

## Talking Points in Support of [Earn It Act, S. 3398](#)

### *Scope of Problem*

- The circulation of child sexual abuse material (CSAM) online is astronomical. According to a months-long New York Times [investigation](#):
  - In 2008, over 600,000 images/videos of CSAM were reported to the National Center on Missing & Exploited Children (NCMEC), calling it an epidemic.
  - In 2019, 70,000,000—70 million—CSAM images were reported. [NYT called it](#) an “almost unfathomable” increase in criminal behavior.
- CSAM has so overwhelmed law enforcement (LE), that the FBI and LAPD, for example, prioritize material depicting infants and toddlers, not older children.
  - LE does not even have enough resources to target perpetrators suspected of sexually abusing children in REAL TIME.
- A [2018 NCMEC/ Thorn study](#) found that CSAM is getting worse: “The most notable historical finding was a trend toward more egregious sexual content”

### *Harm to Victims*

- CSAM is documentation of crime. Victims suffer gross physical & psychological harm at the hands of offenders. They suffer again as **harm is endlessly reenacted & circulating.**

### *Tech Turns a Blind Eye: Protected by CDA 230*

- CSAM is identified through digital “fingerprints” (hashes) unique to each image. NCMEC keeps a database with all CSAM hashes; LE & companies can run a program to check CSAM against the NCMEC database to verify if it has been identified already or not.
- The **platforms on which CSAM circulates are not required by law to report it**
  - In 2018, of the 18.4 million reports of CSAM to NCMEC, 17 million came from Facebook because it screened all images on its platforms.
  - Other companies, including Amazon, Dropbox, Snapchat, Twitter, simply don’t screen for it.
- Interactive computer services (ICSs) **have NO INCENTIVE to report it.**
  - As a result of court rulings, the Communications Decency Act section 230 (CDA 230) gave near blanket immunity to ICSs; Tech companies can’t be held liable for facilitating CSAM because they aren’t “publishers” under the law, so **ICSs ignore CSAM.**
    - CDA230, passed in 1996, was written to encourage growth of the Internet when it was a baby; that stage is long over.
    - ICSs have been given many chances to police CSAM and they refuse.

### *Earn It Act (S 3398) Brings Accountability to Bear on Criminality*

- **It revokes the immunity from liability WRT CSAM that ICSs have under CDA230**
  - **Survivors and state attorneys general will be able to sue tech companies for facilitating CSAM**, using federal civil law and state civil and criminal law.
  - It entails a precise, surgical, socially responsible change to CDA230.
- It creates a new Online Child Exploitation Prevention Commission
  - Technology changes so rapidly, it is hard for decisionmakers to keep up, in order to keep citizens safe. The **commission will establish best business practices & make recommendations to inform policy, the judiciary, and LE community.**
  - Preventing sex trafficking, grooming, and predatory behavior while exploring age gating and more family-friendly filter systems are among the commission’s tasks.