

The EARN IT Act

EARN IT Act (Eliminating Abusive & Rampant Neglect of Interactive Technologies Act, S. 3398) makes the Internet's immunity from liability **CONDITIONAL** on complying with best business practices to: a) Prevent online sexual exploitation including enticement, recruiting, grooming, and sex trafficking; and b) Prevent and reduce the mad proliferation of child sexual abuse material (CSAM). **NCOSE endorses EARN IT** as the best solution to online sexual exploitation pending before Congress today.

Every day, children are groomed, trafficked, and abused through online platforms. This rampant exploitation has not received a consistent and forceful response from the tech industry. There should be no excuse for inadequate and inconsistent efforts to stop this appalling abuse from the largest and most technologically sophisticated companies in the world.

What the EARN IT Act Does:

Creates a strong incentive for the tech industry to take online child sexual exploitation seriously. The bill amends Section 230 of the Communications Decency Act to require companies to “earn” their liability protection for violations of laws related to child sexual abuse material (CSAM). Under current law, Section 230 allows some tech companies to profit from child sexual exploitation without ever being held accountable in court – a blanket exception to our laws that most businesses do not have.

Establishes a National Commission on Online Child Sexual Exploitation Prevention to recommend best practices related to identifying and reporting online child sexual exploitation. The Commission includes the Attorney General, FTC Chair, and Secretary of Homeland Security, along with 16 other members representing diverse and bipartisan interests appointed equally by Congressional leadership.

Fights Grooming, Sex Trafficking, and Sexual Abuse of Children. The Commission is tasked with developing best practices to combat the grooming, sex trafficking, and abuse that occurs on tech platforms.

Gives law enforcement better information to help free children from abuse. Right now, when law enforcement receives reports of CSAM from companies, those reports often lack critical details and context about victims and abuses. Inadequate reporting means wasted time and lost opportunities to act. The best practices will require reporting that enables law enforcement to prioritize actionable cases and provides them with the right information to save children.

Ending impunity for online exploitation will help prevent abuse of children. By working to eliminate the online marketplace for child sexual abuse material, the EARN IT Act will help reduce the underlying incidents of abuse through freeing children, identifying perpetrators, and ending a reign of impunity.

What the EARN IT Act Does Not Do:

Undermine encryption or mandate government surveillance. The EARN IT Act is not an encryption bill, and does not create mandates for government surveillance; in fact the bill doesn't mention encryption at all. Tech companies have testified that strong, responsible encryption can be reconciled with aggressive policing of CSAM. The Commission – which has representatives from the tech industry, privacy experts, and computer scientists – will be well positioned help them achieve that goal.

Create a Commission dominated by law enforcement agencies or led by the Attorney General. The EARN IT Act requires the nineteen appointees to the Commission to include representatives from survivors and victims' services organizations, law enforcement, and tech industry, as well as constitutional law and privacy experts, consumer rights advocates, and computer scientists.

The Commission's best practices require a supermajority vote of fourteen members – limiting the influence of any single constituency. The Attorney General, the FTC Chair, and the Secretary of Homeland Security have the ability to reject the Commission's proposed best practices but not to write or rewrite the rules. It is simply factually untrue to say that the Attorney General – or any other single member of the commission – has sole authorship over what the Commission recommends. Additionally, Congress and the President must approve of the best practices, creating more democratic accountability than other rulemaking processes in the federal government.

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