

PROTECTING CHILDREN ON THE INTERNET

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JANUARY 19, 2006

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

30-054 PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

TED STEVENS, Alaska, *Chairman*

JOHN McCAIN, Arizona	DANIEL K. INOUE, Hawaii, <i>Co-Chairman</i>
CONRAD BURNS, Montana	JOHN D. ROCKEFELLER IV, West Virginia
TRENT LOTT, Mississippi	JOHN F. KERRY, Massachusetts
KAY BAILEY HUTCHISON, Texas	BYRON L. DORGAN, North Dakota
OLYMPIA J. SNOWE, Maine	BARBARA BOXER, California
GORDON H. SMITH, Oregon	BILL NELSON, Florida
JOHN ENSIGN, Nevada	MARIA CANTWELL, Washington
GEORGE ALLEN, Virginia	FRANK R. LAUTENBERG, New Jersey
JOHN E. SUNUNU, New Hampshire	E. BENJAMIN NELSON, Nebraska
JIM DEMINT, South Carolina	MARK PRYOR, Arkansas
DAVID VITTER, Louisiana	

LISA J. SUTHERLAND, *Republican Staff Director*

CHRISTINE DRAGER KURTH, *Republican Deputy Staff Director*

KENNETH R. NAHIGIAN, *Republican Chief Counsel*

MARGARET L. CUMMISKY, *Democratic Staff Director and Chief Counsel*

SAMUEL E. WHITEHORN, *Democratic Deputy Staff Director and General Counsel*

LILA HARPER HELMS, *Democratic Policy Director*

CONTENTS

	Page
Hearing held on January 19, 2006	1
Statement of Senator Allen	7
Statement of Senator Burns	5
Statement of Senator Inouye	1
Prepared statement	2
Statement of Senator Lautenberg	5
Statement of Senator Bill Nelson	6
Statement of Senator Pryor	6
Statement of Senator Stevens	1

WITNESSES

Burrus, Jr., James H., Deputy Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation	8
Prepared statement	10
FBI Publication, entitled A Parent's Guide to Internet Safety	22
Cambria, Jr., Paul J., General Counsel, Adult Freedom Foundation	48
Prepared statement	50
Lincoln, Hon. Blanche L., U.S. Senator from Arkansas	2
Lordan, Tim, Executive Director, Internet Education Foundation (IEF)	43
Prepared statement	45
Parsky, Laura H., Deputy Assistant Attorney General, Criminal Division, Department of Justice	11
Prepared statement	13
Platt, Tatiana S., Chief Trust Officer/Senior Vice President, Integrity Assur- ance, America Online, Inc.	36
Prepared statement	37
Weaver, III, James B., Professor, Communication and Psychology, Depart- ment of Communication, Virginia Polytechnic Institute and State Univer- sity	28
Prepared statement	30

APPENDIX

Cambria, Jr., Paul J., General Counsel, Adult Freedom Foundation, supple- mentary information	65
Sunlove, Kat, Legislative Affairs Director, Free Speech Coalition, prepared statement	66

PROTECTING CHILDREN ON THE INTERNET

THURSDAY, JANUARY 19, 2006

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:33 p.m. in room SD-562, Dirksen Senate Office Building, Hon. Ted Stevens, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good afternoon. We are finding that the Internet is increasingly a place where Americans turn to get information, do research, and exchange ideas. And increasingly, our children are looking to the Internet for their information. Given the increasingly important role of the Internet in education and commerce, it differs from other media, like TV and cable, in that parents cannot just foreclose the Internet from their children altogether and expect them to be prepared to do their homework and succeed in life. Even more so than TV and cable, the Internet contains material inappropriate for children. As the Internet continues to evolve and new offerings like peer-to-peer evolve, we must determine what we can do to protect children as they continue to use computers and the Internet for their education. Particularly, as different domains, which are similar to zones, develop, we must ask if we're doing enough to create safe kid zones similar to family tiers.

Now, we will work within the confines of the First Amendment, but we must do what we can to shield children from inappropriate and pornographic content, no matter where it comes from. We need to understand whether filtering technologies available to parents are effective. We also want to examine the Children's Online Protection Act, which is now under court review. Even today, the Administration has announced new efforts to uphold that law.

Do you have any opening statements you wish to make?

Senator INOUE. Just a short one.

The CHAIRMAN. Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

Senator INOUE. Mr. Chairman, for years this committee has wrestled with the issue of pornography and the measures to protect children from it. However, in many ways, technology has made an already difficult task even more difficult. As you pointed out, Mr. Chairman, the growth of the Internet as a communication medium

allows salacious material to be distributed far more easily to children, and it also provides those who would see the Internet to prey upon children an anonymity, which often is used to evade detection.

In light of these harms, I think it is entirely appropriate that we review what steps can be taken to assist parents in protecting their children from inappropriate material.

I'd just like to point out that Internet sites containing pornography have grown. The number of child-pornography websites is estimated to be 100,000 today, and that number is growing and increasing every day. And I hope to have my statement put in the record.

[The prepared statement of Senator Inouye follows:]

PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

Today, we continue the discussion on broadcast decency. We have seen some important developments since our November 29th Forum, but we still have work to do. We all appreciate the efforts that Jack Valenti and Kyle McSlarrow have undertaken to address how best to protect our families from viewing indecent and violent materials on TV.

We have a difficult task ahead of us, but one that must succeed in many areas—indecent, violent content and sanctions.

The Kaiser Family Foundation's most recent study, released in November, provided further evidence that racy TV programming remains increasingly prolific. The networks have little incentive to reverse this trend, as it continues to attract viewers and market share.

At a minimum, we hope to provide parents with the information and tools to control the flood of materials they can view at home. We also have a number of legislative proposals before the Committee that would raise fines and impose other remedies.

While indecent content continues to receive the lion's share of attention, violent content is an equal concern. Violent content has proven to have a strong, negative, anti-social effect on young viewers, so it is essential that we address TV violence as well. Senator Rockefeller's and Senator Hutchison's legislation wisely emphasizes this issue, and I am an enthusiastic co-sponsor of their bill. I hope that the Committee will consider their proposal in the near future.

I thank our witnesses for their continued participation in this effort.

The CHAIRMAN. Yes, sir.

In deference to Senator Lincoln, who I understand has another engagement, I would ask the other Senators to withhold and we'll listen to Senator Lincoln.

**STATEMENT OF HON. BLANCHE L. LINCOLN,
U.S. SENATOR FROM ARKANSAS**

Senator LINCOLN. Thank you, Mr. Chairman. And a special thanks to both of you gentlemen, who I have tremendous respect for. Not only do you tackle the popular issues, but you also tackle the difficult issues. And this issue happens to be both difficult, as well as popular, in many, many American households. So, I want to thank you all for allowing me to participate in this hearing today, and for moving forward in the research we need to make of what we can do to make America's families safe again.

As a mother of two young boys, this issue hits home for me, as well as being a Senator and representing the people of Arkansas. And, as Senator Pryor, on this committee, knows, it's an issue that weighs very heavily on the minds of parents across our great State of Arkansas. And that's why I commend all of the distinguished

Members of this committee for bringing these panelists here together for an open discussion about how we can keep our children safe online. It is such an important issue, and it is one that I hope we can work to address in this Congress.

Let me begin by saying that, without a doubt, I know in my heart, and I'm sure you agree, that parents are truly the front line of defense. Parents must closely monitor their children's activities, online and elsewhere. They must educate them about the potential dangers, whether it's sexual predators or inappropriate material on adult websites. But I have to emphasize, they cannot do it alone. Parents in today's world cannot do that alone.

When I was growing up, I would go downtown on Saturdays with my grandfather to his office. We'd go to the neighborhood drugstore, and oftentimes he would walk off to have a cup of coffee with some of the other guys from downtown, and I'd mill around the drugstore. If I would in any way come close to buying or doing something that my parents wouldn't have approved of, if I had gone to look at inappropriate material in that drugstore on Main Street, you could be sure that at least a dozen people in that drugstore would have called my parents, let them know exactly what I was up to, popped my hand, drug me out on the street, called my grandfather and said, "This is not right."

That's not the world we live in today. Main Street then, and Main Street today are very different. The place that we least expect danger for our children happens to be in our own family rooms, where their access to the Main Street of today occurs on the Internet. Today, it can be difficult for parents to know what their kids are up to, even when they are in the private confines of their own home. The Internet is literally transforming the experience of growing up in America today, in a way that is much different from the way that parents of today grew up, the way that many of us grew up.

Unfortunately, despite filtering and blocking technologies, children are accessing more and more sexually explicit material at home, on their family computer. They're being targeted by industries, using names that are familiar and comfortable to children, so that when they plug those names in, those comfortable names that they know, or names that they may be using at a young age for research, like whitehouse.com or Elmo, they come up with sexually explicit material. There's no one there to pop them on the hand or drag them away, as there was in the drugstore for me, unless that parent is looking over their shoulder at all times.

With the spread of wireless handheld devices, the Internet can also bring inappropriate materials to places like the school bus or the mall, where parents can't always be there to provide the necessary supervision. It is this aspect of the Internet that has eroded the capacity of parents to control what their children are exposed to and at what age they are exposed to it.

According to the Third Way report released last summer, the largest group of consumers of Internet pornography are youth, ages 12 to 17. Perhaps most shocking, the average age at which children are first exposed to pornography on the Internet today is 11 years old. Gentleman, my twin boys are 9½, and it scares me to death.

Now, I would be remiss not to acknowledge the exemplary efforts of many Internet service providers and other companies who have developed and improved the content-filtering technology available to parents. And I have no doubt that without their efforts the statistics would be much higher than they are today. But there is more that we can do. And we should.

Last year, I introduced legislation, along with several of my colleagues, that would apply the same age-verification requirements to pornographic sales over the Internet that are already applied to these same sales on Main Street. The technology is available, yet too few adult websites are taking the extra step to create another obstacle, another barrier, that can keep minors from accessing or stumbling upon inappropriate online material. By requiring adult sites to use age-verification software, my legislation is a common-sense approach to help responsible vendors keep children from viewing material online that is already illegal for them to purchase on Main Street. My bill would also provide the necessary resources to help law enforcement and others combat sexual predators and criminal activity that exists online.

We know that billions of dollars are made each year on the Internet catering to the pornographic desires of pedophiles, who, in turn, are using the anonymity of the Internet to approach and solicit our children. *The Wall Street Journal* published an article earlier this week describing the extremely profitable business distributing child pornography online has become. Subscribers are willing to pay up to \$75 a month to access these illegal sites. We must boost the budgets of law enforcement so that they have the tools to crack down on this criminal activity.

We also need to invest in research and development, to encourage the creation of new and better blocking and filtering technologies for parents.

But, in my view, Mr. Chairman, these are not costs that should fall on the backs of ordinary taxpayers and their families, the working families of this country. These are costs that have arisen as a direct result of the rise of the online pornography industry, now an estimated \$12-billion-profit industry—more than the three major networks combined. It is on those who profit from this business that the burden of paying for the associated costs should fall. This is why my bill creates a new Internet Safety and Child Protection Trust Fund financed by a 25 percent excise tax on Internet pornography transactions. This excise tax could generate up to \$3 billion in annual revenue to finance tougher law enforcement, better blocking and filtering technologies, and greater educational efforts to keep children safe online. We already spend almost a half a billion dollars annually of taxpayers' dollars to combat the repercussions of what comes from Internet pornography.

I recognize that my legislation is not a silver bullet, but I believe it is a necessary step, an important step, forward in the effort to protect our children in this Internet age. The Internet does not have to be just a source of bad material. It is also a source of very important materials. It opens the world of knowledge and exposure to many, many interesting things of history and technology to our children. But it must be used properly. And when our children are using that Internet, we have the responsibility, not just as parents,

but also as legislators, to give parents the greatest tools possible to make sure that our children are safe in this new Main Street that we have created.

