

No. 25-949

In The
Supreme Court of the United States

JOHN DOE, ET AL.,
Petitioners,

v.

X CORP., FKA TWITTER, INC.,
Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

**BRIEF OF THE NATIONAL CENTER FOR
MISSING AND EXPLOITED CHILDREN AS
AMICUS CURIAE IN SUPPORT OF
PETITIONERS**

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INTEREST OF AMICUS CURIAE¹

The National Center for Missing and Exploited Children (NCMEC) is a private, nonprofit organization created in response to an unthinkable tragedy. In 1981, 6-year-old Adam Walsh was with his mother in a Florida shopping mall when he vanished without a trace. Adam's parents endured 10 excruciating days searching for Adam before he was found murdered 100 miles away. The Walshes channeled their grief and came together with other child advocates to create NCMEC in 1984. Over more than four decades, NCMEC has grown into the nation's largest and most influential child protection organization. NCMEC is authorized by Congress to serve as the official national resource center and information clearinghouse for all issues related to missing and exploited children. *See* 34 U.S.C. § 11293(b).

Today NCMEC fulfills its congressionally designated mission to help find missing children, combat child sexual exploitation, and prevent child victimization through five core programs of work relating to (1) missing children; (2) exploited children; (3) community outreach; (4) educational and professional resources; and (5) family support.

¹ Counsel of record for all parties received timely advance notice of intent to file. S. Ct. Rule 37.2. No counsel for any party authored this brief in whole or in part, and no person or entity other than amicus curiae, its members, or its counsel made a monetary contribution intended to fund the brief's preparation or submission.

As part of this work, NCMEC operates the CyberTipline, which is the sole centralized reporting mechanism for internet platforms and members of the public to report suspected online child sexual exploitation. NCMEC is thus uniquely situated to track and combat emerging threats to children online. NCMEC’s data reveal that the harms children face from online sexual exploitation are expanding in severity, complexity, and scope.

The Ninth Circuit’s decision—holding that 47 U.S.C. § 230 immunizes internet platforms from liability for the knowing possession and distribution of child sexual abuse material (CSAM)—will make it exponentially harder to fight the crisis of online child sexual exploitation.² In NCMEC’s experience, strong incentives—including the possibility of liability for knowing participation in criminal child sexual exploitation—are essential to ensure an adequate response from internet platforms. Absent the Court’s review, the Ninth Circuit’s decision will undercut a fragile system that is already overly reliant on voluntary efforts and the variable goodwill of internet platforms.

The question presented is crucial. This Court has long recognized that the “prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance.” *New*

² Relevant statutes refer to this material as child pornography. *E.g.*, 18 U.S.C. § 2252A. NCMEC uses the term “child sexual abuse material” or “CSAM” because it better captures the harmful nature of the material. *See* NCMEC, *Child Sexual Abuse Material*, <https://tinyurl.com/2nwst88x> (explaining the term CSAM “most accurately reflect[s] what is depicted—the sexual abuse and exploitation of children”).

York v. Ferber, 458 U.S. 747, 757 (1982). Despite the overriding societal objective to protect children, child sexual exploitation has only increased since the growth of the internet. Today, online child sexual exploitation is rampant and inflicts lifelong trauma and extraordinary harm on untold numbers of child victims.

The decision below is incorrect. Congress did not immunize internet platforms that knowingly distribute child sexual abuse material when it provided Good Samaritan protection from liability for removing obscene, lewd, and lascivious content.

The situation is urgent. The internet has facilitated an explosion in child sexual abuse material that harms increasing numbers of children every day. Millions of child victims must live with the ongoing trauma inflicted by online sexual exploitation. Tragically, many young lives are lost to suicide following online exploitation. The time has come for the Court to weigh in on this question of exceptional importance.

INTRODUCTION AND SUMMARY OF ARGUMENT

To fight the unrelenting circulation of child sexual abuse material online, NCMEC has long assisted internet platforms willing to improve their methods to prevent, detect, remove, and report CSAM on their platforms. Congress could do more to require internet platforms to fulfill their responsibility to America's children. For example, Congress could require internet platforms to undertake efforts to detect and prevent CSAM on their sites. It could also require them to report sufficient information about

child sexual exploitation so law enforcement can investigate and safeguard child victims.

