

November 18, 2024

The Honorable Mike Johnson  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Hakeem Jeffries  
Democratic Leader  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Charles Schumer  
Senate Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Mitch McConnell  
Senate Republican Leader  
U.S. Senate  
Washington, D.C. 20510

Dear Speaker Johnson, Majority Leader Schumer, Minority Leader Jeffries, and Republican Leader McConnell,

This Congress has undertaken important efforts to advance legislation to address real and AI-generated non-consensual intimate imagery (NCII). Thanks to these bipartisan efforts, we are closer than ever to achieving what so many victims of this exploitation have long sought— true and effective remedies. That is why we are coming together to urge you to pass the Stopping Harmful Image Exploitation and Limiting Distribution (SHIELD) Act and the Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks (TAKE IT DOWN) Act this Congress.

These next few weeks present a critical opportunity for bipartisan unity, and this area has been one where Congress has already demonstrated that it can put aside political differences to help protect vulnerable people. In July, the Senate passed the SHIELD Act by unanimous consent. This bill establishes federal criminal liability for individuals who share private, sexually explicit or nude images without consent. Likewise, the Senate Commerce Committee unanimously passed the TAKE IT DOWN Act this summer. That bill would criminalize the publication of non-consensual, sexually exploitative images—including AI-generated content—and require platforms to have in place notice and takedown processes. Both bills have bipartisan companions in the House.

We recognize that there is other legislation in this space that Congress may be considering. We are advocating that Congress pass these bills for three primary reasons. First, we are concerned about both real and synthetic NCII. While it is critical to address AI-generated and other synthetic content, Congress must also address the non-consensual dissemination of authentic imagery, which these bills do. Second, both civil and criminal relief are necessary pieces in legislation to deter bad actors, especially for victims who may not have the financial resources to secure justice on their own through a civil lawsuit. Lastly, combating this horrific content will take a whole of society approach

and that includes platforms, who must take action to remove this exploitative, non-consensual content once notified. No other set of bills accomplishes these three goals like SHIELD and TAKE IT DOWN do.

Recent studies tell us the harm is dire, consequences are long-lasting, and the problem is not going away. In Microsoft's latest annual Global Online Safety Survey, respondents were asked about this topic, with 12% globally reporting having been exposed to sexual deepfakes in the last year. Fear about it is also increasing, with 73% of respondents globally citing concern about sexual or online abuse from AI. And yet, there also appears to be an alarming gap in understanding the exploitation involved. In the United States, only 56% of respondents thought it would be very harmful to use AI to create a false image of a politician, and only 63% of respondents thought it would be very harmful to create a nude image of a celebrity. While these bills might not solve all these concerns, they are a step in the right direction of taking action, protecting victims and holding bad actors accountable.

Together, we are proud to support the SHIELD and TAKE IT DOWN Acts. While we represent three different entities—one corporation, two non-governmental organizations—we are united in our desire to address this harm and protect people, especially women and girls, from online exploitation.

As Microsoft, we have long recognized our responsibility to keep our users safe, particularly children. We have a comprehensive policy addressing NCII harms, which has been in place since 2015. Microsoft does not allow the sharing or creation of sexually intimate images of someone without their permission. This includes photorealistic NCII content that was created or altered using technology. We do not allow NCII to be distributed on our services, nor do we allow any content that praises, supports, or requests NCII. In 2009, we collaborated with Dartmouth College to develop PhotoDNA, a hash-matching technology that was a landmark step forward in our collective ability to detect and address child sexual abuse material (CSAM) across the online ecosystem. In March 2024, Microsoft donated a new PhotoDNA capability to support the efforts of StopNCII.org, a service that enables people to protect themselves from having their intimate images shared online without their consent. In September 2024, we were proud to announce we have been piloting use of the StopNCII.org database to prevent NCII content from being returned in image search results in Bing. We will continue to evolve our approach, including as part of our comprehensive approach to addressing abusive AI-generated content. That approach is premised on a need for whole-of-society action, including steps to modernize legislation. To help better protect women and children from online exploitation, Microsoft was proud to endorse the SHIELD Act in our white paper,

“Protecting the public from abusive AI-generated content”, and to endorse the TAKE IT DOWN Act in July.