I thank you all for letting me testify here today, and I look forward to working with you to address the issue that so many of our American families face.

Thank you.

The CHAIRMAN. Thank you very much, Senator.

Senator Burns?

Senator BURNS. Am I supposed to ask a question?

The CHAIRMAN. Unless—do you have an opening statement?

Senator BURNS. I don't have an opening statement. I thought Senator Lincoln had a great opening statement. And that suits me just fine, but I will iterate one thing.

The CHAIRMAN. Other people do have a statement, Senator.

Senator BURNS. Oh. Well, OK, then I'm going to make my statement, then.

The CHAIRMAN. That's fine.

**STATEMENT OF HON. CONRAD BURNS,
U.S. SENATOR FROM MONTANA**

Senator BURNS. I would have to agree with Senator Lincoln on one thing. Main Street hasn't changed. It's just in her home now. Where do you keep the computer in your house?

Senator LINCOLN. We have one computer that has Internet access, and it is in the family room, in the most visible room and visible spot. And my children know that they are not allowed to go on the Internet unless one of us are with them.

Senator BURNS. Thank you. Mine's in the kitchen.

The CHAIRMAN. Thank you very much, Senator.

Senator Lautenberg?

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. Mr. Chairman, thanks to our colleague, Senator Lincoln, for bringing the subject up so vividly. We appreciate it. Because this morning we learned about indecency on TV, and it's a serious problem that threatens our families, but pornography on the Internet is even more insidious, because you can find it so easily, and monitoring it, supervising it, in the family, even in your own house, is a very difficult problem.

So, we find pornography distasteful, but we also realize that maybe it's going to be impossible to eliminate it entirely from our society, but we've got to work at it. That doesn't mean we have to sit by while our children are exposed to an explosion of pornography on the Internet. And, make no mistake, an explosion is exactly what we're talking about.

I just showed our colleague from Arkansas what—some of the things that we're talking about. Five years, between 1998 and 2003, the number of pornography-related Internet sites increased from 14 million to 260 million. You know, that's—the comprehension of that is almost impossible, the vast pervasion that it's made in our society. There's almost one pornographic website for every person in the country. Within all of those websites out there,

they're bound to turn up when children use Internet search engines to look for information related to their homework or other innocent topics. But one glimpse of something like that is an arresting moment. The kid says, "Hey, what's going on there?" It's terrible. Obviously, children shouldn't be exposed to that kind of image. But child pornography is illegal, because it turns innocent children into victims. And the pornographic sites on the Internet include an estimated 100,000 items that feature child pornography.

In 2001, the National Center for Missing and Exploited Children's cyber-tip line received 21,600 reports of child pornography. In 2004, it went from 21,600, in 2001, to 106,000 reports over a 4-year period.

Mr. Chairman, this is an appropriate reason for us to take action on Internet pornography, and I applaud the efforts of the Department of Justice to date. There have been notable successes in busting major child-pornography businesses, including an international case brought in the District of New Jersey. But we've obviously got to do more. These statistics are alarming, and our work is just beginning. But, thank you, Mr. Chairman, for initiating this activity today.

The CHAIRMAN. Thank you very much, Senator.
Senator Nelson?

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator BILL NELSON. Mr. Chairman, I want to find out why the filtering technologies are not working. And I also want to alert the Committee that online porn is being enhanced by spam and by spyware—spyware, insidiously entering into the computer and suddenly taking over your computer. And you can imagine, on a child's computer, what that could mean as a way of entry for pornography right into the child's computer.

On spam, obviously the unwanted messages that we all get in the e-mail—I'll give you example. My Tampa office, that is within the secure confines of the Federal courthouse in downtown Tampa, over one night, you come in the next morning, 25 unwanted e-mails, of which five to a U.S. Senate office, are pornography. This is the kind of insidious evil that is creeping in, and especially that is victimizing our children. And I want to know, why are the filtering technologies not working now?

The CHAIRMAN. Thank you very much, Senator. They're coming right into this building, as a matter of fact. I got a lot of them this morning.

Senator Pryor?

**STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman. I want to thank my colleague for her leadership on this, and thank you for continuing this conversation. I think it's very important and there are a lot of issues. Senator Nelson mentioned some. Senator Lautenberg mentioned some. We've all talked about these in some ways before.

But I remember, back when I was in the Attorney General's office in Arkansas, we worked hard to try to educate parents about

things—ways to protect their children online. And I want to tell you, since those days, there's been an avalanche of new developments and new technologies and new websites. And I just hope that the Congress will do something about this and make the Internet a safer place.

Thank you.

The CHAIRMAN. Senator Allen?

**STATEMENT OF HON. GEORGE ALLEN,
U.S. SENATOR FROM VIRGINIA**

Senator ALLEN. Thank you, Mr. Chairman, for holding a hearing this afternoon. This morning, we were concerned about our children, as far as television is concerned; this afternoon, over the Internet. And I look at the Internet, as many of you all heard me say, it's the greatest invention since the Gutenberg press for the dissemination of information and ideas. But, just like anything else, whether it's mail, television, or telephone lines, they can be used in the wrong way.

And, as far as kids are concerned, parental controls are very important. And, just like Senator Lincoln, we have young children. We try to monitor, we have filters. Our filters actually, the ones we've put on, in the last year or so, have worked. But the things that Senator Nelson was talking about, that used to happen to our computers, not just to the kids but Susan and our computer, just ruins the whole computer, beyond the offensive content on it.

I look forward to this hearing, to hear from AOL—and Senator Nelson had questions and so forth—and what AOL is doing. I think a lot of the providers are recognizing that consumers are demanding this. What is happening with this, whether it's spyware, whether it is spam, or whether it is—and, of course, they mix together on the pornography issue—further ruining the enjoyment and use of the Internet. And so, I think there's an interest on the part of the Internet industry, or the Internet service providers, to help out in this regard.

I've been supportive also of the Internet Content Rating Association, encouraging content providers to label their websites and filters, as far as libraries are concerned. They end up with a lot of litigation on that from time to time, but it makes a great deal of sense. In our Commonwealth of Virginia, our State legislature, with the new attorney general, Bob McDonald, is putting forward several bills that have to do with requiring software filters at libraries that block Internet access to child pornography and other obscene and harmful material, requiring officers at schools to avoid dangerous and inappropriate material on the Internet, and educating. And then there's, and this is going to be a controversial one, prohibit the facilitating of payment for accessing child pornography over the Internet. Under no circumstance is child pornography legal. There may be, for adults, certain things that are legal. Child pornography, under any circumstance, is illegal. And no one should be involved in allowing that to profit.

And so, that's something that's happening in the Commonwealth of Virginia. I think we're going to get called on to act here responsibly, because this is not just a State issue, this is an international issue. And we do have law enforcement all around the country and

States, even Bedford County, Virginia, and others, working on such matters. But we need to work as best as we can to allow the free flow of information, access to information, but also empower individuals to stop this pornography that is unwanted, and particularly unwanted to the eyes of young people.

Thank you, Mr. Chairman. I look forward to learning from our witnesses.

The CHAIRMAN. Well, thank you very much. Thank you, Senator Lincoln.

We'll call our first panel, which is James Burrus, Jr., Deputy Assistant Director of the Criminal Investigative Division, the Federal Bureau of Investigation; and Laura Parsky, Deputy Assistant Attorney General, Criminal Division, the Department of Justice.

I might state, while they're being seated, we did pass the Child Online Protection Act of 1998. It has been challenged in court. And I'm sure that the people from the Department of Justice are going to comment about that. I hope they will. But in the case of Ashcroft versus ACLU, the Court of Appeals for the Third Circuit affirmed a district-court decision that enforcement of the section concerning distribution of pornography on the Web should be enjoined because the statute violates the First Amendment. This is available to anyone that wants to look at it.

Also, today there is a story in *The Mercury News*, in California, about the Administration's request to seek the databases from the search engines on the Web to determine how much pornography is being transmitted to children now.

But, Mr. Burrus, you're first, please.

STATEMENT OF JAMES H. BURRUS, JR., DEPUTY ASSISTANT DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. BURRUS. Good afternoon, Chairman Stevens.

The CHAIRMAN. You might want to turn your mike on and pull up just a little.

Mr. BURRUS. Test. OK.

Good afternoon, Chairman Stevens, Ranking Member Inouye, and Members of the Committee. I appreciate the opportunity to appear and provide testimony about the FBI and its work on Internet-based obscenity and child pornography.

The FBI is taking an aggressive course of action in the area of obscenity. The FBI formed an Adult Obscenity Squad, which is located in the Washington, D.C., field office. Agents assigned to the squad have both the legal expertise and Internet training to conduct these investigations. The squad works closely with the Department of Justice Obscenity Prosecution Task Force to determine, initially, if allegations meet the legal definition of obscenity, prior to conducting investigations. Since 2001, the FBI has opened 79 Interstate Transportation of Obscene Material cases. Of these cases, 52 have been opened since the beginning of 2004, the start of the initiative.

The exact volume of pornographic material available on the Internet is very difficult to determine. A Google search of the word "pornography" results in approximately 19 million hits. A Google search of the word "obscenity" results in over three million hits.

And an online search of domain names with the word “porn” or “sex” with the dot-com, dot-net, or dot-org background shows more than 200,000 titles.

The Internet is a new tool for all types of commerce, including obscenity and child pornography. In the past, sexually explicit material was available only through direct purchase or by mail. Direct purchase required the purchaser to actually go to a merchant, a face-to-face transaction. Mail purchase was more discreet, but it required a purchaser to use a credit card, and the product was then mailed to an address of a person ordering the product. While this eliminated the need to conduct a face-to-face transaction, an actual videotape or DVD had to be purchased.

Technological advances have eliminated the need for an individual to purchase or obtain an actual DVD or videotape. A person seeking such materials can now go online, order nearly any media, and have that product downloaded instantly onto the purchaser’s computer. The purchaser can create their own DVD using the downloaded material. Additionally, live-feed capabilities of the Internet allow viewing of live sex acts online with interactive direction. Sexually explicit materials can be downloaded directly onto pocket-sized portable devices, such as cell phones and digital music players. More than ever, sexually explicit materials are cheap, and distribution channels widespread. With that comes a proliferation of obscene material and child pornography.

The FBI’s lead role in the fight against child pornography is well known. By teaming up with other law enforcement agencies, the National Center for Missing and Exploited Children, and the public, we have successfully established “Innocent Images” task forces throughout the country and arrested thousands of predators who would use the Internet to entice children into exploitive sexual situations.

As an example, in January of 2002, the FBI led an investigation which resulted in the rescue of a 13-year-old girl who had been taken to Northern Virginia from Pittsburgh, Pennsylvania, by an individual she met on the Internet. The girl was transported across State lines, held in a residence, where she was repeatedly sexually assaulted. When the girl was rescued, she was restrained to a bedpost with a dog collar and a chain. The subject was identified after bragging on an Internet chat room and sending photographs of the victim, who he identified as his “sex slave.” The subject was prosecuted in U.S. District Court for the Western District of Pennsylvania, and sentenced to 17 years in prison.

In the past year, we’ve increased the number of “Innocent Images” task forces from 28 to 32. Since the inception of the initiative in 1996, we’ve seen a 2,000-percent increase in the number of cases, and a similarly significant number of arrests. Across the country, more than 250 agents are working on child-pornography cases day and night with our State and local partners. We have established working groups outside our borders, with countries around the world, to combat the sexual exploitation of children.