This case is not about these shortcomings or about detection, prevention, or other valuable steps internet platforms could take above and beyond their legal duties in the fight against CSAM. It is about whether, at a bare minimum, internet platforms can be held to basic legal obligations that Congress has already imposed.

Congress has long made the knowing possession and distribution of CSAM a crime. 18 U.S.C. § 2252A. Congress has already determined that victims' pursuit of civil remedies is an essential component of enforcing that criminal prohibition. *Id.* § 2255. It has reached the same conclusion for child sex trafficking and those that benefit from participating in a trafficking venture. *Id.* §§ 1591(a)(2), 1595. The only question presented here is whether, in enacting 47 U.S.C. § 230, Congress chose to immunize internet platforms—uniquely among all other potential perpetrators—from any liability when they engage in this criminal conduct.

The answer is no.

Children in this country urgently need the Court to take up this question. Many internet platforms fail to take necessary actions to report and remove known CSAM. Some disregard their legal responsibilities altogether and others pay lip service. The unfortunate reality is that incentives in the form of legal consequences are necessary to ensure that internet platforms fully comply with their basic obligation to refrain from knowingly possessing and distributing CSAM.

Absent the Court's review, the Ninth Circuit's decision immunizing internet platforms from any liability for knowingly distributing CSAM will cause an already fragile system to break down further. As a result, more children will be exploited and face the lifelong trauma that Petitioners have suffered. There is no time to wait. The time for review is now.

ARGUMENT

Absent Review, the Ninth Circuit's Decision Will Legitimize Internet Platforms' Knowing Hosting of CSAM and Impair Efforts to Combat Child Sexual Exploitation.

A. The large and growing online child sexual exploitation crisis is devastating to children's health, safety, and well-being.

1. The modern internet has resulted in an explosion in both the amount and the brutality of child sexual abuse material. *See* Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, § 501(1)(A), 120 Stat. 587, 623 (finding the "advent of the Internet," among other technological developments, has "greatly increas[ed] the interstate market in child pornography").

NCMEC's congressionally authorized CyberTipline provides unique insight into the scope and nature of CSAM online. Since 1998, the CyberTipline has been the primary online mechanism for members of the public and internet platforms to report incidents of suspected child sexual exploitation, including child sex trafficking, online enticement of children for sexual acts, and child sexual abuse material, among other crimes. NCMEC,

2024 CyberTipline Report, at 3, 8 (2025), <https://tinyurl.com/2s32mz8r> (CyberTipline Report).

The scale of the problem is staggering. In 2024 alone, 20.5 million reports of child sexual exploitation were submitted to the CyberTipline. *Id.* at 4. The reports included over 33 million videos and over 28 million images. *Id.* at 9. Every single day, over 1,400 new reports are flagged by internet platforms or NCMEC systems as being urgent or potentially time-sensitive and involving children at risk of imminent harm. *Id.* at 6 (discussing 2024 reports).

Reports of these horrendous crimes have been skyrocketing. From 2013 to 2023, CyberTipline reports (which may include more than one incident in a single report) have increased more than 70-fold. Office of Justice Programs, U.S. Dep't of Justice, *CY 2023 Report to the Committees on Appropriations: National Center for Missing and Exploited Children (NCMEC) Transparency*, app. A (2024), <https://tinyurl.com/whjz8bke>. Some of that increase is due to increased detection and reporting, but it also reflects ever higher amounts of CSAM circulating online. UN Office on Drugs & Crime, *Towards Zero: An Initiative to Reduce the Availability of Child Sexual Abuse Material on the Internet*, at 5 (June 2023), <https://tinyurl.com/3ja69e2y>.

There are no signs that this increase is abating. Just the opposite. Although full analysis of the data is not yet complete, NCMEC received even more CyberTipline reports in 2025 (21.3 million) than in 2024. *Lost and Exploited: Confronting Child Trafficking and the Failure to Protect America's Most Vulnerable, Hearing Before the Subcomm. on Crime & Counterterrorism of the S. Comm. on the Judiciary*,

119th Cong., at 3 (Mar. 3, 2026) (statement of Staca Shehan, Vice President, Analytical Services Division, NCMEC), <https://tinyurl.com/2nppbnns>. In addition, new and evolving crimes targeting children on the internet have seen sharp increases, prompting NCMEC to release partial year CyberTipline statistics for the first time ever. Patricia Davis, *Spike in Online Crimes Against Children a “Wake-Up Call,”* NCMEC (Sep. 4, 2025), <https://tinyurl.com/77kxsjtn>.

