July 23, 2013

The Honorable John Rockefeller IV
Chairman
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John Thune
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Frederick Upton
Chairman
Committee on Energy and Commerce
United States House of Representatives

The Honorable Henry Waxman
Ranking Member
Committee on Energy and Commerce
United States House of Representatives

Dear Senator Rockefeller, Senator Thune, Representative Upton, and Representative Waxman:

Every day, children in the United States are sold for sex. In instance after instance, State and local authorities discover that the vehicles for advertising the victims of the child sex trade to the world are online classified ad services, such as Backpage.com. The involvement of these advertising companies is not incidental—these companies have constructed their business models around income gained from participants in the sex trade. But, as it has most recently been interpreted, the Communications Decency Act of 1996 (“CDA”) prevents State and local law enforcement agencies from prosecuting these companies. This must change. The undersigned Attorneys General respectfully request that the U.S. Congress amend the CDA so that it restores to State and local authorities their traditional jurisdiction to investigate and prosecute those who promote prostitution and endanger our children.

It is ironic that the CDA, which was intended to protect children from indecent material on the internet, is now used as a shield by those who intentionally profit from prostitution and crimes against children. Federal courts have broadly interpreted the immunity provided by the CDA; and recently the United States District Court for the Western District of

---

1 104 CONG. REC. S2308-01 (daily ed. June 14, 1995) (statement of Sen. Coats, "Mr. President, all you have to do is pick up the telephone and call the FBI, ask their child exploitation task force about the volume of over-the-Internet attempts to seduce, abuse, and lure children into pornography and sexual exploitation."); 104 CONG. REC. H8470 (daily ed. Aug. 4, 1995) (statement of Rep. Cox, "We want to encourage people like Prodigy, like CompuServe, like America Online, like the new Microsoft network, to do everything possible for us, the customer, to help us control, at the portals of our computer, at the front door of our house, what comes in and what our children see.").

Washington held that the CDA preempts state criminal law.\(^3\) As online advertising of child prostitution goes unchecked, sex traffickers are able to expand their businesses, magnifying the scope of the problem. In the last few months alone, law enforcement agencies throughout the nation have linked sex-trafficking operations to internet advertisers. For example, on March 28, Miami police arrested a man for advertising the sex services of a 13-year-old girl on Backpage.com. The perpetrator had tattooed his name across the girl’s eyelids, marking her as his property.\(^4\) Two months earlier, two men were arrested in Fairfax County, Virginia for prostituting four minors on Backpage.com.\(^5\) And on April 10, four males and one female were arrested in St. Paul, Minnesota for running a prostitution ring of eight girls and women ages 15 to 40. The girls and women were advertised on Backpage.com.\(^6\) These examples offer just a small sampling of the countless instances of child sex trafficking that occurs every day in the United States.

In order to better combat such crimes, we recommend that 47 U.S.C. § 230(e)(1) be amended to the following (added language in bold):

Nothing in this section shall be construed to impair the enforcement of section 223 or 231 of this title, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of Title 18, or any other Federal or State criminal statute.

Federal enforcement alone has proven insufficient to stem the growth of internet-facilitated child sex trafficking. Those on the front lines of the battle against the sexual exploitation of children—State and local law enforcement—must be granted the authority to investigate and prosecute those who facilitate these horrible crimes.

Respectfully,

Chris Koster
Missouri Attorney General

Marty Jackley
South Dakota Attorney General

---

James “Buddy” Caldwell  
Louisiana Attorney General

Douglas F. Gansler  
Maryland Attorney General

Bill Schuette  
Michigan Attorney General

Jim Hood  
Mississippi Attorney General

Jon Bruning  
Nebraska Attorney General

Joseph Foster  
New Hampshire Attorney General

Gary King  
New Mexico Attorney General

Roy Cooper  
North Carolina Attorney General

Mike DeWine  
Ohio Attorney General

Janet Mills  
Maine Attorney General

Martha Coakley  
Massachusetts Attorney General

Lori Swanson  
Minnesota Attorney General

Tim Fox  
Montana Attorney General

Catherine Cortez Masto  
Nevada Attorney General

John J. Hoffman  
Acting New Jersey Attorney General

Eric T. Schneiderman  
New York Attorney General

Wayne Stenehjem  
North Dakota Attorney General

Scott Pruitt  
Oklahoma Attorney General
Ellen F. Rosenblum
Oregon Attorney General

Peter Kilmartin
Rhode Island Attorney General

Robert E. Cooper, Jr.
Tennessee Attorney General

John Swallow
Utah Attorney General

Vincent Frazer
Virgin Islands Attorney General

Peter K. Michael
Acting Wyoming Attorney General

Kathleen Kane
Pennsylvania Attorney General

Alan Wilson
South Carolina Attorney General

Greg Abbott
Texas Attorney General

William H. Sorrell
Vermont Attorney General

Patrick Morrisey
West Virginia Attorney General