

March 11, 2020

Hon. Lindsey Graham
Chairman
Senate Judiciary Committee
290 Russell Senate Office Building
Washington, D.C. 20510

Hon. Dianne Feinstein
Ranking Member
Senate Judiciary Committee
331 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senators,

As small- and medium-sized Internet companies, we are committed to fighting the scourge of child exploitation online. We serve entirely different roles in the Internet ecosystem. Some of us host different kinds of content or serve different communities of users. Some of us provide services to platforms and other companies. But we all follow common protocols to detect and report any child sexual abuse material that we encounter. We take seriously our role in stopping the horrific crimes relating to child sexual abuse material, and we want to work with policymakers, law enforcement, and the National Center for Missing and Exploited Children to find solutions that Internet companies of all types and sizes can be a part of.

However, we're concerned that the Eliminating Abusive and Rampant Neglect of Interactive Technologies Act will open the door to codifying best practices that make sense for only the biggest companies in our industry. We're particularly concerned because they also threaten basic security measures that we rely on to protect our users, and would strip away critical intermediary liability protections that we not only currently rely on to provide services or host and moderate user content, but could not have launched without.

We appreciate that the bill creates a path for alternative best practices designed for smaller companies, recognizing that content moderation—even in the specific context of child sexual abuse material—does not have a one-size-fits-all solution for different kinds of Internet companies. But, the manner in which these best practices are to be designed and enforced will create significant and unnecessary problems for smaller companies. Leaving the creation of best practices up to an unelected commission with only minimal, non-binding input from small companies with diverse operating models risks creating a new set of obligations that don't reflect the realities of how our platforms and services operate. And while these best practices are framed as optional recommendations that companies can choose to adopt if they want to avail themselves of Section 230's protections, the central importance of those protections to our companies turns these optional best practices into mandatory obligations.

We're especially concerned that the best practices could evolve to incorporate what will effectively be undue restrictions on encryption technology. We use encryption in various ways every day to protect our users and their privacy from an array of threats, and a prohibition on encryption will undermine our ability to protect user safety.

Our concerns about this specific proposal as drafted do not detract from our willingness to tackle this difficult policy issue head on. We want to find ways to make existing technologies and protocols more accessible and commonplace so that any Internet company can effectively implement them. We're eager to improve reporting infrastructure and data retention policies across the industry so that NCMEC and law enforcement have the information they need to coordinate, investigate, and prosecute these heinous crimes, and we appreciate the EARN IT Act's provisions aimed at improving reporting. And we support efforts to fully fund NCMEC and law enforcement at the federal, state, and local levels to ensure they have the resources to do those critical jobs.

We appreciate policymakers' efforts to further combat the creation and dissemination of child sexual abuse material, and we stand ready to be collaborative participants in those efforts.

Sincerely,

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