

Introduction

Online classifieds like Backpage.com are now a primary venue for traffickers to sell sex with minors and for buyers to purchase sex with these children. This is domestic minor sex trafficking. Online classifieds that advertise commercial sex acts provide anonymity and accessibility to individuals looking for commercial sex and the victims are very often trafficked youth. Shared Hope International has joined policy, faith and NGO leaders in national advocacy efforts to hold online classifieds liable for their role in facilitating sex trafficking through advertising.

Background and History

Federal law defines the facilitation of sex trafficking as a crime.¹ Facilitators aid and abet, conspire or benefit from sex trafficking. Backpage.com has been identified through research and expert testimony as the industry leader in the facilitation of commercial sex on its website. A 2013 Advanced Interactive Media Group (AIM) report estimated that Backpage.com netted 82.3% of the total industry revenue of \$45 million from June 2012 to May 2013 from its “adult services” section. Further, the AIM Group acknowledges that this estimate is extremely conservative, as it only tracks advertising in 23 of the 394 markets where Backpage.com offers localized sites in the U.S.

Estimated monthly prostitution advertising revenue (in 1000s)

Site	June											May 2013
	2012	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	
Backpage.com	\$2,452	\$2,310	\$2,324	\$2,341	\$2,143	\$2,662	\$2,477	\$2,725	\$4,229	\$4,411	\$4,420	\$4,509
Eros.com	\$477	\$459	\$453	\$501	\$461	\$485	\$407	\$430	\$461	\$447	\$475	\$461
CityVibe.com	\$91	\$85	\$103	\$91	\$100	\$112	\$99	\$112	\$165	\$216	\$170	\$247
MyRedbook.com	\$20	\$16	\$15	\$16	\$16	\$15	\$17	\$19	\$14	\$14	\$14	\$11
AdultSearch.com	\$41	\$40	\$56	\$62	\$61	\$61	\$57	\$61	\$66	\$56	\$66	\$50
Total	\$3,080	\$2,910	\$2,951	\$3,011	\$2,783	\$3,336	\$3,057	\$3,348	\$4,934	\$5,143	\$5,144	\$5,278

Advanced Interactive Media²

Technology, including classifieds websites, is widely viewed as responsible for the explosion in sex trafficking in the United States. Research by Shared Hope International in the *National Report on Domestic Minor Sex Trafficking* cited an 800% increase over a two-year period of reports by child victims of sex trafficking that they were prostituted with the aid of technology.³ The industry giant Backpage.com is often named as that technology. Service providers working with child sex trafficking victims have reported that between 80% and 100% of their clients have been bought and sold on Backpage.com. The non-profit youthSpark in Atlanta, Georgia surveyed service providers across the nation on questions related to domestic minor sex trafficking victims in their care. Seventy-two percent