2. The vast majority of CyberTipline reports relate to CSAM. CyberTipline Report, *supra*, at 8. Because most members of the public will never see CSAM, it is important to underscore that CSAM “is not merely sexually suggestive” imagery, or depictions of “older teenagers who ‘look young.’” *Ending the Scourge: The Need for the Stop CSAM Act, Hearing Before the Subcomm. on Crime & Counterterrorism of the S. Comm. on the Judiciary*, 119th Cong., at 10 (Mar. 11, 2025) (statement of Michelle DeLaune, CEO, NCMEC), <https://tinyurl.com/3f82r7mf> (Ending the Scourge). CSAM is photo and video content that depicts crimes involving children “being raped, abused, and exploited.” *Id.*

The CSAM involving Petitioners depicted both minors (aged 13 to 14) “engaging in sex acts” and was coerced by sex traffickers. Pet. App. 179a-180a, 194a. The traffickers masqueraded online as a girl at the victims’ school and convinced the boys to share photos of themselves. *Id.* at 179a. They then coerced the victims to send additional, more explicit photos and videos by threatening to circulate the materials they had already obtained. *Id.* at 179a-180a. Through

these threats, the traffickers obtained a thing of value—CSAM. *Id.* at 181a.

What Petitioners experienced is a form of “sextortion,” where “children are threatened or blackmailed, most often with the possibility of sharing with the public ... sexual images of them, by a person who demands additional sexual content, sexual activity or money from the child.” NCMEC, *Sextortion*, <https://tinyurl.com/532hhn7y>. NCMEC “has seen a dramatic increase in sextortion cases” in recent years, “especially financial sextortion where the offender demands money.” *Id.* The crime commonly targets teenage boys such as Petitioners. *Id.* The ability to post images online and circulate them widely—as occurred here, Pet. App. 191a-192a—enables traffickers seeking to extort money or more explicit images from a child to make convincing threats and carry them out.

Simply put: current efforts to stop child sexual exploitation online are failing, endangering millions of children. Undercutting the consequences that internet platforms face for knowingly hosting this content—as the Ninth Circuit’s decision does, *see infra* pp. 20-24—will accelerate this crisis.

3. Children pay the price for weakened enforcement of laws to combat CSAM. The spread of child sexual abuse material online is an “ongoing public health crisis.” U.S. Dep’t of Justice, *Report to Congress, National Strategy for Child Exploitation Prevention & Interdiction*, at i (2023), <https://tinyurl.com/3npdz2tu> (DOJ Report). Survivors report that abuse-related trauma leads to life-long impairment of family relations, friendships, and intimate relationships. Canadian Ctr. for Child Prot.,

Survivors' Survey: Executive Summary, at 28-29 (2017), <https://tinyurl.com/ys6p6xjp> (Survivors' Survey). Nearly 90% of survivors also report difficulties in education and/or employment, "in many instances due to psychological and physical problems associated with the abuse." *Id.* at 30.

The distribution (or potential distribution) of abuse imagery online "is a compounding variable that adds an extraordinary layer of trauma for survivors." *Id.* at 28. Survivors describe "constant fear and vulnerability" from "a permanent record of the abuse experience." *Id.* When asked how CSAM distribution impacts them, independent of the abuse, survivors point to the "permanence of the images and the fact that ... circulation will never end," as well as feeling powerless about the imagery. *Id.* As one survivor reported to NCMEC, "every time that a picture comes up or every time that someone finds it, ... that abuse rehappens" and "the PTSD kicks in ... you're kind of reliving everything again."