To demonstrate the importance of our international partnerships, let me quickly discuss an investigation which recently resulted in a North Carolina man being sentenced to 100 years in Federal prison. In late 2003, a detective, working in Denmark, was conducting

an undercover online investigation when he came across extremely disturbing and violent images of a young girl being molested and abused by an adult male. The Danish detective posted the images on an Internet site maintained by Interpol, where a detective in Toronto, Canada, recognized something familiar in the images and contacted the FBI's Innocent Images Unit. An agent assigned to the Innocent Images Unit was able to identify several numbers on a youth-organization uniform worn by the victims in one of the images. This identification was made in spite of efforts by the subject to blur the numbers and other identifiers in the photographs. Through the numbers on the uniform, the victim was identified as a member of a youth organization in Charlotte, North Carolina. The adult male in the photographs was identified as her father. A search warrant was executed at the family's residence, and over 400 photographs of what has been described as some of the most violent and disturbing images ever documented by the FBI were recovered. It was also determined that the subject had been molesting his 8-week-old nephew and devised a plot to kill his wife if she ever discovered the abuse.

The FBI and the Department of Justice are committed to curbing the production and distribution of obscene materials and child pornography. We look forward to working with this committee to accomplish this goal.

I would be happy to answer any questions, Mr. Chairman.
[The prepared statement of Mr. Burrus follows:]

PREPARED STATEMENT OF JAMES H. BURRUS, JR., DEPUTY ASSISTANT DIRECTOR,
CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Good afternoon Chairman Stevens, Ranking Member Inouye and Members of the Committee. I appreciate the opportunity to appear and provide testimony about the FBI and its work on Internet-based obscenity and child pornography.

The FBI is taking an aggressive course of action in the area of obscenity. The FBI formed an Adult Obscenity Squad which is located in the Washington, D.C., Field Office. Agents assigned to the squad have both the legal expertise and internet training to conduct these investigations. The squad works closely with the Department of Justice's Obscenity Prosecution Task Force to initially determine if allegations meet the legal definition of obscenity prior to conducting investigations. Since 2001, the FBI has opened 79 Interstate Transportation of Obscene Material (ITOM) cases. Of these cases, 52 were opened since the beginning of FY 2004, the start of the initiative.

The exact volume of pornographic material available through the Internet is difficult to determine. A "Google" search of the word "pornography" results in approximately 19,000,000 hits. A "Google" search of the word "obscenity" results in over 3,000,000 hits. An online search for domain names with the words "porn" or "sex" with the com/net/org shows more than 200,000 titles.

The Internet is a new tool for all types of commerce, including obscenity and child pornography. In the past, sexually explicit material was available through direct purchase or the mail. Direct purchase required the purchaser to actually go to a merchant—a face-to-face transaction. Mail purchase was more discreet. It required a purchaser to use a credit card and the product was then mailed to the address of the person ordering the product. While this eliminated the need to conduct a face-to-face transaction, an actual videotape or DVD had to be purchased.

Technological advances have eliminated the need for an individual to purchase or obtain an actual DVD or videotape. A person seeking such materials can now go online, order nearly any media and have that product downloaded instantly onto the purchaser's computer. The purchaser can create their own DVD using the downloaded material. Additionally, the live feed capabilities of the Internet allow viewing of live sex acts online with interactive direction. Sexually explicit materials can be downloaded directly onto pocket-size portable devices such as cell phones and digital music players. More than ever, sexually explicit materials are cheap, and dis-

tribution channels widespread. With that comes the proliferation of obscene material and child pornography.

The FBI's lead role in the fight against child pornography is well known. By teaming up with other law enforcement agencies, the National Center for Missing and Exploited Children (NCMEC) and the public, we have successfully established "Innocent Images" task forces throughout the country and arrested thousands of predators who would use the Internet to entice children into exploitive sexual situations.

As an example, in January of 2002, the FBI led an investigation which resulted in the rescue of a thirteen year old girl who had been taken to Northern Virginia from Pittsburgh, Pennsylvania by an individual she met on the Internet. The girl was transported across state lines and held in a residence where she was repeatedly sexually assaulted. When the girl was rescued, she was restrained to a bed post with a dog collar and a chain. The subject was identified after bragging in an Internet chat room and sending photographs of the victim whom he identified as his "sex slave". The subject was prosecuted in the United States District Court for the Western District of Pennsylvania and sentenced to seventeen years in prison.

In the past year, we have increased the number of these task forces from 28 to 32. Since the inception of the "Innocent Images" initiative in 1996, we have seen a 2,000-percent increase in the number of cases and a similarly significant increase in the number of arrests. Across the country more than 240 Agents are working child pornography cases day and night with our state and local partners. We have trained these partners in digital evidence collection so they have the tools to fight this crime problem. And it is a big problem.

We have also established working groups outside our borders, with countries around the world to combat the sexual exploitation of children. To demonstrate the importance of our international partnerships, let me discuss an investigation which recently resulted in a North Carolina man being sentenced to one hundred years in Federal prison. In late 2003, a detective in Denmark was conducting an undercover, online investigation when he came upon extremely disturbing and violent images of a young girl being molested and abused by an adult male. The Danish detective posted the images on an Internet site maintained by Interpol where a detective in Toronto, Canada, recognized something familiar in the images and contacted the FBI's Innocent Images Unit. An FBI Agent assigned to the Innocent Images Unit was able to identify several numbers on a youth organization uniform worn by the victim in one of the images. This identification was made despite efforts made by the subject to blur the numbers and other potential identifiers in the photographs. Through the numbers on the uniform, the victim was identified as a member of a youth organization in the Charlotte, North Carolina area. The adult male in the photographs was identified as her father. A search warrant was executed at the family's residence and over 400 photographs, as what has been described as some of the most violent and disturbing images ever documented by the FBI, were recovered. It was also determined that the subject had been molesting his eight-week-old nephew and had devised a plot to kill his wife if she ever discovered the abuse.

The FBI and the Department of Justice are committed to curbing the production and distribution of obscene materials and child pornography. We look forward to working with this committee to accomplish this worthwhile goal. I would be happy to answer any questions.

The CHAIRMAN. Thank you very much.
Ms. Parsky?

**STATEMENT OF LAURA H. PARSKY, DEPUTY ASSISTANT
ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT
OF JUSTICE**

Ms. PARSKY. Mr. Chairman, Senator Inouye, and distinguished Members of the Committee, thank you for inviting me to testify before you today about the Department of Justice's efforts to protect children on the Internet.

While we recognize that the Internet is an amazing medium for the dissemination of ideas and information, and can deeply enrich our lives, we also know that it can be exploited for criminal activity and can cause grave harm, including by facilitating child pornography and obscenity crimes, as well as by making sexually explicit

material available to children. The Department of Justice is unequivocally committed to protecting children and society as a whole by enforcing Federal laws in these areas.

Let me first address child pornography. Federal law prohibits all aspects of the child pornography trade, including its production, receipt, transportation, distribution, advertising, and possession. Unfortunately, the very term we commonly use to describe these awful images, "child pornography," does not adequately convey the horrors these images depict. A more accurate term would be "images of child sexual abuse," because the production of these images involves the sexual abuse of a child. Very regrettably, in the past several years the children abused in these images have been younger and younger, and the abuse has been increasingly more severe.

As if that were not enough, the sexual abuse depicted in these images is increasingly exacerbated by pedophiles who disseminate them over the Internet. The images are then passed endlessly from offender to offender, and may whet the appetite of another pedophile to inflict similar abuse on yet another child. We are absolutely committed to stopping this cycle of abuse.

Child pornographers employ the ever-evolving technology of the Internet to commit their deviant crimes. In order to ensure our ability to combat them in this changing technological environment, the Criminal Division of the Department of Justice created the High-Tech Investigative Unit, HTIU, within the Child Exploitation and Obscenity Section, known as CEOS, in August of 2002. The HTIU consists of computer forensic specialists who team with expert prosecutors to enable us to prosecute the most complex and advanced offenses against children committed online.

Offenders distribute child pornography over the Internet in a variety of ways, including online groups or communities, file servers, Internet Relay Chat, e-mail, peer-to-peer networks, and websites. We investigate and prosecute offenses involving each and every one of these technologies.

Further, the Department of Justice works continuously to identify the vulnerabilities of the child pornography industry and to attack them at every angle, both domestically and overseas. We are focusing our efforts on all offenders involved in these crimes, from the customer to the website operator to the facilitators, including those who provide credit card processing and subscription services.

A concrete reflection of our intensified efforts is the fact that CEOS already has generated a more than 445 percent increase in its caseload handled in the past 4 years, including child pornography cases and investigations. In addition to increasing the sheer number of investigations and prosecutions brought by these attorneys, the quality and import of the cases has increased substantially, with a focus on the producers and commercial distributors of the material. Similarly, the 94 U.S. Attorneys Offices have also greatly increased their efforts. For example, total Federal prosecutions of child pornography cases rose from 352 cases in 1997 to 1,486 cases in 2004, a more than 422 percent increase, while total Federal prosecutions of enticement and sexual abuse cases more than doubled in this same time frame.

The other major component of the Department's enforcement efforts against sexually explicit material on the Internet is our ob-

scenity enforcement program. Federal law prohibits a variety of activities related to obscene material on the Internet. Underlying all Federal obscenity statutes is the obscenity test set forth in the Supreme Court's opinion in *Miller v. California*, in which community standards play an important role. To ensure we properly apply this test, we team with prosecutors from the local United States Attorneys' Offices who know the standards of their own communities.

Much as it has transformed child pornography offenses, the Internet has also transformed obscenity offenses. Over the last several years, online obscenity offenses have substantially increased, if not exploded. In response to this explosive increase, and as part of the Administration's firm commitment to enforce the Nation's obscenity laws, over the past 5 years, the Department of Justice has revived and significantly enhanced its obscenity enforcement program. Specifically, there have been 47 obscenity convictions of persons or entities Department-wide since 2001, and we currently have obscenity indictments pending against 12 persons or entities. CEOS has led the Department's efforts in this area, prosecuting high-impact obscenity offenders and businesses using Internet websites to distribute obscenity.

In order to further enhance our obscenity enforcement efforts, just last year the Department of Justice established the Obscenity Prosecution Task Force within the Criminal Division. The Task Force focuses exclusively on obscenity prosecution, supplementing the ongoing work being done in CEOS and in United States Attorneys' Offices across the country.

In these brief comments, I hope to have given you a sense of the Department of Justice's efforts to protect children, as well as society at large, by enforcing Federal statutes concerning sexually explicit material available on the Internet.

Mr. Chairman, I again thank you and the Committee for the opportunity to speak to you today, and I'd be happy to answer any questions.

[The prepared statement of Ms. Parsky follows:]

PREPARED STATEMENT OF LAURA H. PARSKY, DEPUTY ASSISTANT ATTORNEY
GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. Chairman, Senator Inouye, and distinguished Members of the Committee, thank you for inviting me to testify before you today about the Department of Justice's enforcement efforts against sexually explicit material available on the Internet. From a criminal law perspective, our jurisdiction is predominantly focused on child pornography and obscene material. While we recognize that the Internet is an amazing medium for the dissemination of ideas and information and can deeply enrich our lives, we also know that it can be exploited for criminal activity and can cause grave harm, including by facilitating child pornography and obscenity crimes, as well as making sexually explicit material available to children. Accordingly, the Department of Justice is unequivocally committed to enforcing Federal laws in these areas.

Child Pornography

Let me first address child pornography, which the Supreme Court has ruled carries no First Amendment protection. See *New York v. Ferber*, 458 U.S. 747 (1982). Federal law, codified at Chapter 110 of Title 18, United States Code, prohibits all aspects of the child pornography trade, including its production, receipt, transportation, distribution, advertising, and possession.

Unfortunately, the very term we commonly use to describe these awful images—child pornography—does not adequately convey the horrors these images depict. A more accurate term would be “images of child sexual abuse,” because the production

of these images involves the sexual abuse of a child. These images are thus permanent visual records of child sexual abuse. In the past several years, the children we have seen in these images have been younger and younger, and, very regrettably, the abuse depicted has been increasingly more severe and is often sadistic.

As if the images themselves were not harmful enough, the sexual abuse inherent in child pornography is increasingly exacerbated by pedophiles who choose to disseminate these images to millions of people over the Internet with a few clicks of a computer mouse. Once on the Internet, the images are passed endlessly from offender to offender, and perhaps used to whet the appetite of another pedophile to act out the deviant fantasies of the image on yet another child, thereby continuing the cycle of abuse. The Department of Justice is absolutely committed to obliterating this intolerable evil.

