



June 14, 2013

To: All Attorneys General, Chief Deputies, and Executive Assistants

From: Attorneys General Chris Koster, Marty Jackley, and Bob Ferguson

Dear Colleagues:

The Backpage Executive Committee (Missouri, Washington, and South Dakota) is endorsing and circulating for sign-on a letter to Congress advocating that the Communications Decency Act of 1996 (CDA) be amended to grant criminal jurisdiction to state and local governments. The CDA, 47 U.S.C. § 230, has been broadly interpreted to provide criminal and civil immunity to internet content providers, even if the intention of those providers is to profit from illegal activity. Under this protection, online classified ad sites such as Backpage.com have knowingly created an online marketplace for prostitution and, consequently, child sex trafficking. Such sites are estimated to produce millions of dollars per month in revenue.

The proposed amendment is narrowly crafted to combat this conduct. It extends criminal jurisdiction, currently held by the federal government, to state and local governments. By maintaining civil immunity, mainstream online content providers will not be affected and innovation on the internet will be preserved. Once the amendment is enacted, state and local governments will have the ability to criminally investigate whether these organizations and their management are culpable for aiding and abetting prostitution or other similar crimes. Absent interstate travel, federal property, or the involvement of a minor, prostitution is not a federal crime.

If you have any questions on this matter, please feel free to contact Sean Smith of the Missouri Attorney General's Office at 573-751-1243 or [Sean.Smith@ago.mo.gov](mailto:Sean.Smith@ago.mo.gov). **The deadline to sign on to this letter is close of business Monday, July 8.**

Please email your completed response form to Rupalee Rashatwar, NAAG Consumer Protection Project Assistant, at [rrashatwar@naag.org](mailto:rrashatwar@naag.org) or fax to (202) 785-0287. Thank you for your consideration.

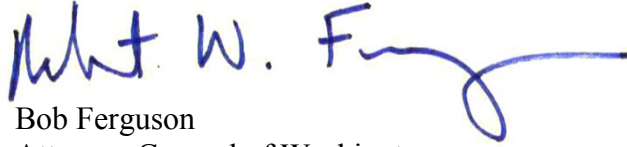
Sincerely,



Chris Koster  
Attorney General of Missouri



Marty Jackley  
Attorney General of South Dakota



Bob Ferguson  
Attorney General of Washington

**\*\*DRAFT\*\***

July 10, 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,<sup>1</sup> 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,<sup>2</sup> and recently the United States District Court for the Western District of Washington held that the CDA preempts state criminal law.<sup>3</sup> As online advertising of child prostitution goes unchecked, sex traffickers are able to expand their businesses, magnifying the scope of the

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<sup>1</sup> 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.").

<sup>2</sup> See *M.A. v. Village Voice Media Holdings, LLC*, 809 F.Supp. 2d 1041; *Dart v. Craigslist*, 665 F.Supp.2d 961 (N.D. Ill. 2009); *Doe v Bates*, 2006 WL 3813758 \*1 (E.D. Tex. Dec. 27, 2006).

<sup>3</sup> *Backpage.com, LLC v. McKenna*, 881 F.Supp.2d 1262 (W.D. Wash., July 27, 2012).

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.<sup>4</sup> Two months earlier, two men were arrested in Fairfax County, Virginia for prostituting four minors on Backpage.com.<sup>5</sup> 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.<sup>6</sup> 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,

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<sup>4</sup> David Ovalle, *Police: Miami Pimp Forced Teen to Tattoo His Name on Her Eyelids*, THE MIAMI HERALD, March 28, 2013, available at <http://www.miamiherald.com/2013/03/28/3312163/police-miami-pimp-forced-teen.html>. (Last visited, April 12, 2013).

<sup>5</sup> Pamela Brown, *Police Bust Prostitution Ring in Herndon*, ABC 7, January 11, 2013, available at <http://www.wjla.com/articles/2013/01/police-bust-prostitution-ring-in-herndon--83981.html>. (Last visited, April 12, 2013).

<sup>6</sup> Emily Gurnon, *St. Paul Prostitution Ring Busted; Young, Vulnerable Girls Trafficked, Charges Say*, ST. PAUL PIONEER PRESS, April 10, 2013, available at [http://www.twincities.com/ci\\_22994804/st-paul-sex-ring-preyed-vulnerable-young-women](http://www.twincities.com/ci_22994804/st-paul-sex-ring-preyed-vulnerable-young-women). (Last visited, April 12, 2013).

**RESPONSE FORM FOR SIGN-ON LETTER: CDA AMENDMENT  
DEADLINE FOR RESPONSE: COB, MONDAY JULY 8**

**PLEASE RETURN FORM TO:  
Rupalee Rashatwar  
National Association of Attorneys General  
rrashatwar@naag.org  
or  
(202) 785-0287 (fax)**

- YES, I authorize NAAG to affix my signature** to the letter to Congress advocating that the Communications Decency Act of 1996 (CDA) be amended to grant criminal jurisdiction to state and local governments.
- NO, I do not authorize NAAG to affix my signature** to the letter.

**PLEASE PRINT OR TYPE LEGIBLY**

\_\_\_\_\_ (name)

Attorney General of \_\_\_\_\_ (state name)

Contact Name, Phone Number, Email and Fax Number

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\_\_\_\_\_  
\_\_\_\_\_

For technical questions, please contact Rupalee at [rrashatwar@naag.org](mailto:rrashatwar@naag.org).

**Remember to clearly mark the “Yes” or “No” box.**