that the people who are the beneficial owners, the people who control this company, who really hold the economics, are not known. In this situation, they need to be known, because I don't think the gentlemen you spoke about are the ultimate word on how this company is run.

The Chair: Thank you.

Thank you, Ms. Fleites. Thank you, Mr. Bowe. We appreciate your testimony and look forward to talking again.

We will now adjourn.

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