Because child pornographers continue to find ways to employ the ever-evolving technology of the Internet and computers to commit their deviant crimes, we in law enforcement must respond to these technological advances in order to effectively to combat these crimes. In order to ensure our ability to do so, the Criminal Division created the High-Tech Investigative Unit (HTIU) within the Child Exploitation and Obscenity Section (CEOS) in August 2002. The HTIU consists of computer forensic specialists who team with expert prosecutors to ensure the Department of Justice's capacity and capability to prosecute the most complex and advanced offenses against children committed online. HTIU computer forensic specialists render expert forensic assistance and testimony in districts across the country in the most complex child pornography prosecutions conducted by the Department. Additionally, the HTIU currently receives and reviews hundreds of tips per month from citizens and non-governmental organizations, such as the National Center for Missing and Exploited Children, and initiates investigations from these tips.

Child pornography is distributed over the Internet in a variety of ways, including: online groups or communities, file servers, Internet Relay Chat, e-mail, peer-to-peer networks, and websites. The Department of Justice investigates and prosecutes offenses involving each of these technologies. Sophisticated investigative techniques, often involving undercover operations, are required to hold these offenders accountable for their crimes. For example, an investigation of a commercial child pornography website requires us not only to determine where the servers hosting the website are located and who are the persons responsible for operating the website, but also to follow the path of the financial transactions offenders use to purchase the child pornography, whether by credit card or other means. Such cases require detailed information about all aspects of the transaction in order to determine the identity and location of the offenders. Additionally, many of these cases require coordination with law enforcement from other countries. It is essential that these complex cases be handled by law enforcement agents and prosecutors with the necessary specialized expertise.

The Department of Justice works continuously to identify the vulnerabilities of the child pornography industry and to attack them at every angle, both domestically and overseas. We are focusing our efforts on everyone, from the customer, to the website operator, to the facilitators—including those who provide credit card processing and subscription services. A concrete reflection of our intensified efforts is the fact that CEOS already has generated a more than 445-percent increase in its caseload, including child pornography cases and investigations, handled in the past four years. In addition to increasing the sheer number of investigations and prosecutions brought by these attorneys, the quality and import of the cases has increased substantially, with a focus on the producers and commercial distributors of the material.

The 94 U.S. Attorneys' Offices are critical to the efforts to enforce Federal laws prohibiting crimes against children, prosecuting large numbers of cases. Total Federal prosecutions of child pornography cases rose from 352 cases in 1997 to 1,486 cases in 2004, a more than 422 percent increase. Federal prosecutions of enticement and sexual abuse cases more than doubled in this same time frame, jumping from 230 in 1997 to 518 in 2004. In Fiscal Year 2005, U.S. Attorneys' Offices initiated 1,447 cases pursuant to child exploitation and child pornography statutes. The number of Federal investigations of crimes against children continues to increase at an exponential rate. Arrests made under the FBI's Innocent Images national initiative to target child pornography and child enticement jumped 1,015 percent between 1996 and 2003 nationally, suggesting that the number of Federal prosecutions of these offenders is likely to continue to rise significantly.

Moreover, CEOS enhances Federal law enforcement's fight against child pornography by disseminating its specialized expertise to the field. CEOS conducts advanced training seminars on the investigation and prosecution of child exploitation cases attended by Assistant United States Attorneys and Federal law enforcement

agents from all over the country. CEOS also provides critical expert assistance to the field in a variety of other ways. CEOS attorneys are on call to answer questions from prosecutors in the field about how best to investigate or prosecute their cases. CEOS also keeps field agents and prosecutors abreast of current legal and technological developments through such mechanisms as its quarterly newsletter. Most importantly, CEOS' expert resources are widely employed by the United States Attorneys' Offices to resolve the most difficult issues presented in child exploitation cases and to ensure a successful prosecution.

CEOS is currently coordinating 16 multi-district operations involving child pornography offenders. These investigations of national impact have the potential for maximum deterrent effect on offenders. Nearly each one of the 16 investigations involves hundreds or thousands, and in a few cases tens of thousands, of offenders. The coordination of these operations is complex, but the results can be tremendous. By way of example, the Federal Bureau of Investigation (FBI) is currently investigating the distribution of child pornography on various Yahoo! Groups, which are "member-only" online bulletin boards. The most recent report from the FBI indicates that the investigation has yielded 180 search warrants, 75 arrests, 130 indictments, and over 60 convictions.

The Department of Justice is also working to identify and rescue victims depicted in images of child pornography. One method for achieving this goal is already underway. The FBI Endangered Child Alert Program (ECAP) was launched on February 21, 2004, by the FBI's Innocent Images Unit, and is conducted in partnership with CEOS. The purpose of ECAP is proactively to identify unknown offenders depicted in images of child pornography engaging in the sexual exploitation of children. Since ECAP's inception, seven of these "John Doe" subjects have been profiled by *America's Most Wanted*, and with the assistance of tips from viewers, six have been identified. More importantly, 35 victims (so far) in Indiana, Montana, Texas, Colorado, and Canada have been identified as a result of this initiative. All of the victims had been sexually abused over a period of years, some since infancy. CEOS will continue to ensure that this program is utilized to its maximum potential.

The Department recently has had substantial success in destroying several major child pornography operations. Two examples are *United States v. Mariscal* (S.D. Fla.) and *Regpay/Operation Falcon* (D.N.J.). In *Mariscal*, Angel Mariscal received a 100-year prison sentence on September 30, 2004 in the Southern District of Florida, after being convicted on seven charges including conspiracy to produce, importation, distribution, advertising, and possession with intent to sell child pornography. Mariscal traveled repeatedly over a seven-year period to Cuba and Ecuador, where he produced and manufactured child pornography, including videotapes of Mariscal sexually abusing minors, some under the age of 12. As a result of Mariscal's arrest, his customers across the country were targeted in Operation Lost Innocence, which was coordinated by the U.S. Postal Inspection Service and CEOS. To date, Lost Innocence has resulted in 107 searches, 55 arrests/indictments, and 44 convictions.

United States v. Zalatarou (D.N.J.) (*Regpay*), which led to *Operation Falcon*, is an example of how one child pornography investigation can lead to the apprehension of many other offenders. Regpay was a Belarus-based company that provided credit card processing services to hundreds of commercial child pornography websites. Regpay contracted with a Florida company, Connections USA, to access a merchant bank in the United States. In February 2005, several Regpay defendants pled guilty to various conspiracy, child pornography, and money laundering offenses in the District of New Jersey. Connections USA and several of its employees also pled guilty in connection with this case. The Regpay investigation spawned the U.S. Immigration and Customs Enforcement's Operation Falcon, an international child pornography trafficking investigation that so far has resulted in 448 open investigations, 130 search warrants in the U.S., 191 domestic and approximately 767 foreign arrests (in Australia, Denmark, Finland, Hong Kong, Liechtenstein, Netherlands, Norway, Scotland, Sweden, Switzerland, and the United Kingdom), and 47 domestic indictments, generating 14 convictions.

Obscenity

The other major component of the Department's enforcement efforts against sexually explicit material on the Internet is our obscenity enforcement program. Federal law, codified at Chapter 71 of Title 18, United States Code, prohibits a variety of activities related to obscene material. Provisions which particularly apply to the Internet are those which prohibit transporting obscene material in interstate or foreign commerce using an interactive computer service, transporting obscene material in such a manner for sale or distribution, or knowingly transferring obscene material to a person under the age of 16 using any facility or means of interstate or foreign commerce. The Department of Justice also enforces the Truth in Domain

Names statute, Section 2252B of Title 18, which prohibits using a misleading domain name to cause persons to view obscene material or to cause minors to view material harmful to them.

Underlying all Federal obscenity statutes is the obscenity test set forth in the Supreme Court's opinion in *Miller v. California*, 413 U.S. 15 (1973). Under *Miller*, obscene material does not enjoy First Amendment protection. Accordingly, the complexities in obscenity law arise not in determining whether traffic in obscene material can constitutionally be prohibited, but rather in determining what is obscene. *Miller* provides a three-part test used to make this determination. The first part is that the average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest. The second part is that the material depicts or describes hard-core sexual conduct in a patently offensive way. The third part is that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value. If any of these three parts is not met, the material cannot be considered obscene under *Miller*.

Given the *Miller* test, in pursuing obscenity prosecutions we proceed on the premise that all hard-core pornography is potentially obscene and judge each potential prosecution individually on its own merits. Since community standards play a key role in applying the *Miller* test, in our approach we take care to consider the views of the local community as we make these prosecution decisions. Typically, Criminal Division prosecutors ensure that they take local community views into account by teaming with prosecutors from the United States Attorney's Office on these cases. As local Federal prosecutors are familiar with the standards of their own communities, this team approach ensures that we properly apply the *Miller* test when evaluating potential obscenity cases for possible prosecution.

Despite recent challenges to the constitutionality of the obscenity statutes, these statutes continue to be constitutionally sound. In its recent opinion in *United States v. Extreme Associates*, 431 F.3d 150 (3d Cir. 2005), the Third Circuit Court of Appeals reaffirmed the vitality of these statutes by rejecting a defense claim that Federal obscenity statutes violate the due process clause of the Sixth Amendment. In its ruling, the Third Circuit rejected the defense's argument that the Supreme Court's opinion in *Lawrence v. Texas*, 539 U.S. 558 (2003), created a substantive due process right to protect commercial distribution of obscene material, stating that "Congress may prevent interstate commerce and the channels thereof from being used to spread evil of a physical, moral or economic nature." We believe the Third Circuit's opinion will make it unlikely that other obscenity defendants will be able successfully to attack the constitutionality of Federal obscenity statutes.

Like so many other commodities, the distribution of obscenity has significantly migrated to the Internet. The obscenity industry has a widespread presence on the Internet, and over the last several years, online obscenity offenses have substantially increased, if not exploded. The Internet has encouraged growth on both the supply and demand sides of the obscenity market. It has greatly eased offenders' task of offering and distributing obscene material, while it has also made it much easier for those who want to view such material to obtain it. Moreover, offenders extensively use "spam" and other such invasive means to advertise their material. Perhaps because obscenity is now so widespread, there is a trend among offenders to differentiate themselves from other suppliers by offering more and more extreme material. Obscenity offenders essentially are now competing to offer the most egregious material in hopes of selling material to consumers who seek the most shocking items. This is an alarming trend that we are working hard to curtail.

Another significant effect of the migration of obscenity to the Internet, and perhaps the most disturbing, is the endangerment of children. This is especially true when spam is used to market obscene material. To give you a sense of the problem, from September 1, 2002, through December 11, 2005, the National Center for Missing and Exploited Children reported 2,317 tips of unsolicited obscene material sent to a child. Every one of these tips alleged that a child was actually exposed to unsolicited obscene material via the Internet.

In response to the explosive increase in obscenity offenses and as part of this Administration's firm commitment to enforce the Nation's obscenity laws, over the past five years the Department of Justice has revived and significantly enhanced its obscenity enforcement program. Specifically, there have been 47 obscenity convictions of persons or entities Department-wide since 2001, and we currently have obscenity indictments pending against 12 persons or entities. CEOS has led the Department's efforts in this area, prosecuting high-impact obscenity offenders and businesses using Internet websites to distribute obscenity with the inherent capacity to afford widespread access to the public. As explained above, given the importance of community standards under the *Miller* test, CEOS has pursued these cases working in conjunction with U.S. Attorneys' Offices.