By making CSAM easier to distribute, the internet has exacerbated the harm and re-victimization that occurs when CSAM images resurface online. CSAM is often "recirculated online among thousands of offenders over the course of many years." *Ending the Scourge, supra*, at 12 n.10. For example, NCMEC is aware of one child's abusive imagery that has been circulated for nearly two decades, appearing more than 1.3 million times in submissions to NCMEC, as offenders traded and reshared the images online for years. *CyberTipline Report, supra*, at 20. The seemingly never-ending circulation of CSAM impedes victims' recovery and causes additional long-term harm. *See NCMEC, Be*

the Support: Helping Victims of Child Sexual Abuse Material: A Guide for Mental Health Professionals, at 4-5, <https://tinyurl.com/zkadf6p3>. As Petitioners experienced, images may also circulate very publicly, even becoming known within victims' school communities, leading to harrowing stories of harassment and vicious bullying. Pet. App. 183a. As one survivor who was forced to drop out of school recounted to NCMEC:

Everyone in my life had access to the images. People at my school, family, other schools, my friend's parents, strangers, all saw my images.

CSAM need not be distributed and re-shared by thousands of offenders to cause harm. If an internet platform continues to distribute known CSAM, as happened here, it can take only a few days for that imagery to be viewed hundreds of thousands of times. Pet. App. 191a. Here, explicit imagery depicting Petitioners has circulated not for mere days, but for years. NCMEC first became aware of this content in 2019 (though not from a report from Twitter), but lacked information that would enable identification of the victims until 2020 (when identification was confirmed through a Department of Homeland Security investigation).³ To date, NCMEC has received over 60 reports from law enforcement and over 900 CyberTipline reports related to Petitioners' images. The latest report is from just this week—on March 10 of this year. Some of the perpetrators now

³ Twitter did not report the CSAM involving Petitioners to NCMEC until January 2020, after the Department of Homeland Security got involved. Pet. App. 192a.

recirculating CSAM depicting Petitioners may have downloaded the images from Twitter.

Tragically, some child victims facing this kind of ongoing trauma attempt or commit suicide. With regard to financial sextortion alone, NCMEC is aware of over three dozen teenage boys who have taken their lives since 2021. CyberTipline Report, *supra*, at 10. The toll is even greater when suicides arising from other forms of child sexual exploitation are included. Thousands of chat transcripts have been reported to NCMEC in which victims express suicidal ideation to uncaring perpetrators:

CHILD VICTIM: I'm actualy [sic] going to kill myself

SUSPECT: Okay let me send them [(CSAM images)] out then idc [(I don't care)]

SUSPECT: You send it [(money)] and we're done and I'll delete your stuff

CHILD VICTIM: I can't

SUSPECT: Ok bet

CHILD VICTIM: I'm actually gonna kill myself my life is over thanks for ruining it

SUSPECT: Ok

Ending the Scourge, *supra*, at 5.

More than two-thirds of survivors who responded to questions about the toll of online circulation of CSAM depicting them “worry constantly about being recognized by someone who has seen images of their abuse.” Survivors’ Survey, *supra*, at 28. With good reason. Offender communities have been known to “discuss, track, and follow victims of CSAM as they grow up” by searching for victims

online and “work[ing] together to hunt these children.” U.S. Dep’t of Justice, *Child Sexual Abuse Material*, at 7, <https://tinyurl.com/mwzfyddh>. Survivors’ experiences bear this out. About a third of survivors in one survey reported being recognized, and more than half of those recognized reported being assaulted, stalked, propositioned, or blackmailed by the person who recognized them. Survivors’ Survey, *supra*, at 28.

These and many other tragic cases of sexual exploitation reported to NCMEC every day demonstrate the life-altering consequences of sexual abuse and the unique trauma inflicted when sexually explicit imagery of a child’s abuse recirculates endlessly online.

B. Section 230 must be read against the backdrop of Congress’s endorsement of civil remedies as essential in the fight against child sexual exploitation.

1. Recognizing that child sexual abuse material is “harmful to the physiological, emotional, and mental health of the children depicted,” Adam Walsh Child Protection and Safety Act of 2006, § 501(1)(A), 120 Stat. at 623, Congress has long criminalized the distribution of CSAM. *See, e.g.*, Protection of Children Against Sexual Exploitation Act of 1977, Pub. L. No. 95-225, 92 Stat. 7 (1978) (enacting 18 U.S.C. § 2252). But Congress has not relied solely on criminal enforcement to combat CSAM.

