

September 4, 2019

One Hundred Sixteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Re: Committee on Homeland Security 8chan Inquiry

Chairman Thompson and Members of the Committee:

Today, James Watkins appears for a congressional deposition addressing your Committee's concern over social media companies' efforts to address online extremist content. We have prepared this statement in an effort to assist the Committee in understanding how careful and responsible a platform 8chan is. While Mr. Watkins is empathetic to the victims of mass shootings in America, 8chan has never tolerated illegal speech and has a consistent track record of working with law enforcement agencies when appropriate.

After the current disruption of service, 8chan has taken steps to improve its ability to identify illegal content and to act more quickly in doing so. To these ends, it hopes to be of continued assistance to law enforcement officers in times of need.

Mindful of tragedies America has faced, Mr. Watkins also believes in the exceptional promise of the First Amendment. 8chan is the only platform featuring a full commitment to free speech—a one-of-a-kind discussion board where anonymous users shared tactics about French democracy protests, how to circumvent censorship in repressive countries, and the best way to beat a classic video game. In this hodgepodge of chaotic discussion, down-home recipes are traded, sorrows lifted, and a small minority of users post hateful and ignorant items.

As Justice Hugo Black once noted, the "First Amendment provides the only kind of security system that can preserve a free government – one that leaves the way wide open for people to favor, discuss, advocate, or incite causes and doctrines however obnoxious and antagonistic such views may be to the rest of us."¹ It is with this in mind that Mr. Watkins is proud to host the only platform compatible with the First Amendment.

With these introductory points in mind, we address the issues raised by your subpoena.

1. Personal Statement from James Watkins

I would like to thank the honorable Bennie Thompson and the honorable members for inviting me to this sacred House of Representatives. I am proud to be able to help the Congress the American people and the House Committee on Homeland Security. It is indeed a once in a lifetime opportunity for myself to be able to participate in whatever capacity I am able. I consider myself a good and faithful American man and promise to do my best to help you solve your dilemma with the hate speech and censorship of minority opinions of voices on the internet. I will say today contrary to some rather noisy folks that my company is law abiding and we understand that the restriction of some speech is necessary. Speech that satisfies the emergency test is not protected, is removed once reported, and law enforcement requests are filled vigorously.

¹ *Yates v. U.S.* 354 U.S. 298, 344 (1957) (Black, J., concurring).

My company has no intention of deleting constitutionally protected hate speech. I feel the remedy for this type of speech is counter speech, and I'm certain that this is the view of the American justice system. This may be a contrary opinion to our friends in other countries. Those across the oceans may feel it necessary to stifle the voice of minority opinions. This is not what I intend to do. Our company has built and maintained a digital forum that is the place where opposing viewpoints and those of minorities such as the LGBTQ may express themselves free from the fear of their life. As some are persecuted with even the ultimate penalty in other countries. I am aware that my invitation here was because of some recent mass shootings. I assure you that neither myself, nor any of my staff, have participated in any of these atrocities. The recent letter, and serious nature of it resonate in my soul, and I feel deep despair and heartache for the families of the victims of these shootings. Most recently in Alabama, and Texas, and other victims worldwide.

My company and myself intend to fully comply with the removal of speech that does not pass the emergency test. Currently our website is offline. This is a shame, and something that I am not proud of, since it has censored and silenced the voices of those across our country. It has also censored those in other societies where our forum was the only outlet available to express themselves safely. The French democracy board is now silent. The board for Egypt and from some of our oppressed neighbors to the South are examples of this. I am ashamed that they lost their last bastion of free speech and will endeavor to right this wrong safely and effectively in the near future.

2. How Does 8chan Address Online Extremist Content?

Unlike other platforms that have faced controversy for banning relatively innocuous speech, 8chan features a full commitment to the promise of the First Amendment.² That is, 8chan recognizes that small categories of unprotected speech exist outside the purview of the First Amendment. These include categories like child pornography, “fighting words,” and “true threats.”³ Where speech posted on 8chan falls outside the recognized protection of the First Amendment, 8chan takes action to remove it or to work with law enforcement requests to unmask the identity of a poster of unprotected speech.

Beyond minute categories of unprotected speech remain all sorts of uneducated, ill-informed, and conspiratorial opinions. These remain protected under the First Amendment and protected by 8chan. As Justice Brandeis reasoned, “If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”⁴ 8chan encourages vigorous debate, discussion, and changed opinions as a result of interacting through its imageboards. Unlike platforms like Facebook or Twitter, there are no “speech police” to shut down poorly formed opinions, popular conspiracy theories, or hateful monologues. Instead, this curation is left to thousands of moderators and fellow users with the hope that better reason and enlightened wisdom will, ultimately, prevail.

