

November 17, 2020

The Honorable Lindsey Graham, Chairman
The Honorable Dianne Feinstein, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairmen Graham and Ranking Member Feinstein:

In light of today's Senate Judiciary Committee hearing on the unilateral ability of social media to control content, at which Twitter CEO Jack Dorsey and Facebook CEO Mark Zuckerberg are expected to testify, the undersigned advocates and organizations write to request this opportunity be used to explore a related issue. Please ask corporate leaders of interactive computer services (ICSs) to **use their unprecedented power for social good: Eliminate and suppress the rampant presence of child sexual abuse material (CSAM) on the Internet.**

Sexually exploitative content has spread like wildfire on the Internet. The National Center on Missing and Exploited Children (NCMEC) reported a 63.31% increase in reports to its CyberTipline January-September 2020 compared to the same period in 2019.¹

A *New York Times* investigation last fall entitled, "The Internet is Overrun with Images of Child Sexual Abuse. What Went Wrong?"² noted that in 2008, over 600,000 images/videos of CSAM were reported to NCMEC, and it was called an epidemic. Yet, in 2019, 70,000,000—70 million—CSAM images were reported. Many of these are multiple images, but it is still an explosion. The authors called it an **"almost unfathomable" increase in criminal behavior.**³ Interactive computer service companies now enjoy near blanket immunity from liability under judicial interpretations of the Communications Decency Act of 1996, section 230.

On the human level, this material causes devastating psychological and physical pain. As one victim explained, "My trafficker locked me in prison, but the digital platforms facilitating pornography of this crime made it a life sentence."

Individuals and parents of children who had sexually explicit videos and photographs illegally posted online, without the victim's consent, frequently beg ICSs to take it down. All too often, digital platforms ignore requests to remove it even when presented with evidence that the subject is, or was, a minor when the CSAM was produced.

¹ Brenna O'Donnell, "COVID-19 and Missing & Exploited Children," *NCMEC* (blog), July 16, 2020, <https://www.missingkids.org/blog/2020/covid-19-and-missing-and-exploited-children>.

² Michael H. Keller and Gabriel J.X. Dance, "The Internet is Overrun with Images of Child Sexual Abuse. What Went Wrong?" *The New York Times*, September 29, 2019, <https://www.nytimes.com/interactive/2019/09/28/us/child-sex-abuse.html>.

³ Michael Barbaro, Michael H. Keller and Gabriel J.X. Dance, "A Criminal Underworld of Child Abuse, Part 1," February 19, 2020, in *The Daily*, produced by *The New York Times*, podcast, <https://www.nytimes.com/2020/02/19/podcasts/the-daily/child-sex-abuse.html>.

Despite federal law requiring that the National Center on Missing and Exploited Children (NCMEC) be alerted regarding CSAM, some of the biggest tech giants ignore this obligation.

On July 2, 2020, the Senate Judiciary Committee voted unanimously, 22-0, to approve S. 3398, “Eliminating Abusive and Rampant Neglect of Interactive Technologies” Act, known as the Earn It Act, which would revoke corporate immunity from liability regarding CSAM. **Yet, by the authority private companies already have, the CEOs of digital platforms such as Twitter and Facebook, before you today, could unilaterally make CSAM go away.**

Instead, the trade association they belong to, the Internet Association,⁴ and related foundations such as the Electronic Frontier Foundation,⁵ are aggressively running campaigns to oppose S. 3398 (and H.R. 8454) while misleading the public (and congressional offices) about the implications of the bill.

We ask you to **use the hearing to call on CEOs Dorsey and Zuckerberg to: 1) publicly endorse the Earn It Act; 2) commit their companies to deleting CSAM everywhere it appears on their platforms while reporting all instances to NCMEC; and 3) create more responsive mechanisms for victims of CSAM and pornography to report illegal material so it can be removed.** We respectfully request this letter be entered into the hearing record.

Signed,

National and International Organizations

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⁴ Issie Lapowsky, “With the Earn It Act, Big Tech is Boxed into a Corner Again,” Protocol, March 11, 2020, <https://www.protocol.com/earn-it-act-hearing-section-230>

⁵ Example of an article regarding S 3398/HR 8454 on EFF’s website opens, “The dangerous Earn It Act passed the Senate Judiciary Committee last month, and now it’s been introduced by the House of Representatives.” Joe Mullin, “Urgent: Earn It Act introduced in House of Representatives,” EFF.org, October 2, 2020, <https://www.eff.org/deeplinks/2020/10/urgent-earn-it-act-introduced-house-representatives>.

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