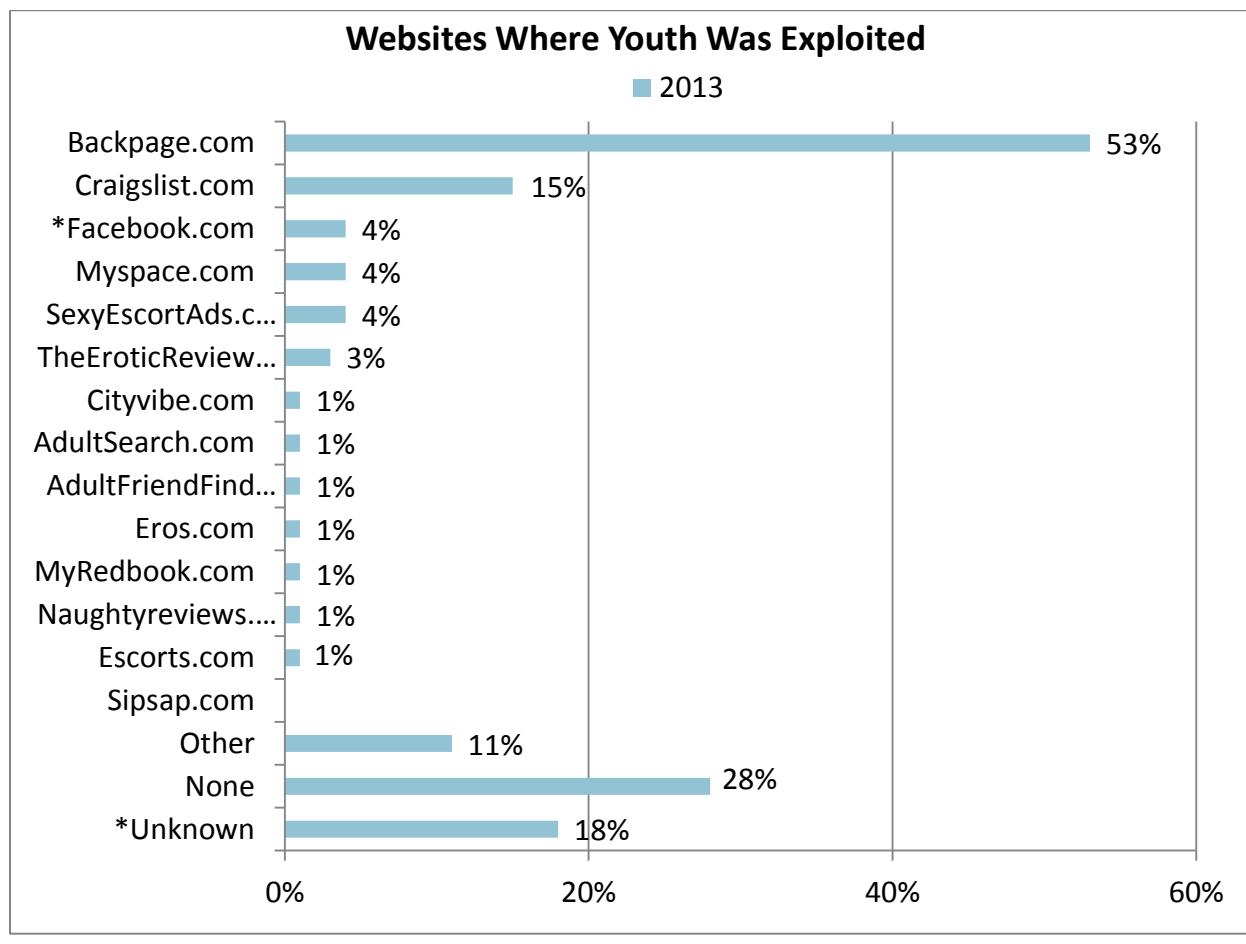
¹ 18 U.S.C. 1591(a)(2).

² Available at <http://aimgroup.com/2013/07/10/online-prostitution-ad-revenue-crosses-craigslist-benchmark/>

³ Linda A. Smith, Samantha Healy Vardaman, & Melissa A. Snow, Shared Hope International, *National Report on Domestic Minor Sex Trafficking* 28 (2009), available at http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.



of the child victims in their care were bought and sold for sex online; 53% reported being trafficked on Backpage.com.



Backpage.com admits that its website is being used for the commercial sexual exploitation. Two instances of their admissions are documented in an August 31, 2011 letter signed by nearly every state attorney general in the country to Village Voice Media counsel Samuel Fifer. The letter recounts statements made by Village Voice Media (then parent company to Backpage.com) board member Don Moon in a meeting with the Washington State Attorney General's Office, readily admitting that prostitution advertisements regularly appear on Backpage.com, and Backpage.com's vice president Carl Ferrer acknowledging that the company identifies more than 400 "adult services" posts every month that may involve minors.⁴

⁴ Letter from the National Association of Attorneys General to Samuel Fifer, dated August 31, 2011, available at http://www.atg.wa.gov/uploadedFiles/Home/News/Press_Releases/2011/NAAG_Backpage_Signon_08-31-11_Final.pdf

Research, law enforcement, and service provider testimony all indicate online advertising of commercial sex with children has become one of the most utilized platforms for traffickers to sell commercial sex acts with minors. Backpage.com is consistently named as the source. Shared Hope has documented through media reports dated March 15, 2010 - August 15, 2014 a total of 326 cases of children being sex trafficked through Backpage.com involving at least 455 minors in 46 states.

The Problem with the Law

The federal Communications Decency Act (CDA) provides Internet Service Providers with immunity from any civil suit and from state criminal liability. In 1996 when the CDA was enacted the threat of sex trafficking through online classifieds was unforeseen. Now online classifieds promoting commercial sex are free to do in the virtual world what would not be permissible in the physical world—maintain a venue for the advertising, purchase and sale of prostitution within which sex trafficking occurs.

Backpage.com has employed the CDA in the courts to defend their right to host commercial sex advertisements and defeat the claims of damages by child victims.⁵ Backpage.com is fighting to protect the special status they enjoy under the CDA, but Shared Hope International, the National Association of Attorneys General, and hundreds of other advocacy groups and individuals continue to put pressure on the online classifieds industry to stop the sex trafficking that occurs on their websites. Shared Hope International joined 51 non-profit leaders in sending a joint letter dated December 2, 2011 to leadership at Backpage.com requesting the removal of the “adult services” section of the website. In 2012, the U.S Conference of Mayors sent a joint letter from 53 mayors of cities across the country urging Backpage.com to require identification for people posting escort ads on their website. That same year 266,809 concerned clergy and citizens, including John Buffalo Mailer, the son of Village Voice founder Norman Mailer, signed a Change.org petition to shut down the “adult services” section on Backpage.com.⁶ Shortly after, Goldman Sachs, a financier of Backpage.com’s former parent company, Village Voice Media, sold its 16% stake in the company after learning of the child sex trafficking occurring on Backpage.com.

