

July 2nd, 2018

The Honorable David J. Redl
Assistant Secretary, National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Mr. Assistant Secretary:

We are organizations dedicated to ending human trafficking here in the United States and around the globe. The Internet, and Internet governance, have always been at the core of the effort to combat modern human slavery. While the interrelationship between the Internet and human trafficking is evolving and growing, there are three issues we would submit for the National Telecommunications and Information Administration's (NTIA) consideration. Namely, we would ask the NTIA to consider the important role of the WHOIS database to law enforcement aspects of human trafficking; the need to protect children from grooming and exploitation on new top level domains like ".kids"; and finally to guard against the subversion of US domestic Internet protections against human trafficking through international trade agreements.

With almost 290 million internet users as of 2016, the United States public is the most important cluster of Internet users. Nearly 80% of the country participates in online activities. Children and youth are particularly active in using the online environment for social purposes: 91% of American teenagers go online through a web enabled phone and 89% of this country's teenagers utilize social media. Yet, very little concern is shown for the impact that modern internet governance can have on young people. This is concerning because the internet has become the primary tool used by modern sex traffickers to groom and lure children into exploitation.

The internet is governed primarily by two organizations, the Internet Governance Forum (IGF) and the Internet Corporation for Assigned Names and Numbers (ICANN). Their policy-making meetings take place at large, expensive conferences in exotic locales. While corporate interests can easily afford the enormous expense of these meetings, the NGO community cannot. The result is that Internet public policy debate is bereft of the interests of the public. And when so many American Internet users are children, this quickly becomes a crisis, with the gap between public policy and actual internet use often being filled by individuals seeking to exploit children rather than nurture them.

In short, the current Internet governance structure leaves the interests of children and victims of trafficking without a meaningful voice. At this stage, only U.S. Government intervention is likely to redress this drastic imbalance. While there are a multitude of concerns at the intersection of NTIA's international jurisdiction and online sexual exploitation, we ask that you give particular attention to these three issues.

The WHOIS Database

Some registrars and registries have recently decided to use the EU's General Data Protection Regulation (GDPR) as an excuse to shut down public access to a full range of WHOIS data. Even prior to this decision, the WHOIS database was known to be riddled with inaccurate information. The most recent study of the issue found that of a total of 220 million domain names only 23% are fully accurate. This information is vital to law enforcement around the world, and acutely so in the human-trafficking context, as so much of this criminal activity has moved to online fora. As anti-human trafficking, survivor, and child safety groups, we work closely with law enforcement who must utilize the WHOIS database to determine who is operating a criminal website participating in human trafficking. Without an open and accurate WHOIS database, we are very concerned that legislative efforts to curtail online sex trafficking will fail, and the operators will continue with the confidence of their anonymity and resulting immunity.

The .kids Domain

ICANN decided, as part of their expansion of top level domains, to add a new "dot kids" domain. Though the process has been ongoing for many years, no bidder has been awarded the registry contract yet. Nevertheless, it does not take any great leap of the imagination to think of the sort of exploitation of children that could occur in websites using the ".kids" domain if there are no safeguards or registration requirements. Yet in the case of the cyrillic form of ".kids" that is precisely what ICANN decided to do. ICANN's Government Affairs Committee, provided the body with very precise and detailed policy recommendations on this subject. They were summarily ignored. At no point was the traditional "best interest of children" consulted during the entirety of this process. Essentially, ICANN has been tasked with governmental policy responsibilities, but it refuses to exercise any of them. This has left already vulnerable children, yet more vulnerable to sexual predators and already prevalent online grooming for human trafficking. Where ICANN has refused to act, we need NTIA to fill the void.

Online Immunity and International Trade Agreements

The United States Congress passed, and the President signed into law, Pub. L. 115-164, The Fight Online Sex Trafficking Act (FOSTA). This law clarifies that online platforms do not enjoy immunity from civil suits when they knowingly assist in human trafficking. However, the tech community has been aggressive in trying to make an end-run around this new law by attempting to insert forms of civil legal immunity into bilateral and multilateral trade agreements.

It is clear that blanket civil immunity has allowed indescribable harm to thousands of victims of human trafficking in our country. The National Center for Missing and Exploited Children found that 76% of the sex trafficking of underage children was initiated online. The existence of a legal loophole for traffickers helped make this a reality. It would be a grave mistake to allow this error to be replicated in international trade agreements.

The US and international advocacy community working to end modern human slavery appreciate the global leadership that the United States Government has provided to end this scourge. The NTIA is a critical actor in the future of this effort. As the Administration develops its international internet policy agenda, we appreciate the attention you give this vital emerging issues. We look forward to working with the NTIA as the Administration continues its work to protect children and make the internet a safe place for all Americans.

Sincerely,

Carol Smolenski
Executive Director
ECPAT USA

Donna Rice Hughes
CEO, President
Enough is Enough

Kevin Ryan
President & CEO
Covenant House International

Sister Anne Victory, HM
President
US Catholic Sisters Against Trafficking

Rev. Dr. Que English
CEO & Founder
Not on My Watch

Mary Mazzio
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I am Jane Doe Community

Andrea Powell
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