² “U.S. conservatives say Facebook needs ‘significant work’ to address concerns: former senator,” David Shepardson, Reuters (Aug. 20, 2019), available at: <https://www.reuters.com/article/us-facebook-bias/u-s-conservatives-say-facebook-needs-significant-work-to-address-concerns-former-senator-idUSKCN1VA1I7>.

³ See, e.g., *Osborne v. Ohio*, 495 U.S. 103 (1990) (child pornography is unprotected speech); *Brandenburg v. Ohio*, 395 U.S. 444 (1969) (fighting words are unprotected by the First Amendment); *Virginia v. Black*, 538 U.S. 343 (2003) (“true threats” are punishable and unprotected by the First Amendment).

⁴ *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

Why extremism thrives in the current American political landscape remains unknown and deeply problematic. The celebration and exaggeration of victimhood exacerbates social divides and amped-up fear destroys rational debate. 8chan has no silver bullet, no magic cure to end extremism in America today. It knows that censorship and suppression do little to cure underlying societal ills. Thus, it remains committed to the promise of the First Amendment, to allow for unfettered free discussion, and to work with law enforcement when tragedies occur.

3. What Are the Operations and Organizational Structure of 8chan?

8chan is an imageboard where users can post anonymously on existing boards or on boards they create themselves. An imageboard is comprised of multiple boards. A board is a collection of threads (which are displayed as a catalog or an index page). Threads contain replies. Users can either create new threads (as original posters or “OPs”) or reply to existing threads on their boards of choice. On 8chan, anyone can create a board using the create feature. When a user creates a board, he or she becomes a Board Owner (in 8chan parlance). A Board Owner can add Board Volunteers to help moderate the board.

Using an analogy, 8chan works like a federation, with the 8chan Administration as the federal government, each board as a state, and each Board Owner as a governor. Each board has its own rules, but the one rule every board has to abide by is the 8chan Global Rule, which states: “Do not post, request, or link to any content that is illegal in the United States of America and do not create boards with the purpose of posting or spreading such content.”

To enforce the 8chan Global Rule without depending on Board Owners, the 8chan Administration relies on a group of unpaid volunteers, called Global Volunteers, who are responsible for banning and deleting rule-breaking content sitewide and reporting rule-breaking boards to the 8chan Administration.

4. How Does Content Moderation on 8chan Operate?

8chan enforces one content moderation rule on the entire website: “Do not post, request, or link to any content that is illegal in the United States of America and do not create boards with the purpose of posting or spreading such content.” In 2019 alone, the following items were deleted as a result of content moderation:

- 92 discussion boards deleted
- 47,585 users banned
- 132,874 posts deleted

Moderation is mostly done by volunteers. There are no algorithms for content moderation in place. All 8chan moderation relies on human volunteers and one automated “bot” account (called botmod) to remove illegal content and spam, automated or human, based only on keywords. Users can either apply to become volunteers or create a board, which they then have to moderate themselves. These local Board Owners and Volunteers can enforce local rules on their board, but they are required to enforce the 8chan Global Rule. Global Volunteers are trustworthy users picked by the 8chan Administration to uphold the 8chan Global Rule sitewide regardless of local volunteer moderation. Additionally, the 8chan Administrator can delete, block the name of, and ban entire boards that break the 8chan Global Rule or take boards away from irresponsible Board Owners who failed or decided not to enforce the 8chan Global Rule.

When logged into a volunteer account, the user in question has access to the moderation action buttons, which appear on every post on the board his account is tied to or on every post sitewide (in the case of Global

Volunteers). Volunteers can also see a user's truncated IP address hash. On 8chan, all IP addresses are hashed to make users anonymous and protect their privacy. Under normal circumstances, there is no possible way for a volunteer to figure out a user's IP address from their hash. The purpose of the hashed IP address is for volunteers to be able to see which IP hash created which posts and take action accordingly without being able to deanonymize or “dox” a user. A volunteer can also click on the IP address hash and see all active (still not deleted) posts made by that address on the board they are on. Posts that have been deleted cannot be seen and post histories cannot be seen across boards, only per board.