Well before the modern internet emerged, Congress determined in 1986 that “the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children.” Child Abuse Victims’ Rights Act of 1986, Pub. L. No. 99-591,

§ 702(3), 100 Stat. 3341, 3341-74. Congress therefore enabled survivors to seek civil remedies from those who produced and distributed child sexual abuse material in which they were depicted. *Id.* § 703 (codified at 18 U.S.C. § 2255).

The emergence of the internet did not change Congress's reliance on both civil and criminal enforcement remedies to combat child sexual exploitation. On the contrary, Congress recognized that the internet presented new and expanding dangers for children, and it specifically responded to that problem in the Communications Decency Act of 1996. *See Reno v. ACLU*, 521 U.S. 844, 849 (1997). Since then, Congress has repeatedly responded to emerging online dangers by strengthening both criminal and civil enforcement mechanisms to protect children.

For example, 18 U.S.C. § 2252A was enacted in 1996 to criminalize the knowing possession or distribution of "child pornography," "including by computer." Child Pornography Prevention Act of 1996, Pub. L. No. 104-208, § 121(3), 110 Stat. 3009, 3009-27. Just two years later, Congress expanded related civil remedies too, enabling survivors to seek redress from those who violate § 2252A by knowingly possessing or distributing CSAM, as well as from perpetrators of other child sexual exploitation crimes. Protection of Children from Sexual Predators Act of 1998, Pub. L. No. 105-314, § 605, 112 Stat. 2973, 2984 (amending 18 U.S.C. § 2255).

Congress followed the same pattern when it addressed criminal behavior related to sex trafficking. Enactment of new criminal statutes was followed quickly by enactment of civil remedies. In

2000, Congress created new federal crimes to combat child sex trafficking, among other forms of human trafficking. Trafficking Victims Protection Act, Pub. L. No. 106-386, § 112, 114 Stat. 1464, 1487-88 (2000) (codified at 18 U.S.C. § 1591). Again, Congress rapidly recognized that civil enforcement was an essential adjunct to criminal prosecution and created a civil remedy for survivors of child sex trafficking just three years later. Pub. L. No. 108-193, § 4(a)(4)(A), 117 Stat. 2875, 2878 (2003) (codified at 18 U.S.C. § 1595). When this remedy was first enacted, only direct perpetrators of sex trafficking could be sued, but Congress soon recognized the need to add liability for anyone who benefits from participating in a sex trafficking venture. Pub. L. No. 110-457, § 221, 122 Stat. 5044, 5067 (2008).

2. As Petitioners explain (Pet. 27-29), the careful balance struck by Congress in adopting § 230 within the Communications Decency Act of 1996 must be understood against this backdrop of Congress's active push to prohibit and remedy the knowing distribution of child sexual abuse material online. By stating that internet platforms shall not "be treated as the publisher or speaker" of their users' posts, 47 U.S.C. § 230(c)(1), Congress abrogated the common law rule that might have otherwise held internet platforms strictly liable for defamation relating to the unknowing publication of unlawful content. *See* Pet. 21-23. But the immunity under § 230 did not go further except to protect "Good Samaritan" acts "voluntarily taken in good faith to restrict access to or availability of material." 47 U.S.C. § 230(c)(2). This immunity does not extend to distributing known unlawful CSAM.

For good measure, Congress made clear from the outset that nothing in § 230 “shall be construed to impair the enforcement of ... chapter ... 110 (relating to sexual exploitation of children).” *Id.* § 230(e)(1). And when questions regarding the scope of this immunity later arose in the context of child sex trafficking, Congress enacted a “clarification” to eliminate legal protection that § 230 “was never intended to provide.” Allow States and Victims to Fight Online Sex Trafficking Act of 2017, Pub. L. No. 115-164, § 2, 132 Stat. 1253, 1253. It amended § 230 to make clear that immunity does not cover “any claim in a civil action” for a violation of 18 U.S.C. § 1591, which prohibits child sex trafficking. *Id.* § 4; 47 U.S.C. § 230(e)(5)(A).

Against this backdrop of the narrow congressional purpose of § 230, NCMEC agrees with Petitioners that nothing within § 230 purports to provide internet platforms with immunity from liability when they knowingly possess, distribute, and profit from CSAM.

