

Written Statement

Of

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Committee on Energy and Commerce
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Good afternoon, Chairman Whitfield, Ranking Member Stupak and distinguished Members of the Subcommittee. On behalf of the Federal Communications Commission, I would like to thank you for the opportunity to speak regarding the role of Internet Service Providers (ISPs) and social networking sites in the context of the much needed efforts to protect the Nation's children from online exploitation and abuse.

The Commission shares the concern of Congress that children be protected from inappropriate content on the Internet. Given the importance of this issue and its implications for the safety and well-being of American families, the Commission is committed to working with Congress to do whatever is possible under the authority we are given. As this Subcommittee and Congress consider draft legislation to address the sexual exploitation of children over the Internet, we welcome your guidance on the role the Commission should have going forward. Should Congress choose to take action in this area, the Commission stands ready to implement any new mandates aggressively.

The Commission historically has had an important role in protecting children's interests and has implemented several programs intended to help protect children from accessing inappropriate content over communications networks regulated by the Commission. For example, current federal law restricts the broadcast of obscene, indecent, and profane programming. The Commission has implemented this law by adopting regulations which prohibit the broadcast of indecent material between 6:00 am and 10:00 pm, those hours of the day when children are most likely to be watching. Similarly, the Commission has also made it clear that profane language is prohibited from being broadcast during those same hours. In addition, the Commission has promulgated regulations prohibiting the broadcast of obscene material at any time.

The Commission has imposed substantial penalties where violations are established. Indeed, Congress just recently amended the Communications Act to increase by ten-fold the forfeiture penalty for carrying indecent, obscene or profane material. This should reduce the likelihood that some broadcasters will consider the forfeiture penalty for indecent programming an acceptable cost of doing business and will thus improve the effectiveness of our enforcement efforts in this area.

In the Communications Act, Congress has also prohibited cable systems from carrying obscene programming. And, a separate federal law similarly prohibits the distribution of obscene material via cable television. Finally, federal criminal law also clearly proscribes the distribution of obscenity and child pornography over the Internet though these statutes are enforced by the Department of Justice rather than the Commission.

The Commission has also taken a variety actions designed to prevent children from accessing inappropriate content. Specifically:

- The Commission provides mechanisms to allow parents to restrict children's access to television programming by requiring that TV sets be equipped with V-chip technology. V-chips allow the display of television program ratings. The ratings system, which the FCC determined in 1998 met statutory requirements, relies on a voluntary system developed by the industry.
- The Commission provides a means to allow parents to block children's access to inappropriate content available over the telephone. Under the Commission's rules, local exchange carriers that are involved in transmitting and billing interstate pay-per-call and other information services, often

referred to as “900 numbers” must offer an option to block access to such services.

- Pursuant to section 640 of the Communications Act, the Commission has adopted rules that require a cable operator, upon subscriber request, to fully scramble or block the audio and video portions of programming services not subscribed to by a household.
- The Commission also administers provisions of the Children’s Television Act that require television broadcasters to provide programming designed to serve the educational and informational needs of children and limits the amount of advertising that such programming can contain.

Unlike other entities, ISPs are subject to limited regulation under the Communications Act. Nevertheless, where the Commission has authority, we have implemented programs governing the transmission of content by ISPs. For example, in 2005, in response to the request of a group of federal law enforcement agencies, the Commission ensured that CALEA’s requirements extend to broadband Internet access services and Voice Over Internet Protocol services. And, just last month, the Commission adopted an order providing further clarity to carriers and other new technology service providers regarding the implementation of their law enforcement obligations.

Significantly, the Commission’s actions in this area were recently affirmed by the United States Court of Appeals for the District of Columbia Circuit.

We have also implemented a program designed to help protect children who use the Internet in schools and libraries from accessing inappropriate content. In 1996, the

Commission established the schools and libraries Universal Service support mechanism, known as the E-Rate program. In 2000, Congress adopted the Children’s Internet Protection Action Act (CIPA), which provides that schools and libraries that have computers with Internet access must certify that they have in place certain Internet safety policies and technology protection measures in order to be eligible to receive discounted Internet access, Internet services, and internal connection services as part of the E-Rate program.

The Commission established a corresponding regulation. Accordingly, in order to receive support for Internet access and internal connections services under the E-Rate program, school and library authorities must certify that they are enforcing a policy of Internet safety that includes measures to block or filter Internet access to “visual depictions” that are (1) “obscene;” (2) “child pornography;” or (3) “harmful to minors.” The relevant authority with responsibility for administration of the eligible school or library must certify its compliance for the purpose of CIPA in order to receive USF support.

As Congress considers legislation in this area, it is important to keep in mind how any new legislative provisions would interact with the Communications Act’s existing framework. In particular, while section 503(b) of the Communications Act authorizes the Commission to impose forfeitures for violations of the Act as well as the Commission’s rules and orders, those who do not hold a license, permit, certificate, or other Commission authorization, such as many ISPs, currently may not be fined by the Commission in the first instance. Rather, the Commission is first required to issue such

entities a citation and then may only impose a forfeiture in the event that they again engage in the cited conduct.

In conclusion, I wish to reiterate the Commission's interest in taking action as appropriately directed by Congress in this important area. As I noted at the outset, the Commission stands ready to implement any new mandates aggressively. Thank you again for the opportunity to testify before you today. I would be pleased to respond to any questions you may have.