Moreover, in order to further enhance our obscenity enforcement efforts, just last year the Department of Justice established the Obscenity Prosecution Task Force within the Criminal Division. The Task Force focuses exclusively on obscenity prosecution, thereby supplementing the ongoing obscenity work being done in CEOS and in U.S. Attorneys' Offices around the country. The Task Force is positioned to draw upon the specialized expertise of Criminal Division attorneys in the Organized Crime and Racketeering Section, the Asset Forfeiture and Money Laundering Section, and the Computer Crime and Intellectual Property Section, whose skills and expertise are often pertinent to obscenity prosecutions. The Task Force is working with U.S. Attorneys' Offices across the country to develop effective obscenity prosecutions and has partnered with a Postal Inspector, assigned full-time to work with the Task Force, and a team of agents from the FBI devoted solely to making cases against national-scale obscenity distributors.

Two major cases in recent years that provide excellent insight into the Department's commitment to obscenity enforcement are *United States v. Coil* (W.D. Tex.) and *United States v. Wedelstedt* (N.D. Tex.). In *Coil*, CEOS partnered with the U.S. Attorney's Office for the Western District of Texas in the investigation and prosecution of a major supplier of adult-oriented materials. Seven individuals were charged in a multi-count indictment with fraud, tax, obscenity, and conspiracy offenses related to the operations of adult-oriented businesses in three states. All seven defendants have pled guilty, and significant criminal penalties were imposed. The lead defendant, John Kenneth Coil, agreed to forfeit all his enterprise properties within the state of Texas, amounting to over 40 pieces of realty and 20 stores throughout the state. He was sentenced to 63 months imprisonment to be followed by three years of supervised release, a \$5,000 fine, and forfeiture of an estimated \$8.1 million in property.

In the *Wedelstedt* case, being prosecuted by CEOS and the U.S. Attorney's Office for the Northern District of Texas in substantial cooperation with the Tax Division, the Criminal Division's Asset Forfeiture and Money Laundering Section and Organized Crime and Racketeering Section, the Internal Revenue Service, and the Bureau of Immigration and Customs Enforcement, seven individuals and a company were indicted on March 11, 2005 for numerous crimes including racketeering, conspiracy, obscenity, and tax offenses. The indictment addressed the criminal activities of Edward J. Wedelstedt and his wholly-owned, multi-million dollar corporation, called Goalie Entertainment Holdings, Inc., related to the operation throughout the country of adult pornography bookstores with video arcades where customers could pay to view clips of obscene videos or DVDs. Several convictions have already resulted from this indictment, including that of lead defendant Wedelstedt, who pled guilty on November 4, 2005, to transporting obscene matters for sale or distribution (in violation of 18 U.S.C. § 1465) and engaging in a conspiracy to defraud the United States by frustrating, impeding, or hindering the Internal Revenue Service (in violation of 18 U.S.C. § 371). Wedelstedt's plea subjects him to a 13-month prison sentence to be followed by one year of supervised release. Wedelstedt will also face forfeiture of businesses and property located in Texas. Further, Wedelstedt has already forfeited \$1.25 million to the United States government in connection with this investigation. Wedelstedt is scheduled to be sentenced on February 9, 2006.

Additional Legislative Tools That Would Assist Our Efforts in These Areas

In closing, I'd like to note that the Department of Justice has developed several legislative proposals for Congressional action to improve prosecutors' ability to crack down on obscenity and sexual exploitation of children. Several of these proposals were included in Title VIII of H.R. 3132, which passed the House of Representatives last fall. Our proposals would establish the nexus to interstate commerce in child pornography cases, broaden the obscenity statutes to cover the production of obscenity, and enhance our ability to attack the financial assets of purveyors of such material. The proposals would also strengthen the Federal Government's ability to prevent children from being used in pornography by enhancing the current statutory scheme of identity checks and recordkeeping in Section 2257 of Title 18, United States Code. Additionally, one of our proposals not contained in H.R. 3132 would allow us to use administrative subpoenas in obscenity investigations, as is authorized for child pornography cases. The enactment of these provisions would significantly assist our enforcement efforts in these critical areas. We are also grateful to Senators Hatch and Brownback for recently introducing S. 2140, which includes several of the reforms contained in the House-passed bill to strengthen the age-related recordkeeping requirements imposed on producers of sexually explicit material, thereby bolstering prosecutors' ability to pursue cases involving the exploitation of minors by this industry.

Conclusion

In these brief comments, I hope to have given you a sense of the Department of Justice's efforts to enforce Federal criminal laws concerning sexually explicit material available on the Internet. We consider this a critically important task and will continue to do our utmost to protect children as well as society at large by enforcing these statutes.

Mr. Chairman, I again thank you and the Committee for the opportunity to speak to you today, and I would be pleased to answer any questions the Committee might have.

Senator BILL NELSON. Mr. Chairman, I would be remiss if I did not point out that Ms. Parsky comes from a long line in a family of public servants. Her father was the Deputy Secretary of the Treasury under President Reagan, a personal friend of mine that I went to law school with.

The CHAIRMAN. All of your statement will be printed in the record. I notice you shortened it quite a bit, and I thank you for that, Ms. Parsky, but we'll print it in full.

Mr. Burrus, do you need any more tools, legislatively or financially, to carry out the work that we want you to do to protect children on the Internet?

Mr. BURRUS. No, sir. I think we're doing as best we can. We always enjoy additional resources, and, with that, we could expand our mission, but we have a variety of priorities within the Department of Justice, within the FBI, and we're able to work within those and within the President's budget.

The CHAIRMAN. Have you been personally involved in any of these cases?

Mr. BURRUS. Yes, sir.

The CHAIRMAN. Have you found that the laws that we have currently on the books now give you enough authority to really pursue any use of pornography, and directing it toward children, or sexual abuse of children?

Mr. BURRUS. The laws that we've found so far, especially as it relates to possession, distribution, manufacturing of child pornography, as law enforcement officers, we'd always like to see stronger penalties, but obviously we're able to work with the laws that we have. I think they're well defined, and we've been able to, we've been wildly successful in both our investigations and our prosecutions.

The CHAIRMAN. Thank you.

Ms. Parsky, how about your part of the Department? I'm a former U.S. Attorney. I don't know how many others are around here. But do you believe the U.S. Attorneys' Offices are equipped to handle the prosecutions you mentioned?

Ms. PARSKY. Well, I think that the U.S. Attorneys' Offices have risen to the occasion. This—as has been recognized by all the Senators here today, this is an immense problem, and it's been growing incredibly quickly. The one thing I would point out is that the Administration did submit several legislative proposals to the Hill, and most of them are currently included in H.R. 3132, which passed the House in September of last year. Some of the provisions that we had put forward would assist us in prosecuting child pornography, child exploitation, and obscenity crimes. Some of those provisions are strengthening the Congressional findings that establish the nexus between child pornography and interstate commerce,

strengthening the recordkeeping provisions of 18 U.S.C. Section 2257 to make clear that the type of content that's covered mirrors that of the child pornography statutes, and making clear that the producers who are covered by the statute include not only those who are directly involved in the filming or production of child pornography, but also those who publish it, and also strengthening the enforceability of that statute. In addition, our proposals included some forfeiture provisions and to criminalize the production with the intent to distribute or sell obscenity.

The CHAIRMAN. Are those Judiciary Committee bills you're talking about?

Ms. PARSKY. I believe so.

The CHAIRMAN. Yes.

Well, thank you very much, and thank you for what you do.

Senator Inouye?

Senator INOUE. Thank you.

I've been advised that many of the purveyors of child pornography are from outside the United States. Do you have sufficient tools to combat them?

Mr. BURRUS. Yes, sir. We are working, in our Innocent Images, offsite in Calverton, with 15 countries overseas. One of the things that we're trying to do is to provide them with the training necessary to combat this within their own countries. We impart to them the fact that it's their children that are being exploited, it's their money that corrupts the citizens of their country. And they've been receptive to that. We would like to see that grow internationally. And this clearly has to be an international effort. But we think our effort is growing and that we have the tools, at this point, to do what we need to.

Ms. PARSKY. If I may add to that, there is one treaty that's currently pending for ratification that would provide additional tools that would be extremely useful in child pornography cases and obscenity cases, and that's the Council of Europe's Convention on Cybercrime. This is a treaty that the Administration transmitted to Congress, I believe, in 2003. And what it does is, it provides—for all the other countries that we might go to, to seek electronic evidence—it provides for their procedural laws to be up to speed with United States laws so that we can expeditiously get the evidence we need when our path leads us abroad.

Senator INOUE. Is there such a thing as a profile of a child pornographer?

Mr. BURRUS. Unfortunately, no. What we find is that those interested in child pornography range all the way, in all ages, all professions, all demographics, black, white, African-American, Asian. That's the unfortunate thing about it. There is no profile that we can really use.

What we do know about them, though, is that they frequently are very technically savvy, they exchange images very easily, they are very aware of the latest technologies and the latest tools. What we find, Senator, is that many times when we begin to monitor particular chat rooms, they will migrate to other chat rooms where the children are, and that's a particularly disturbing trend. But we're following it, and you can bet we will do our best with that.

Senator INOUE. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Senator Burns?

Senator BURNS. I might remind the Committee there's a couple of organizations out there that are peer groups like i-SAFE and SafeSchools and this type of thing that use corporate dollars in their work, and most of the work is done in middle schools, seventh grade through ninth grade. And I've been involved in those organizations. And, Mr. Burrus, I've sat in the Billings office and watched your people work those chat rooms, and catching—and they've been fairly successful in Montana, I want to tell you. But it takes special training, and it takes a special person to sit there and just chat, and they know all, I was surprised, they know all the lingo. But they catch them. And I would suggest my colleagues here on this committee, when you go home, you should contact your local office and sit up there and see the equipment. And, really, the equipment—they've kind of glued it together. It looks like sort of a Sadie Hawkins kind of an affair. But, nonetheless, they're very good, and I want to congratulate you on that, because they have worked. I know the people that were working in Billings caught a guy in Missoula, one in Bozeman, It's kind of tricky, and you've got to be very careful, and stay within the law, but, nonetheless, they do a great job.

We think that prevention is a lot better than just a prosecution. Education, working with peer groups and kids of that age in middle school. We find out that, now we're forming these groups, if they hear about it, they talk to their friend, they warn them, and that's the way school principals have picked up on this, and it's very, very successful. And I know the problem that's out there, because I sat there one night, from 8 o'clock at night until midnight. But I just want to congratulate you on that, because the training of those men and women, by the way, is very, very good.

As far as us passing laws, I would agree with Senator Lincoln that the Internet is just a great big old town out there, and there are places to go, and there are places not to go. The worst thing you can do is to give a child, a teenager, a computer and let them put it in their own room where they've got some privacy. Always keep them in your kitchen, and usually some of those problems go away.

But we have worked on the Internet a long time. It's not always legislation, but public awareness. More than anything else, it's public awareness and knowing that they have people to come to if they need help or get caught in a bad trap, coming to know where to go and what to do.

So, thank you, both of you, for your testimony. But I just wanted to thank Mr. Burrus and his fine organization for doing a great job up there. And I know this is a labor of love, because most of them have teenage children, and they understand what's out there. And they work long hours. And so, I just appreciate what you've done and the dedication of your Department.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

Let me ask the two witnesses this. In terms of minors being exposed to pornography on the Internet, there is software available, apparently, that—people who sell wine and liquors, et cetera, on the Internet have age-verification software. I don't know exactly how it works, but would that be any deterrent whatsoever to young people who are on the Internet who might be looking for pornography?

Mr. BURRUS. I think perhaps those who operate the portals would be better left to answer that, because of the technical, how does it work, how do you get around it, are there are exceptions for it? I think it would be, certainly, something worthwhile to explore.

Ms. PARSKY. I guess my response to that would be that, you know, we're looking for the entire community to help in this effort, because it is such a vast problem, and it really takes everyone—parents, private sector, public sector—to all be working together against this. But, again, the devil's in the details with a lot of those types of programs, as to how they really work and whether they're effective.

