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App Coalition Statement on Amendments to the EARN IT Act

WASHINGTON, DC – July 2, 2020 – The App Coalition, a new technology industry coalition promoting the global App Economy, is urging that Congress provide additional resources to law enforcement, counselors and others to support efforts at addressing child sex abuse materials (CSAM) and the exploitation of children. The App Coalition acknowledges efforts by the authors of the EARN IT Act to improve the draft legislation and shares their concern that more needs to be done to address CSAM. The purpose is laudable and the efforts are commendable, a carve-out from Section 230, however, is not the answer.

“Law enforcement is essential to the elimination of CSAM. The private sector under current law has an obligation to remove CSAM and assist law enforcement in making them aware of CSAM that is removed or prevented from being posted on their platforms,” said Michael Drobac, director of the App Coalition.

He pointed out that Internet and application companies alone have reported more than 45 million attempted postings of CSAM to law enforcement in 2018, yet these companies are unable to perform what is essentially a law enforcement function, which is to pursue the people seeking to disseminate the material.

“To eliminate CSAM, funding is needed to ensure law enforcement has the resources necessary to enforce existing law,” Drobac said.

Efforts such as those being advanced by Sen. Ron Wyden, D-OR, and Rep. Anna Eshoo, D-CA, in the Invest in Child Safety Act would provide \$5 billion to improve enforcement, provide additional resources to the National Missing and Exploited Children’s Network -- including for mental health counseling and technology upgrades -- and require technology companies to increase the time that they hold evidence of CSAM in a secure database to assist law enforcement. These efforts would directly focus resources on eliminating CSAM, Drobac said.

Additionally, the App Coalition remains concerned about the process in the Senate Judiciary bill for developing best practices to address the elimination of CSAM. “While it’s laudable that Congress is seeking ways to address this, we believe development of best practices in this area, like in so many others, would greatly benefit from a more inclusive stakeholder process,” Drobac said. He pointed to stakeholder-involved efforts coordinated by the National Institute of Standards and Technology (NIST), as envisioned in the PACT Act, as an established mechanism for developing best practices through a more inclusive process. The App Coalition believes that formal

public input during the development process will provide a more robust set of best practices for tech companies to deploy against CSAM.

The App Coalition believes that the current law that enables federal criminal prosecution is a sufficient deterrent for nefarious websites, but continues to object to the attempted expansion of civil claims, which the Coalition believes is an invitation for dubious actors who might hope to get platforms to settle to avoid litigation costs.

“The App Coalition strongly supports Section 230,” Drobac said. “We urge members of Congress to consider alternatives that provide law enforcement and other government agencies the resources they need to address and prevent the spread of CSAM and a more inclusive process for development of best practices.”

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