

*August 1, 2017*

*Letter of Support for the Stop Enabling Sex Traffickers Act of 2017*

Dear Senator Portman and Senator Blumenthal,

A couple of decades ago sex traffickers and buyers conducted their illegal transactions in dark alleys and back streets. Today these criminal transactions have moved online. Although the location has changed, the crime remains the same and so must our response to those who facilitate and enable it.

In recognition of the tragic nature of online facilitation of sex trafficking, we thank you—and the broad, bi-partisan group of co-sponsors committed to protecting those who are bartered and sold for sex online—for introducing the Stop Enabling Sex Traffickers Act of 2017. The undersigned organizations believe this legislation is necessary to close a legal loophole in the Communications Decency Act (CDA) that allows websites to escape liability for knowingly facilitating sex trafficking.

The CDA was enacted in 1996 to govern the nascent internet industry while promoting an open forum for commerce online. Section 230 of the CDA established immunity for “interactive computer service providers” (ICSPs) from civil and state criminal liability for third-party content in order to promote self-regulation by these online entities. However, over the past twenty years Section 230 has been broadly misinterpreted by federal courts as extending blanket immunity to websites that host ads where trafficked individuals are bought and sold.

Websites that profit from creating marketplaces for the sale and purchase of trafficking victims enjoy a lucrative business model—one with high profits and low risk. When states and victims have tried to hold these companies accountable in the courts, the CDA has blocked their efforts. In 2014, child sex trafficking victims asserted civil claims under the Trafficking Victims Protection Act (TVPA) against Backpage.com—the most extensive online marketplace for sex trafficking victims and the platform where the young plaintiffs had been advertised for sex—but their claims were denied based on CDA immunity. At the same time, the Senate Permanent Subcommittee on Investigations was engaged in a two-year inquiry into Backpage’s business practices, culminating in a report on January 19, 2017 detailing how Backpage had knowingly facilitated child sex trafficking. Backpage has also avoided state criminal liability by attacking state laws in court and barring them from taking effect, also based on CDA immunity. Meanwhile, Backpage.com’s profits continued to rise from \$71 million in 2012 to over \$120 million in 2015.<sup>1</sup>

This is wholly inconsistent with the purpose and protections intended when the CDA was enacted in 1996. As the Communications Decency Act began to make its way through the Senate, Senator

Exon stated upon introduction of the bill on February 1, 1995 that the purpose of the bill was indeed to protect children:

*Mr. President, the information superhighway should not become a red light district. This legislation will keep that from happening and extend the standards of decency which have protected telephone users to new telecommunications devices. Once passed, our children and families will be better protected from those who would electronically cruise the digital world to engage children in inappropriate communications and introductions.<sup>2</sup>*

The Stop Enabling Sex Traffickers Act of 2017 clarifies that Section 230 was never meant to automatically shield websites that engage in the crime of human trafficking from a civil lawsuit or state criminal penalties. This bill targets the business model of companies like Backpage.com, by opening the door to civil liability and allowing states to enforce their trafficking laws when online entities choose to profit from the exploitation of sex trafficking victims.

Enacting this legislation is critical to restoring the promise of justice for victims and holding offending websites culpable for their crimes. As sex trafficking explodes on the internet, accountability for online entities that facilitate this exploitation is an essential tool in the international fight against sex trafficking. We, the undersigned organizations, support this critical legislation and urge Congress to restore the human rights protections of the Trafficking Victims Protection Act that have been eclipsed by this misinterpreted immunity for entities that value profits over the protection of vulnerable people.

Sincerely,

Shared Hope International

PROTECT

Rights4Girls

National Children's Alliance

Exodus Cry

50 Eggs Films

Coalition Against Trafficking in Women  
(CATW)

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1. I AM JANE DOE (50 Eggs Films 2017).
  2. 141 Cong. Rec. S1953 (daily ed. Feb1,1995) (statement of Sen. Exon).