Senator PRYOR. Yes, I agree with you. And I know that ICANN has come out with this concept of putting all adult websites with the ending triple-X. Are you all familiar with that proposal?—instead of dot-com, dot-whatever, it would be dot-xxx. And I think, on the one hand, that that would be good, in the sense that you could require all adult sites to use that, I would think. And it might—there might be more transparency there. And for the parents out there who are trying to monitor this, that would be a clear warning sign of things to avoid. But, also, it might be easier for minors to locate pornographic websites. Do you all have any thoughts on the triple-X suffix, if that has any bearing on this?

Ms. PARSKY. I think, again, without—I mean, you know, we'd—we're always happy to look at specific proposals, but, in any type of proposal like that, there are issues of practicality and how would it really be implemented and whether it would be effective.

Senator PRYOR. And, you know, again, back—going back to the attorney-general days, I know that we've tried very hard to educate young people—teenagers, et cetera—about smoking and drug use and things like that. My impression is, right now, there's not been—maybe I'm wrong about this; maybe someone can correct me—but there's not been a very strong effort in the public-relations world to educate young people about—or families, for that matter—about the pitfalls of pornography, and the dangers of pornography, and child predators, et cetera, on the Internet. I know, again, back in the Attorney General's Office in Arkansas, we did some of that. We had very limited resources, but we did try to do some of that. We work with our State police very closely to try to help in various ways. I'm sure other States have done some of that. But do you think that having a good, broad-based, well-funded public-relations campaign—education campaign might be helpful in this, or would that have any effect?

Mr. BURRUS. Senator, if I might, first of all, I've brought along some brochures today that the FBI makes thousands of presentations every year to community groups, to school groups. I was the special agent in charge in Salt Lake City, and had the pleasure of

serving Senator Burns' district, and we make these presentations all the time. If I might, Mr. Chairman, I'll leave copies of this that perhaps could be entered into the record.

[The information previously referred to follows:]

FBI Publications

A PARENT'S GUIDE TO INTERNET SAFETY

Dear Parent:

Our children are our Nation's most valuable asset. They represent the bright future of our country and hold our hopes for a better Nation. Our children are also the most vulnerable members of society. Protecting our children against the fear of crime and from becoming victims of crime must be a national priority.

Unfortunately the same advances in computer and telecommunication technology that allow our children to reach out to new sources of knowledge and cultural experiences are also leaving them vulnerable to exploitation and harm by computer-sex offenders.

I hope that this pamphlet helps you to begin to understand the complexities of on-line child exploitation. For further information, please contact your local FBI office or the National Center for Missing and Exploited Children at 1-800-843-5678.

LOUIS J. FREEH,

Former Director, Federal Bureau of Investigation

Introduction

While on-line computer exploration opens a world of possibilities for children, expanding their horizons and exposing them to different cultures and ways of life, they can be exposed to dangers as they hit the road exploring the information highway. There are individuals who attempt to sexually exploit children through the use of on-line services and the Internet. Some of these individuals gradually seduce their targets through the use of attention, affection, kindness, and even gifts. These individuals are often willing to devote considerable amounts of time, money, and energy in this process. They listen to and empathize with the problems of children. They will be aware of the latest music, hobbies, and interests of children. These individuals attempt to gradually lower children's inhibitions by slowly introducing sexual context and content into their conversations.

There are other individuals, however, who immediately engage in sexually explicit conversation with children. Some offenders primarily collect and trade child-pornographic images, while others seek face-to-face meetings with children via on-line contacts. It is important for parents to understand that children can be indirectly victimized through conversation, i.e., "chat," as well as the transfer of sexually explicit information and material. Computer-sex offenders may also be evaluating children they come in contact with on-line for future face-to-face contact and direct victimization. Parents and children should remember that a computer-sex offender can be any age or sex, the person does not have to fit the caricature of a dirty, unkempt, older man wearing a raincoat to be someone who could harm a child.

Children, especially adolescents, are sometimes interested in and curious about sexuality and sexually explicit material. They may be moving away from the total control of parents and seeking to establish new relationships outside their family. Because they may be curious, children/adolescents sometimes use their on-line access to actively seek out such materials and individuals. Sex offenders targeting children will use and exploit these characteristics and needs. Some adolescent children may also be attracted to and lured by on-line offenders closer to their age who, although not technically child molesters, may be dangerous. Nevertheless, they have been seduced and manipulated by a clever offender and do not fully understand or recognize the potential danger of these contacts.

This guide was prepared from actual investigations involving child victims, as well as investigations where law enforcement officers posed as children. Further information on protecting your child on-line may be found in the National Center for Missing and Exploited Children's Child Safety on the Information Highway and Teen Safety on the Information Highway pamphlets.

What Are Signs That Your Child Might Be At Risk On-line?

Your Child Spends Large Amounts of Time On-line, Especially at Night

Most children that fall victim to computer-sex offenders spend large amounts of time on-line, particularly in chat rooms. They may go on-line after dinner and on the weekends. They may be latchkey kids whose parents have told them to stay at

home after school. They go on-line to chat with friends, make new friends, pass time, and sometimes look for sexually explicit information. While much of the knowledge and experience gained may be valuable, parents should consider monitoring the amount of time spent on-line.

Children on-line are at the greatest risk during the evening hours. While offenders are on-line around the clock, most work during the day and spend their evenings on-line trying to locate and lure children or seeking pornography.

Your Find Pornography on Your Child's Computer

Pornography is often used in the sexual victimization of children. Sex offenders often supply their potential victims with pornography as a means of opening sexual discussions and for seduction. Child pornography may be used to show the child victim that sex between children and adults is "normal." Parents should be conscious of the fact that a child may hide the pornographic files on diskettes from them. This may be especially true if the computer is used by other family members.

Your Child Receives Phone Calls From Men You Don't Know or Is Making Calls, Sometimes Long Distance, to Numbers You Don't Recognize

While talking to a child victim on-line is a thrill for a computer-sex offender, it can be very cumbersome. Most want to talk to the children on the telephone. They often engage in "phone sex" with the children and often seek to set up an actual meeting for real sex.

While a child may be hesitant to give out his/her home phone number, the computer-sex offenders will give out theirs. With Caller ID, they can readily find out the child's phone number. Some computer-sex offenders have even obtained toll-free 800 numbers, so that their potential victims can call them without their parents finding out. Others will tell the child to call collect. Both of these methods result in the computer-sex offender being able to find out the child's phone number.

Your Child Receives Mail, Gifts, or Packages From Someone You Don't Know

As part of the seduction process, it is common for offenders to send letters, photographs, and all manner of gifts to their potential victims. Computer-sex offenders have even sent plane tickets in order for the child to travel across the country to meet them.

Your Child Turns the Computer Monitor Off or Quickly Changes the Screen on the Monitor When You Come Into the Room

A child looking at pornographic images or having sexually explicit conversations does not want you to see it on the screen.

Your Child Becomes Withdrawn From the Family

Computer-sex offenders will work very hard at driving a wedge between a child and their family or at exploiting their relationship. They will accentuate any minor problems at home that the child might have. Children may also become withdrawn after sexual victimization.

Your Child Is Using an On-line Account Belonging to Someone Else

Even if you don't subscribe to an on-line service or Internet service, your child may meet an offender while on-line at a friend's house or the library. Most computers come preloaded with on-line and/or Internet software. Computer-sex offenders will sometimes provide potential victims with a computer account for communications with them.

What Should You Do If You Suspect Your Child Is Communicating With A Sexual Predator On-line?

- Consider talking openly with your child about your suspicions. Tell them about the dangers of computer-sex offenders.
- Review what is on your child's computer. If you don't know how, ask a friend, coworker, relative, or other knowledgeable person. Pornography or any kind of sexual communication can be a warning sign.
- Use the Caller ID service to determine who is calling your child. Most telephone companies that offer Caller ID also offer a service that allows you to block your number from appearing on someone else's Caller ID. Telephone companies also offer an additional service feature that rejects incoming calls that you block. This rejection feature prevents computer-sex offenders or anyone else from calling your home anonymously.
- Devices can be purchased that show telephone numbers that have been dialed from your home phone. Additionally, the last number called from your home

phone can be retrieved provided that the telephone is equipped with a redial feature. You will also need a telephone pager to complete this retrieval.

- This is done using a numeric-display pager and another phone that is on the same line as the first phone with the redial feature. Using the two phones and the pager, a call is placed from the second phone to the pager. When the paging terminal beeps for you to enter a telephone number, you press the redial button on the first (or suspect) phone. The last number called from that phone will then be displayed on the pager.
- Monitor your child's access to all types of live electronic communications (i.e., chat rooms, instant messages, Internet Relay Chat, etc.), and monitor your child's e-mail. Computer-sex offenders almost always meet potential victims via chat rooms. After meeting a child on-line, they will continue to communicate electronically often via e-mail.

Should any of the following situations arise in your household, via the Internet or on-line service, you should immediately contact your local or state law enforcement agency, the FBI, and the National Center for Missing and Exploited Children:

1. Your child or anyone in the household has received child pornography;
2. Your child has been sexually solicited by someone who knows that your child is under 18 years of age;
3. Your child has received sexually explicit images from someone that knows your child is under the age of 18.

If one of these scenarios occurs, keep the computer turned off in order to preserve any evidence for future law enforcement use. Unless directed to do so by the law enforcement agency, you should not attempt to copy any of the images and/or text found on the computer.

What Can You Do to Minimize the Chances of an On-line Exploiter Victimizing Your Child?

- Communicate, and talk to your child about sexual victimization and potential on-line danger.
- Spend time with your children on-line. Have them teach you about their favorite on-line destinations.
- Keep the computer in a common room in the house, not in your child's bedroom. It is much more difficult for a computer-sex offender to communicate with a child when the computer screen is visible to a parent or another member of the household.
- Utilize parental controls provided by your service provider and/or blocking software. While electronic chat can be a great place for children to make new friends and discuss various topics of interest, it is also prowled by computer-sex offenders. Use of chat rooms, in particular, should be heavily monitored. While parents should utilize these mechanisms, they should not totally rely on them.
- Always maintain access to your child's on-line account and randomly check his/her e-mail. Be aware that your child could be contacted through the U.S. Mail. Be up front with your child about your access and reasons why.
- Teach your child the responsible use of the resources on-line. There is much more to the on-line experience than chat rooms.
- Find out what computer safeguards are utilized by your child's school, the public library, and at the homes of your child's friends. These are all places, outside your normal supervision, where your child could encounter an on-line predator.
- Understand, even if your child was a willing participant in any form of sexual exploitation, that he/she is not at fault and is the victim. The offender always bears the complete responsibility for his or her actions.
- Instruct your children:
 - to never arrange a face-to-face meeting with someone they met on-line;
 - to never upload (post) pictures of themselves onto the Internet or on-line service to people they do not personally know;
 - to never give out identifying information such as their name, home address, school name, or telephone number;
 - to never download pictures from an unknown source, as there is a good chance there could be sexually explicit images;

- to never respond to messages or bulletin board postings that are suggestive, obscene, belligerent, or harassing;
- that whatever they are told on-line may or may not be true.

Frequently Asked Questions

My Child Has Received an E-mail Advertising for a Pornographic Website, What Should I Do?

Generally, advertising for an adult, pornographic website that is sent to an e-mail address does not violate Federal law or the current laws of most states. In some states it may be a violation of law if the sender knows the recipient is under the age of 18. Such advertising can be reported to your service provider and, if known, the service provider of the originator. It can also be reported to your State and Federal legislators, so they can be made aware of the extent of the problem.

Is Any Service Safer Than the Others?

Sex offenders have contacted children via most of the major on-line services and the Internet. The most important factors in keeping your child safe on-line are the utilization of appropriate blocking software and/or parental controls, along with open, honest discussions with your child, monitoring his/her on-line activity, and following the tips in this pamphlet.

Should I Just Forbid my Child From Going On-line?

There are dangers in every part of our society. By educating your children to these dangers and taking appropriate steps to protect them, they can benefit from the wealth of information now available on-line.