C. The Ninth Circuit decision will eviscerate incentives for internet platforms to comply with the law, hindering NCMEC’s ability to protect children.

The Ninth Circuit’s decision is not just incorrect; it also undermines the work NCMEC carries out every day, at Congress’s behest, to protect children from sexual exploitation online. That work is supported by internet platforms that undertake voluntary measures to detect and remove harmful and illegal content—secure that § 230 provides immunity for such Good Samaritan conduct. But above all, the work to protect children online depends

on full cooperation from internet platforms incentivized by legal risk to refrain from knowingly distributing CSAM. That cooperation is not achievable if internet platforms can knowingly distribute CSAM without even the possibility of liability to their victims.

1. When properly interpreted, section 230 supports NCMEC’s essential programs to detect and remove CSAM by protecting platforms that remove harmful content.

Successfully addressing the spread of CSAM online “requires action” by online service providers among others. DOJ Report, *supra*, at i. Section 230, if properly interpreted, supports NCMEC’s programs—both congressionally mandated and voluntary—to reduce the circulation of CSAM online.

a. Regarding internet platforms’ mandatory responsibilities, Congress has for decades required internet platforms that know of apparent CSAM violations to report them to NCMEC’s CyberTipline, 18 U.S.C. § 2258A(a), and allows for, at platforms’ discretion, full reporting of user, location, and other information “to prevent the future sexual victimization of children,” *id.* § 2258A(b). (Twitter appears to have violated that law by making no report, even after knowledge of the CSAM content on its site, until after a Department of Homeland Security official got involved. Pet. App. 5a, 18a-20a.) In recent years, Congress has expanded these reporting requirements to include additional child sexual exploitation offenses. *See* REPORT Act, Pub. L. No. 118-59, § 4(a)(1), 138 Stat. 1014, 1016 (2024).

Internet platforms that take these requirements seriously and submit substantive, meaningful reports are integral to the fight against CSAM. In 2024, CyberTipline reports enabled NCMEC to make nearly 1 million referrals to law enforcement in the United States. NCMEC, *2024 CyberTipline Reports by State*, at 2, <https://tinyurl.com/y3rbb24p>. These referred reports are possible only when an internet platform has provided sufficient information for law enforcement to open an investigation, usually including user details, imagery and a possible location. CyberTipline Report, *supra*, at 18.

Beyond receiving and responding to CyberTipline reports, NCMEC operates a notice and takedown program to help stem the spread of CSAM. That program notifies internet platforms when NCMEC receives a report of apparent CSAM hosted on a public website or when a survivor reaches out to NCMEC to report their imagery is posted online. Ending the Scourge, *supra*, at 13-14. In 2024, NCMEC sent more than 89,000 notices to more than 780 internet platforms alerting them to apparent child sexual exploitation content on their services. See NCMEC, *2024 Total Notifications Sent by NCMEC to Electronic Service Providers (ESPs) Resulting in Content Removal*, at 23 (Removal Report), <https://tinyurl.com/2x3p3rkw>; NCMEC, *2024 Total Notifications Sent by NCMEC to Electronic Service Providers (ESPs) Resulting in Non-Removal*, at 10, <https://tinyurl.com/yf8ajvsu> (Non-Removal Report).

When these notices involve CSAM (as most do, see Non-Removal Report, *supra*) continuing to knowingly possess and distribute the CSAM would be criminal, see 18 U.S.C. § 2252A, and—absent the

Ninth Circuit’s unwarranted broad interpretation of § 230—should be subject to civil remedies. The majority of internet platforms stop distributing known CSAM when they are notified; about 73% of CSAM notices sent by NCMEC resulted in removal of the content. *Compare* Removal Report, *supra*, at 23, *with* Non-Removal Report, *supra*, at 10.