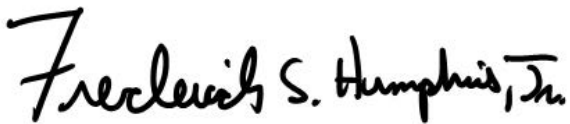
For over 40 years, The National Center for Missing and Exploited Children (NCMEC) has served as the Congressionally-designated resource center and clearinghouse on missing and exploited children issues. NCMEC has witnessed how offenders often misuse new technology to sexually exploit children online. Last year, NCMEC’s CyberTipline received more than 36 million reports relating to child sexual exploitation. CyberTipline reports relating to the online enticement and sextortion of children have increased over 300% over the past 3 years. Recently, NCMEC has seen the emergence of new threats with offenders using generative artificial intelligence (GAI) technology to create nude and sexually exploitative images of children. Over the past 2 years, NCMEC has received more than 10,000 reports of child sexual exploitation that were created with GAI technology. It is essential that our laws continue to be updated to address these emerging threats to child safety online. The SHIELD Act will close a gap in current law by criminalizing the distribution of nude and exploitative images of a child. Similarly, the TAKE IT DOWN Act will criminalize the distribution of nude and exploitative images of a child that are produced with GAI technology. Both bills will close legal gaps and are essential to provide crucial legal remedies to combat offenders who are exploiting children online, especially with emerging new technologies.

As the nation’s oldest and most prominent nonprofit organization dedicated to combating image-based sexual abuse, the Cyber Civil Rights Initiative (CCRI) has been calling for a federal criminal law prohibiting the nonconsensual distribution of intimate imagery for over a decade. CCRI provides the only 24-hour crisis helpline for victims and survivors of image-based abuse in the country, as well as an online safety center and other resources. Our advocacy efforts helped convince major tech companies to ban and remove image-based sexual abuse in 2015 and we continue to work with the industry to improve policies and practices relating to privacy and abuse. CCRI’s cutting-edge research into the prevalence and impact of image-based sexual abuse has revealed that criminal penalties are the most effective deterrent against this abuse. Since 2013, our model legislation on NCII has served as the template for the wave of state law legislative reform that brought the number of jurisdictions criminalizing this abuse from 3 to 49 (as well as the District of Columbia, Puerto Rico, and Guam). CCRI’s model legislation has also served as the template for federal laws, including an amendment to the Uniform Code of Military Justice; a federal civil provision passed as part of the Violence Against Women Reauthorization Act of 2022; and for SHIELD. While we celebrate the great strides that have been made with regard to state criminal laws and civil remedies for NCII, variations across jurisdictions in the definition, classification, and remedies for this crime have resulted in a patchwork of laws

that is confusing for victims and law enforcement alike. Many state NCII laws are limited by misguided motive requirements, allowing perpetrators who commit this abuse for profit, voyeurism, or social validation to act with impunity. The SHIELD Act closes this loophole and serves as a powerful deterrent against this destructive and often borderless crime. The TAKE IT DOWN Act takes important steps to address the growing epidemic of sexually explicit digital forgeries and to create incentives for the removal of all forms of NCII.

Microsoft, NCMEC, and CCRI wish to express our gratitude to Senators Klobuchar, Cruz and Cornyn for their leadership on these critical bills, as well as to the other sponsors. We also thank you for your consideration, and we look forward to working with you to advance them this Congress.

Sincerely,



Frederick S. Humphries, Jr.

Microsoft, Corporate Vice President, U.S. Government Affairs



Michelle DeLaune

National Center for Missing & Exploited Children (NCMEC), President & CEO



Mary Anne Franks, JD, DPhil

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