Helpful Definitions:

Internet—An immense, global network that connects computers via telephone lines and/or fiber networks to storehouses of electronic information. With only a computer, a modem, a telephone line and a service provider, people from all over the world can communicate and share information with little more than a few keystrokes.

Bulletin Board Systems (BBSs)—Electronic networks of computers that are connected by a central computer setup and operated by a system administrator or operator and are distinguishable from the Internet by their “dial-up” accessibility. BBS users link their individual computers to the central BBS computer by a modem which allows them to post messages, read messages left by others, trade information, or hold direct conversations. Access to a BBS can, and often is, privileged and limited to those users who have access privileges granted by the systems operator.

Commercial On-line Service (COS)—Examples of COSs are America Online, Prodigy, CompuServe and Microsoft Network, which provide access to their service for a fee. COSs generally offer limited access to the Internet as part of their total service package.

Internet Service Provider (ISP)—Examples of ISPs are Erols, Concentric and Netcom. These services offer direct, full access to the Internet at a flat, monthly rate and often provide electronic-mail service for their customers. ISPs often provide space on their servers for their customers to maintain World Wide Web (WWW) sites. Not all ISPs are commercial enterprises. Educational, governmental and non-profit organizations also provide Internet access to their members.

Public Chat Rooms—Created, maintained, listed and monitored by the COS and other public domain systems such as Internet Relay Chat. A number of customers can be in the public chat rooms at any given time, which are monitored for illegal activity and even appropriate language by systems operators (SYSOP). Some public chat rooms are monitored more frequently than others, depending on the COS and the type of chat room. Violators can be reported to the administrators of the system (at America Online they are referred to as terms of service [TOS]) which can revoke user privileges. The public chat rooms usually cover a broad range of topics such as entertainment, sports, game rooms, children only, etc.

Electronic Mail (E-Mail)—A function of BBSs, COSs and ISPs which provides for the transmission of messages and files between computers over a communications network similar to mailing a letter via the Postal Service. E-mail is stored on a server, where it will remain until the addressee retrieves it. Anonymity can be maintained by the sender by predetermining what the receiver will see as the “from” address. Another way to conceal one’s identity is to use an “anonymous remailer,” which is a service that allows the user to send an e-mail message repackaged under the remailer’s own header, stripping off the originator’s name completely.

Chat—Real-time text conversation between users in a chat room with no expectation of privacy. All chat conversation is accessible by all individuals in the chat room while the conversation is taking place.

Instant Messages—Private, real-time text conversation between two users in a chat room.

Internet Relay Chat (IRC)—Real-time text conversation similar to public and/or private chat rooms on COS.

Usenet (Newsgroups)—Like a giant, cork bulletin board where users post messages and information. Each posting is like an open letter and is capable of having attachments, such as graphic image files (GIFs). Anyone accessing the newsgroup can read the postings, take copies of posted items, or post responses. Each newsgroup can hold thousands of postings. Currently, there are over 29,000 public newsgroups and that number is growing daily. Newsgroups are both public and/or private. There is no listing of private newsgroups. A user of private newsgroups has to be invited into the newsgroup and be provided with the newsgroup's address.

This document can be found at <http://www.fbi.gov/publications/pguide/pguidee.htm>.

Mr. BURRUS. But what it is, is it's a parents' guide to Internet safety. And we do thousands of these every year. We have them not only in English, but we have them in Spanish. That's for the parents. We also team up with the National Center for Missing and Exploited Children, Boys Club and Girls Club, and produce a brochure specifically for children. We are always available to do this type of presentations. We enjoy doing them. Because, in addition to the enforcement side, which you are very well aware of, we think that prevention is the key, the very things that this committee has already talked about, making sure that the computer is in a public place, and making sure you know what your children are doing online are all very important things to do and use, and I will leave these with the Committee, Chairman, with your permission, for inclusion in the record.

Senator PRYOR. Yes, thank you for doing that. I like that, and I'm glad you do that. And, like I said, I think there are States that do it in various ways, maybe school districts and cities, and who knows what. But—and all that's great, but my sense is that there's not one unified effort on that, that—where there's one place to go to, or one unified effort, with everybody sort of rowing in the same direction. But that's—you know, we can work on that, work through that. We're glad to have your help.

And the last thing, Mr. Chairman, is, I just wanted to—since we have these two law-enforcement witnesses here—to know what the major obstacles are in prosecuting Internet pornography.

Ms. PARSKY. Well, the bill that I mentioned before, H.R. 3132, includes several proposals from the Administration that were meant to address some of the obstacles. One of the obstacles we've encountered is a few circuits are finding that, for purposes of establishing a nexus to interstate commerce and child pornography cases, that the fact that the materials traveled in interstate commerce is not sufficient. And certain courts have required prosecutors to show that, in fact, the image itself that's the basis of the prosecution traveled. And that can be very difficult, in a number of cases. So, one of the proposals is to clearly establish Congressional findings that show that intrastate possession of child pornography has a nexus to the interstate demand and supply for that commodity.

Senator PRYOR. Thank you.

The CHAIRMAN. Senator Inouye?

Senator INOUE. On the Google case, could you advise us as to what your reaction is to Google's position that your attempt is an invasion of their privacy?

Ms. PARSKY. I'm afraid that, because that's a pending matter—it's litigation that's being actively pursued by the Civil Division of the Department of Justice—that I am not in a position to be able to comment on that.

The CHAIRMAN. Ms. Parsky, I note that you didn't read the part that I think you deserve credit for. Would you mind reading the provisions of your statement from page 6, the last paragraph, through the bottom of page 7?

Ms. PARSKY. Certainly.

The CHAIRMAN. We have—

Ms. PARSKY. These are the two cases that I had cited as examples of our child pornography—

The CHAIRMAN. It starts—

Ms. PARSKY.—prosecutions?

The CHAIRMAN.—“The Department has recently has substantial success.”

Ms. PARSKY. Yes.

The CHAIRMAN. Yes.

Ms. PARSKY. The Department recently has had substantial success in destroying several major child pornography operations. Two examples are *United States v. Mariscal*, which was out of the Southern District of Florida, and Regpay, or Operational Falcon, from the District of New Jersey.

In *Mariscal*, Angel Mariscal received a 100-year prison sentence on September 30, 2004, in the Southern District of Florida, after being convicted on seven charges, including conspiracy to produce, importation, distribution, advertising, and possession with intent to sell child pornography. Mariscal traveled repeatedly over a 7-year period to Cuba and Ecuador, where he produced and manufactured child pornography, including videotapes of Mariscal sexually abusing minors, some under the age of 12. As a result of Mariscal's arrest, his customers across the country were targeted in Operation Lost Innocence, which was coordinated by the U.S. Postal Inspection Service and CEOS. Today, Lost Innocence has resulted in 107 searches, 55 arrests or indictments, and 44 convictions.

United States v. Zalatarou, which was the Regpay case and led to Operation Falcon, is an example of how one child pornography investigation can lead to the apprehension of many other offenders. Regpay was a Belarus-based company that provided credit card processing services to hundreds of commercial child pornography websites. Regpay contracted with a Florida company, Connections USA, to access a merchant bank in the United States. In February 2005, several Regpay defendants pled guilty to various conspiracy, child pornography, and money laundering offenses in the District of New Jersey. Connections USA and several of its employees also pled guilty in connection with this case. The Regpay investigation spawned the U.S. Immigration and Customs Enforcement's Operation Falcon, an international child pornography trafficking investigation that, so far, has resulted in 448 open investigations, 130 search warrants in the U.S., 191 domestic and approximately 767 foreign arrests in Australia, Denmark, Finland, Hong King, Liech-

tenstein, Netherlands, Norway, Scotland, Sweden, Switzerland, and the United Kingdom, and 47 domestic indictments generating 14 convictions.

The CHAIRMAN. Well, I wanted you to read that, because I think it shows the worldwide intensity of this pornographic problem, and we do congratulate you and the Department and the FBI for what you're doing. We want to try to make sure you've got all of the tools you need to continue to do it. So, thank you very much.

Ms. PARSKY. Thank you.

The CHAIRMAN. Our next witnesses are Dr. James Weaver, Professor of Communication and Psychology, Department of Communication, Virginia Tech, in Blacksburg, Virginia; Tim Lordan, Executive Director of the Internet Education Foundation, Washington, D.C.; Tatiana Platt, Chief Trust Officer and Senior Vice President of America Online; and Paul Cambria, General Counsel of Adult Freedom Foundation, from Buffalo, New York. You've waited patiently.

Dr. Weaver, we'll proceed in the order I read, if you would, please, we'd like to have your comments.

**STATEMENT OF JAMES B. WEAVER, III, PROFESSOR,
COMMUNICATION AND PSYCHOLOGY, DEPARTMENT OF
COMMUNICATION, VIRGINIA POLYTECHNIC INSTITUTE AND
STATE UNIVERSITY**

Dr. WEAVER. Thank you, Mr. Chairman, for providing me with the opportunity to share some thoughts on one of the most complicated challenges of our time: how to reconcile the conflicting interests of promoting free speech, free thought, and free enterprise without abdicating our larger societal role to ensure that parents have the freedom and resources necessary to raise and socialize their children as they see fit.

In my written testimony, I've attempted to provide you with a comprehensive analysis and interpretation of the current state of knowledge concerning pornography, the Internet, and children. There are several important points that I would like to briefly discuss with you today. Foremost among these, we must accept the fact that no single solution for protecting children from Internet pornography, whether it's technical, legal, economic, or educational, will be sufficient. That point was clearly expressed by the National Academies' National Research Council report, *Youth, Pornography, and the Internet*, that was commissioned by Congress. But it warrants repeating. We must, in other words, work to envision multifaceted and innovative approaches to the problem at hand.

At the same time, however, we need to acknowledge that almost 4 decades of study into the question of pornography's place within our society by both the legislative and executive branches of our Government has, for the most part, failed to adequately prepare most American families to deal with the rapid and expansive evolution of the pornography industry in the digital age.

As you've already heard, today pornography is big business. Last year, it's estimated that the sale and rental of DVDs and video-cassettes generated about \$4.3 billion in revenue. On the Internet, about \$2.5 billion were collected. Plus, mainstream media organizations, such as cable, satellite, and broadband services, and almost

all of our top-50 U.S. hotel chains, are earning huge profits distributing pornography. Unfortunately, this profiteering by mainstream companies is helping to legitimize pornography as normal, commonplace, and mainstream for millions of Americans.

We must acknowledge that the content of pornography today really leaves nothing to the imagination. And these are not images where affection and emotional intimacy are well integrated. Women in pornography are not valued for their intellect or strength, they're not valued for their talents as doctors, teachers, musicians, entrepreneurs, political leaders, mothers, or scientists. No, the unequivocal message of pornography is that women are valued only as objects for male sexual gratification. This is a redundant and unchallenged stereotype projected onto our society by pornography. This, I think, is particularly problematic, especially for young people. As the values and standards of pornography and the sex industry become mainstreamed, it is these distorted images and ideals that our teens draw from as they come to understand what it means to be men and women and how they should treat themselves and each other. Socially acceptable and socially desirable behaviors have become redefined, particularly in the realm of sexuality. As I detailed in my written comments, there are many facets of contemporary teen culture that now reflect these changes.

Many of the social and psychological consequences of exposure to pornography have been unambiguously demonstrated in over 20 years of extensive social-science research. The findings are surprisingly consistent and clear, and establish that consumption of pornography is a significant contributing factor in the creation of perceptions, dispositions, and behaviors that reflect sexual callousness, the erosion of family values, and diminished sexual satisfaction.

It is against this backdrop that we must now grapple with the question of how we, individually and as a national family, can best respond to pornography, in general, and to pornography on the Internet, in particular. I've proposed three courses of action that I think we should consider.