Usually, Global Volunteers only enforce the 8chan Global Rule on user-created boards. Sometimes, they will help with content moderation if a user-created board is getting spammed. The dashboard of Global Volunteers has more moderation action buttons than a Board Owner account. For example, they can delete a user's entire post history across all boards on the website, while Board Owners can only delete all posts by a user on their specific boards.

Global Volunteers also handle spam that is deemed to have been caused by a bot when it affects more than one board at a time. Again, a moderation bot exists for the purpose of removing automated or human spam that always follows a similar pattern. Some of the Board Owners also choose to run their own moderation bots on their boards for different purposes (usually repeated spam). The bots are never deemed reliable enough to operate on their own without human supervision and they must be adjusted periodically as spam changes constantly to beat the keyword filters in place.

5. How Does 8chan Interact with Law Enforcement?

8chan has regularly obeyed subpoenas and lawful requests from law enforcement agencies. This interaction largely occurs through e-mail. Over the course of 2019 alone, 8chan staff have complied with 56 U.S. law enforcement requests. Before the Christchurch incident, 8chan used to receive a much lower number of law enforcement requests (around one or two a month, sometimes none). Foreign law enforcement requests are usually handled through American authorities.

Included in this packet as Exhibit A is a confidential list of communications with United States law enforcement agencies from 2017 until today. In each and every instance, you will see examples of 8chan's compliance with law enforcement requests. 8chan strives to provide helpful information to law enforcement agencies where appropriate.

6. How Has 8chan Responded to Specific Acts of Violence Linked to the Site?

After the Christchurch incident, it added more Global Volunteers from different time zones and gave them specific instructions to ban true threats (under 18 U.S.C. § 875(c)) or solicitation to commit a crime of violence (under 18 U.S.C. § 373).

When the El Paso shooting happened, 8chan was in the midst of developing a way to restrict certain parts of the website during a state of emergency. The board would be either put into a read-only mode where users would not be able to post or a restricted mode where they would not be allowed to post any files or use the Tor Network there. It is currently working to expand on these models.

Notably, after the following events, deletion or takedown times were as follows:

- Christchurch
<https://8ch.net/pol/res/12916717.html>
Created: [03/15/19 00:28:41 +0000]
Deleted: [03/15/19 03:17:30 +0000]
IP: [Redacted] (one OP, no other posts)
Time Until Deletion: 2 hours and 49 minutes

- Poway
<https://8ch.net/pol/res/13192921.html>
Created: [04/27/2019 17:58:01 +0000]
Deleted: [04/27/2019 18:10:15 +0000]
IP: [Redacted] (one OP + several thread creation attempts + three replies to two different threads)
Time Until Deletion: 12 minutes

- El Paso
<https://8ch.net/pol/res/13561044.html>
Created: [08/03/19 16:15:20 +0000]
Deleted: [08/03/19 17:00:00 +0000]
IP: [Redacted] (two posts, one OP + one reply to same thread)
Time Until Deletion: 45 minutes

7. What is the Current Status of 8chan?

At this time, 8chan is offline voluntarily. The site may come back online, but only when 8chan is able to develop additional tools to counter illegal content under United States law.

8. What is 8chan's Interaction with Other Technology Companies?

8chan has had limited contact with Silicon Valley technology companies or their staff. NT Technology has contracts with Arin, Tucows, and Epik. There has been no sharing of information or networking or any joint effort with any other Silicon Valley technology companies. Furthermore, 8chan has had no contact with any companies or staff in charge of alternative social-media websites.

9. What Are 8chan's Future Plans?

If 8chan comes back online, it will be done when 8chan develops additional tools to counter illegal content under United States law. If 8chan returns, staff would implement a way to restrict certain parts of the website during a state of emergency, in which case any board in question would be put in a read-only mode until it would be deemed safe enough to enable posting again. It also looks forward to working with the federal government to improve the law, making reporting and engagement with law enforcement agencies easier. Toward this end, 8chan includes its list of suggested legislative reforms as Exhibit B.

10. Conclusion

8chan has strived to be the only imageboard fully compatible with the First Amendment. At the same time, it has worked responsibly with law enforcement agencies when unprotected speech is discovered on its platform. No single platform can sensibly prevent all hateful, illegal, or threatening speech—it can only act in due time to remove it. 8chan’s record demonstrates that it is a responsible platform, carefully protecting free speech and assisting law enforcement agencies in appropriate times of need.

Sincerely,

James Watkins
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