

網上煽動仇恨的違法行為

Unlawful Act of Inciting Hatred Through the Internet

投訴內容

東南亞籍的X女士在瀏覽網上討論區時，偶然發現有人在網上發表言論侮辱她所屬國家的人，例如形容他們是「豬」，又說他們「比狗更差」。

X女士感到受辱，於是向平等機會委員會(平機會)投訴該網站公司種族歧視，因為該公司容許其會員貼出使人仇恨X女士所屬種族的言論。

平機會的行動

平機會的個案主任對事件作出調查，並發信通知網站公司有關投訴。網站公司回應指，討論區的主持人初時未有留意到有關的侮辱言論，但及後已馬上刪去討論區內該段留言。該公司與平機會商討後，作出了即時反應，並同意發出告示提醒用戶及會員，發表言論侮辱某種族是違反《種族歧視條例》的；公司又提醒討論區會員，如果他們作出違法的歧視言論，公司會刪除有關留言及終止該會員的賬戶。

The complaint

Ms. X, a South East Asian national, came across racially derogatory and demeaning remarks, such as "swine" and "meaner than dogs", targeted at the people of her nationality while surfing a discussion forum at a website.

Ms. X felt humiliated and lodged a complaint of race discrimination against the website company with the Equal Opportunities Commission (EOC) as the company had allowed its members to post the remarks which could incite hatred towards people of her race.

What the EOC did

The EOC case officer investigated into the matter and sent a letter to the website company informing it about the complaint. The company replied that its forum master was unaware of the derogatory remarks. The website company, however, immediately removed the comments from the discussion forum. The case was quickly settled as the company agreed, shortly after a discussion with the EOC, to post a notice reminding users and members that it is against the Race Discrimination Ordinance (RDO) to post racially derogatory remarks. It also reminded its members that the company would delete the message and deactivate the account of its members if they post unlawful discriminatory remarks.

法理依據 What the law says

根據《種族歧視條例》第45條，種族中傷是指任何人藉公開活動煽動基於某人的種族而對該人產生仇恨、嚴重鄙視或強烈嘲諷(在這個案中便是那位發表侮辱言論的人士)，屬違法行為。同樣地，《殘疾歧視條例》亦有類似的法律觀念。根據《殘疾歧視條例》第46條，任何人煽動對殘疾人士的仇恨或嚴重鄙視，亦屬違法。

根據《種族歧視條例》第48條，如果網站公司容許其會員刊登上述的違法歧視言論，亦可被視作協助他人作出違法行為。

Under S45 of the RDO on the subject of vilification, it is unlawful for a person (in this case the writer who has written and posted the derogatory remarks), by any activity in public, to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of the race of the person or members of the class of persons. There is a similar legal provision on the subject of vilification under the Disability Discrimination Ordinance (DDO). Under S46 of the DDO, it is unlawful to incite hatred towards, or serious contempt for persons with disabilities.

Under S48 of the RDO, the website company could be seen as aiding the unlawful act if it allowed its members to post such remarks.