Even here, though, meaningful cooperation varies—demonstrating the importance of incentivizing action by internet platforms through enforceable legal remedies. Some companies respond quickly, removing content within 1 hour of receiving NCMEC’s notice. Ending the Scourge, *supra*, at 13-14. Others take nearly 12 days on average. *See* Removal Report, *supra*, at 13. And about 40% of the companies that received CSAM notices from NCMEC did not remove the content for some notices within the 12-day period NCMEC monitors for removal. *Compare* Removal Report, *supra*, *with* Non-Removal Report, *supra*.⁴ As this case shows, delays lead to many more views and downloads that greatly exacerbate the harm to victims. Unfortunately, the Ninth Circuit’s decision, which effectively eliminates any potential liability, also eliminated a powerful incentive for platforms to act quickly—or at all—in response to notices regarding CSAM being hosted on their platforms.

b. Good Samaritan internet platforms can go a step further. For those platforms willing to act as Good Samaritans, § 230 appropriately shields from

⁴ After sending four notices over 12 days with no removal, NCMEC classifies the response as a non-removal. Removal Report, *supra*, at 1.

liability their engagement in voluntary initiatives to protect children from online sexual exploitation.

To help internet platforms proactively detect and remove CSAM, NCMEC operates voluntary initiatives to share “hash values” of known CSAM images. CyberTipline Report, *supra*, at 21. Hash values are “unique digital fingerprints assigned to pieces of data, such as images and videos.” *Id.* When an image or video has been confirmed at least three times by NCMEC staff as containing CSAM, NCMEC “adds its hash value to a list that is shared with technology companies.” *Id.* As of December 2024, NCMEC has shared nearly 10 million CSAM hash values with participating internet platforms. *Id.*

Through a separate program, children can transmit to NCMEC hashes of nude, partially nude, and sexually explicit photos and videos in which they are depicted and that they believe are or may be shared online, and these hashes also are shared with participating internet platforms. NCMEC, *Take It Down*, <https://tinyurl.com/evrt6p6z>.⁵

By participating in these programs, internet platforms can act as Good Samaritans as contemplated and protected in § 230(c) to detect and remove sexually exploitative imagery depicting minors.

⁵ Respondent X Corp. signed up to participate in this program in January of this year.

2. The Ninth Circuit decision will make it harder to secure full cooperation from internet platforms.

Internet platforms that fully comply and go beyond their legal obligations by engaging in Good Samaritan proactive measures to protect children online make a meaningful difference in the fight against CSAM.

But NCMEC knows from experience that while some internet platforms will engage voluntarily to stop the spread of CSAM, others will do only the bare minimum that is legally required—and sometimes not even that—in the absence of meaningful consequences for noncompliance. A system built on largely voluntary initiatives to protect children online has proven inadequate to address the tremendous explosion in internet-enabled CSAM. By immunizing internet platforms from any liability even for the knowing distribution of CSAM, the Ninth Circuit’s decision will undercut the limited but crucial consequences that incentivize internet platforms to comply with basic legal obligations—like refraining from knowingly participating in and profiting from CSAM distribution.

a. Unfortunately, internet platforms have financial incentives to limit their efforts related to CSAM, making it all the more essential that there also be financial incentives to take action. Advertising revenue is driven by web traffic and there is an “insatiable demand” for CSAM that “drives web traffic.” *Fleites v. MindGeek S.A.R.L.*, No. 2:21-cv-04920, 2025 U.S. Dist. LEXIS 190592, at *11 (C.D. Cal. Sep. 26, 2025) (quoting NCMEC report).

Platforms like X display advertisements on pages with CSAM and have automated features to assist users in locating this material. *See* Pet. App. 6a, 16a (discussing allegations that Twitter linked advertising to posts sharing CSAM and suggested hashtags associated with CSAM to make it easier to find). X is not alone. Allegations in litigation against another large internet platform, Reddit, also note that it “highlights subreddits that feature child pornography to sell advertising on those pages.” *Does v. Reddit, Inc.*, 51 F.4th 1137, 1140, 1145 (9th Cir. 2022).

b. The limited and often inconsistent engagement NCMEC receives from many platforms relating to reporting and removing CSAM highlights that platforms often will not take action unless they face significant legal or financial consequences.