Many of these advocates and groups are working with Congress to correct the federal laws and advocating for state legislatures to enact legislation that will hold online facilitators criminally liable under state law and that would help ensure victims are able to access justice. Congress is beginning to take steps toward action. In 2012 the U.S. Senate adopted Resolution 439 co-sponsored by Senator Kirk and Blumenthal, and a similar bill was introduced by the U.S. House of Representatives by Congressman Turner. In 2013 U.S. Representative Frank Wolf (R-VA) sent a letter to U.S. Attorney General Holder urging the investigation into the activities on Backpage.com.⁷ A federal regulatory approach requiring certain record-keeping by the advertisers of commercial sex acts has been proposed in S. 2536, the SAVE Act of 2014 introduced by Senators Feinstein and Kirk. Rep. Ann Wagner has introduced H.R. 4225 that seeks to criminalize knowingly selling advertising that offers certain commercial sex acts with children.

⁵ M.A. v. Village Voice Media Holdings, 809 F.Supp.2d 1041 (ED Miss. 2011).

⁶ Available at <http://www.change.org/p/tell-village-voice-media-to-stop-child-sex-trafficking-on-backpage-com>

⁷ Available at

http://www.azgovernor.gov/HTTF/documents/Materials/HTTF_091113_WolfNCMECLetterHolderApril2013.pdf

Backpage.com asserts that it assists law enforcement to investigate sex trafficking by corralling the criminal activity and reporting to the National Center for Missing and Exploited Children (NCMEC). In that narrow sense Backpage.com may be serving as a tool for law enforcement, but in the classic “fox watching the hen house” sense, they are facilitating the very activity they claim to be helping control. At the same time, law enforcement lacks the capacity to adequately investigate and respond to even current levels of sex trafficking advertised on classifieds websites. And the trafficking activity continues to grow. In 2012 the then president of the National Center for Missing and Exploited Children responded to Backpage.com’s allegations that they were supporting law enforcement, acknowledging in an interview to CNN’s Anderson Cooper that although Backpage.com is making reports to their agency shutting Backpage.com down would be a step in the right direction for combatting child sex trafficking, adding, “I don’t think there’s any question but that it not only normalizes it, but facilitates it.”⁸

Conclusion

Title 18, Section 1591 of the U.S. Criminal Code clearly states that it is a crime to knowingly benefit, financially or by receiving anything of value, from participation in sex trafficking. Backpage.com and other online classifieds are profiting from the sex trafficking occurring through the “adult sections” they are promoting. At present however, these sites are immune from civil or state criminal actions under the CDA. A surgical amendment to the CDA has been proposed by 48 state attorneys general in a letter to Congress in July 2013. This amendment would open the door to state criminal actions for the facilitation of prostitution on the online classifieds sites.⁹ Alternative changes would address the symptoms of the problem. A state-based regulatory approach requiring inspection of business and professional licenses and the identity of individuals posting advertisements has been proposed to bring accountability to the classifieds website business and could assist in curtailing the illegal activities occurring on the online classifieds sites.¹⁰ The SAVE Act of 2014 seeks to criminalize knowing selling advertising that offers certain commercial sex acts with children. Federal law enforcement agencies have finally initiated an investigation of an online classifieds site—not for sex trafficking violations, but for money laundering and racketeering with promoting prostitution as the underlying offense. The FBI and IRS seized Myredbook.com in July 2014.

Ultimately however, Congress must act to amend the CDA in order to close the immunity and federal preemption loopholes through which Backpage.com and its fellow online classifieds businesses are escaping liability for the trafficking of women and children on their sites.

⁸ Full interview available at http://www.cnn.com/video/?/video/crime/2012/05/17/ac-allen-backpage-underage-prostitution.cnn&video_referrer=http%3A%2F%2Fvillagevoicepimp.com%2Fpresident-national-center-missing-exploited-children.

⁹ Available at <http://www.naag.org/assets/files/pdf/signons/Final%20CDA%20Sign%20On%20Letter.pdf>.

¹⁰ Samantha Healy Vardaman & Christine Raino, *Prosecuting Demand as a Crime of Human Trafficking: The Eighth Circuit Decision In United States v. Jungers*, U. Mem. L. Rev. 917 (Summer 2013).