CyberTipline reporting numbers show that mandatory requirements to report CSAM make a difference—as does enforcement of those mandatory requirements. As an example, NCMEC’s CyberTipline has enabled voluntary reporting of child sex trafficking and online enticement since its inception in 1998. Yet in 2023, the year before Congress made such reporting mandatory, NCMEC received only about 17,000 child sex trafficking reports and 186,000 online enticement reports. NCMEC, *2023 CyberTipline Report*, at 4 (2024), <https://tinyurl.com/2jh5pxh4>. In 2025, however, the year after such reporting became mandatory, NCMEC received more than 113,000 child sex trafficking and 1.4 million online enticement reports, increases of 554% and 7,490%, respectively. These offenses were occurring in 2023, but most internet

platforms were not consistently reporting them because reporting was not mandatory.

Even mandatory requirements are disregarded all too often, however, where there are no significant consequences.⁶ The vast majority (72%) of CSAM notices sent to Respondent by NCMEC, for example, involved content on X that was reported by other companies, not by Respondent.⁷ In addition, some internet platforms knowingly submit bare bones reports lacking the information needed for NCMEC or law enforcement to determine the geographic location of the incident, the nature of the offense, or the identity of the reported victim or offender. More than 8% of reports that internet platforms submitted to NCMEC's CyberTipline in 2024 contained so little information that it was not even possible for NCMEC to determine where the offense occurred so it could notify the appropriate law enforcement agency. CyberTipline Report, *supra*, at 19.

Worse still, when NCMEC does receive reports that qualify for takedown notices and provides those notices to internet platforms, some platforms knowingly (and unlawfully) continue to distribute CSAM. As explained above, *see supra* p. 18, about 40% of the platforms that received CSAM notices from

⁶ Congress recently increased the potential fines for noncompliance with reporting obligations. REPORT Act, § 4(a)(2), 138 Stat. at 1016-17. But no enforcement action for non-reporting by an internet platform has ever been initiated.

⁷ The Ninth Circuit held that Petitioners' state-law claim based on Twitter's failure to meet its reporting obligation to NCMEC could go forward. Pet. App. 18a-20a. As the Petition explains (Pet. 36-37), however, the district court is likely to decline to exercise supplemental jurisdiction over those claims.

NCMEC did not consistently remove the content. And this is true even though NCMEC sends CSAM takedown notices only when NCMEC's expert staff examine the hosted imagery and confirm CSAM is depicted. *See* Removal Report, *supra*, at 1.

There is no proactive obligation for internet platforms to sift through user-posted content. However, the law does prohibit the knowing possession and distribution of CSAM. The issue here is responding to known CSAM being distributed by an internet platform. So the difference in scale between Twitter and an individual who hosts a website and allows a handful of other people to post whatever they want (including CSAM) is immaterial. In either case, when internet platforms know about CSAM—regardless of how they gain that knowledge—and they do not take down the CSAM, they are knowingly possessing and distributing CSAM. The law does not immunize such knowing participation in criminal activity.

As this case demonstrates, the continued distribution of CSAM has real consequences in children's lives. It enables sexually explicit imagery to be repeatedly downloaded and circulated online, shared among offenders, and viewed by a child's family, friends, and school community. This causes repeated trauma. Meaningful consequences are needed to ensure internet platforms remove known CSAM from their sites. Imposing no consequences, even for when an internet platform violates laws that unequivocally criminalize the possession and distribution of CSAM, fails children and empowers sexual offenders.

It is sufficiently disturbing that many internet platforms turn a blind eye to CSAM proliferating on their sites, and from which they profit. In NCMEC's view, combatting these crimes against children requires that online platforms act decisively to prevent children from being victimized to the greatest extent possible, and engage in risk management measures to reduce the possibility that children are victimized on their platforms. *See Ending the Scourge, supra*, at 15. NCMEC acknowledges we are far from this needed level of substantive cooperation by internet platforms to protect children online.

But the Ninth Circuit's decision immunizes far worse than willful blindness: it would sanction internet platforms' knowing participation in the crime of distributing CSAM.

In NCMEC's experience, voluntary efforts alone—without the prospect of civil liability—are not enough to secure cooperation from internet platforms in the fight against CSAM. Although internet platforms can and should do much more, at a bare minimum they cannot be allowed to knowingly possess, distribute, and profit from CSAM. The Court's review is urgently needed to protect children by restoring the scope of § 230 immunity to its statutory bounds.

CONCLUSION

The petition should be granted.

Respectfully submitted,

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