One, you've already heard a great deal about today. It basically is this question. How desirable is it for our society that many of our children and adults are relying on pornography as their primary sex educator? The promotion of social and educational strategies that teach children to make wise choices about using the Internet and to take control of their online experiences has pretty much been largely ignored. And this is a trend that we need to correct. We need to empower both parents and children through a well-designed, extensive media literacy campaign on how to use the Internet.

Now, as a personal observation, one thing that I've found really interesting, as I talk to college seniors about pornography, they typically get quite angry. But the reaction is not about issues of freedom of expression or freedom of choice. Instead, many of these college seniors, our first generation, our first Net/Internet generation, become really disturbed when they realize that no one forewarned them about the potential adverse consequences of pornography before they inadvertently immersed themselves into such content.

A second, and perhaps more immediate, concern is to explore this question. Does the use of sexually explicit images as a marketing ploy for commercial transactions on the Internet represent commercial speech; thus, mitigating the degree of constitutional protection typically accorded pornography? In my own research and the work of others, it is clear that many Internet pornography vendors attempt to lure customers to their websites with free content. More importantly, this marketing strategy typically involves no attempt at age verification, often features “gonzo pornography” that depicts sex between multiple partners, involves physically abusive behaviors, avoids safe-sex practices, and frequently includes content that appears inconsistent with current child pornography laws. Further, many of these sampler websites offer, for free, the serialization of full-length films, providing the viewer with several 1- or 2-minute segments each week; thus encouraging the consumer to develop the habit of returning for more frequent free content, but also always offering the opportunity for the consumer to view the complete film for a fee. As we contemplate the potential impact of Internet pornography on children, these marketing practices that exploit free-speech ideals emerge as particularly reprehensible.

And finally, we must recognize that our society is on the verge of an era when anyone anywhere with a cell phone will be able to watch sexually explicit videos. One can only wonder what mechanisms are now being developed to provide some protection to children as these new wireless telecommunication technologies become available.

Thank you, again, for the opportunity to testify. I appreciate all that this committee and other Members of Congress are doing to find responsible solutions for this complicated challenge.

[The prepared statement of Dr. Weaver follows:]

PREPARED STATEMENT OF JAMES B. WEAVER, III, PROFESSOR, COMMUNICATION AND PSYCHOLOGY, DEPARTMENT OF COMMUNICATION, VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Pornography: Understanding Some Consequences for Children and Youth

The issue of pornography has undergone a dramatic change over the past four decades, one that shifts the definition, increases the complexity, and requires a new level of discussion. With the advent of the digital age, the pornography marketplace has rapidly transitioned from one tailored to a subculture of connoisseurs, with access typically restricted to adult bookstores and movie theaters, into a mass market offering prolific content availability and diversity.¹

Cable television, the Internet, DVDs, and other new technologies have made sexually explicit media content widely available, particularly to children and youth. And the content of pornography has become increasingly abusive, coercive, degrading, and violent. Contemporary pornography is, at best, a distant cousin of the artistic portraits of human female nudes common 20 years ago. Instead, the pornography industry today is dominated by sexually explicit videos that commonly portray the domination and humiliation of women for the purpose of arousal.²

The Pornography Industry

And today pornography is big business. One recent forecast projects 2005 revenues for the adult entertainment industry of \$12.6 billion³ with nearly \$4.3 billion, or 34 percent, generated by the sale or rental of DVDs and videocassettes and another 20 percent, or \$2.5 billion, collected through Internet marketing.⁴ By channeling sexually explicit content into millions of homes and hotel rooms, pornography producers and corporate America profit together. Direct TV, which is owned by Rupert Murdoch’s News Corporation—the parent company of the Fox TV networks—earns over \$20 million per month from pornography. AT&T generates similar income distributing pornography via its broadband Internet services. All of the top 50

U.S. hotel chains, with the exception of Omni Hotels, offer pornography to their guests with sales accounting for nearly 70 percent of their in-room profits; as much as 10 percent of the annual profits of these hotel chains are derived from guests viewing pornography.⁵ In short, the production and distribution of pornography has rapidly evolved from a “cottage industry” to a stable and well-refined mass-production enterprise.

“Pornography is Just Good, Clean Entertainment, Right?”

Perhaps most troubling, however, is how the marriage of pornography producers and corporate America is perceived by the general public. Basically, the profiteering from sexually explicit media content by mainstream companies has helped to legitimize pornography as “normal” and “commonplace” for millions of Americans.⁶ While, at the same time, most voices that might speak out about the potentially harmful effects of viewing the distorted images typical of contemporary pornography have become taciturn and muted. Basically, in a culture where we put warning labels on everything from hair-dryers to coffee-cups to music CDs to theatrical release movies, essentially no one provides consumers with any warnings or information about pornography. The consequence of this is reflected in a question posed to me recently by a student who asked: “That means pornography is just good, clean entertainment, right?”

Pornography Distorts Our Perceived Reality About Sex

Pornography today leaves nothing to the imagination. In hundreds of thousands of movies streamed over the Internet, or piped into homes and hotel rooms, pornography presents vivid, salient, and graphic images of human sexuality, in general, and female sexuality, in particular. And these are not images where affection and emotional intimacy are well integrated. Instead, women are consistently and repeatedly objectified as sexually immodest and indiscriminate; as, to use a phrase coined by a feminist writer, “anonymous panting playthings.”⁷ Women in pornography are not valued for their intellect or strength; they are not valued for their talents as doctors, teachers, musicians, entrepreneurs, mothers, and scientists. No, the unequivocal message of pornography is that women are valued only as objects for male sexual gratification. This is the redundant and unchallenged stereotype projected onto our society by pornography.⁸

Pornography and the Sexual Socialization of Children

This is particularly problematic, I believe, for young people. Today, the near omnipresent mass media plays more of a role in the socialization of our children than ever before.⁹ As the values and standards of pornography and the sex industry become mainstreamed, it is these distorted images and ideals that our teens draw from as they come to understand what it means to be men and women and how they should treat themselves and each other. Socially acceptable and socially desirable behaviors have been redefined, particularly in the realm of sexuality. There are many facets of teen culture that reflect these changes.¹⁰

Some of the most obvious demonstrations of the sexual socialization of today’s teens can be found in their closets. Clothing is an important part of teen culture. It serves as a means of self-expression or a sign of affiliation with a particular social group or set of values. Parents and teachers have long been aware that “porn fantasy” fashions and “stripper chic” styles have filtered down to younger and younger girls. Many critics now fear that mass-market pornography has begun operating as a kind of social ruse for young women: They are encouraged to embrace the objectified female sexuality depicted by pornography based on the misguided notion that it provides “liberation.” Some evidence speaks to the potential breadth of this trend: According to a *Time* magazine report, in 2003 girls between 13 and 17 spent about \$152 million on thong underwear.¹¹

One of the saddest consequences of the pornographic sexual socialization of American youth concerns what has become socially acceptable, even socially desirable, sexual behavior in teen culture. An article in *The New York Times Magazine* explored the increasingly mainstream phenomenon of teen “hook-ups”—which are strictly casual sexual encounters occurring between teenage boys and girls. While teenagers having sex has been of significant concern for many years, the degree of deliberate and self-professed detachment manifest in these “hook-ups” is startling.¹²

The legitimacy of this hook-up phenomenon within popular teen culture was exemplified on the CBS TV program *Judging Amy*. In an episode entitled “Consent” (#604, originally broadcast October 24, 2004) Judge Amy Gray heard the case of a male teen (Brent) who was accused of forcing a teenage girl (Caroline) to perform oral sex during a party. Judge Gray was asked to decide if the sexual behavior was sexual assault or the result of peer pressure. In a key scene of the episode Brent testifies “that’s what the parties are for.” He explains:

the girls have bracelets to show what they are into. Black—all the way, blue—oral sex, orange—only kissing. Caroline had on a blue bracelet. (She denied it meant anything.) He says the older boys bullied him into getting oral sex from Caroline. They pulled off his pants and shoved him forward. He felt he didn't have a choice to back out.¹³

As this episode illustrated, separating sexuality from emotion—something typical of pornography—is now defined as cool, liberating, and empowering.

What the Social Science Research Reveals

This fundamental consequence of exposure to pornography has been unambiguously demonstrated over the last 20 years by an extensive body of social science research.¹⁴ The findings are surprisingly consistent and clear: Watching pornography negatively impacts our most basic attitudes, beliefs, and values about sex, intimacy, and family. Frequent consumption of pornography, for example, leads to (1) an overestimation of almost all sexual activities performed by sexually active adults. Some writers refer to this as the “pornucopia” effect. (2) Consumption of pornography fosters exaggerated estimates of the incidence of pre- and extramarital sexual activity—as well as increased assessments of male and female promiscuity—and leads to perceptions of dishonesty and distrust among intimate partners. (3) Consumption of pornography spawns doubts about the value of marriage as an essential social institution and about its future viability. It also diminishes the desire for offspring within marriage. The strongest effect of this kind concerns the aspiration of female viewers for female children. (4) Consumption of pornography creates and enhances sexual callousness and trivializes the criminality of sexual assault and abuse targeted at both adults and children.

Taken together, the research at hand establishes that consumption of pornography is a significant contributing factor in the creation of perceptions, dispositions, and behaviors that reflect sexual callousness, the erosion of family values, and diminished sexual satisfaction.¹⁵ Generalizing from these findings, we can anticipate that pornography should produce adverse consequences for individual consumers, their families and coworkers, and the broader community.

Pornography Facilitates Sexual Aggression

Consideration of the pragmatic implications of the research evidence suggests, first of all, that the distorted messages of unrestrained human sexual promiscuity conveyed by pornography could be, as others have argued, a potent catalyst for abusive behaviors such as domestic violence and rape. Watching pornography, it must be remembered, has been shown to result in both a “loss-of-respect” for female sexual autonomy *and* the disinhibition of men in the expression of aggression against women. Extensive research evidence shows that these two factors are prominently interwoven components in the perceptual profiles of sexually abusive and aggressive individuals.¹⁶

Pornography Fosters Misogyny

A second implication concerns the extent to which pornography-induced misogynistic perceptions negatively influence the welfare of women of all ages in everyday, nonsexual circumstances. Exposure to pornography, the data reveal, fostered acceptance of the notion that women are subservient to men and promoted an adversarial, distrustful relationship between the sexes. Many voices have suggested that the most damaging consequences of prolonged consumption of pornography are evident in the ill treatment of women (e.g., employment discrimination, economic exploitation) simply because of their gender.¹⁷

Pornography as De Facto Sex Educator

Third, there is reason to suspect that pornography—with its seemingly factual, documentary-style presentation of sexual behaviors—has usurped most other socialization agents to become the *de facto* sex education for children and adults alike. Thus, the likelihood persists that the main messages of pornography have a stronger influence on the formation of sexual dispositions, including coercive disposition, than alternative forms of sexual indoctrination.¹⁸

Pornography Threatens the Family

Fourth, it appears that the major consequence of consuming pornography is not the probability or possibility of committing a serious sex crime (though this can and does occur), but rather the disturbance of the fragile bonds of intimate relationships.¹⁹ This is where the most grievous pain, damage, and sorrow occur. Pornography perpetuates stereotypes that promote both exaggerated expectations about sexual behaviors and interpersonal distrust. Against this backdrop, there is considerable evidence suggesting that pornography can interfere with or even destroy

healthy love and sexual relationships among long-term bonded partners. At the 2002 meeting of the American Academy of Matrimonial Lawyers, for example, two-thirds of the 350 divorce lawyers who attended said the Internet played a significant role in divorces in the past year, with excessive interest in online porn contributing to more than half of such cases. “This is clearly related to the Internet,” says Richard Barry, president of the association. “Pornography had an almost nonexistent role in divorce just seven or eight years ago.” Consumption of pornography also appears to threaten the welfare of children by creating economic instability for many families. Increasingly, U.S. businesses are imposing disciplinary actions, including termination, on employees because of inappropriate pornography use within the workplace.²⁰ One can only speculate how these Internet pornography threats to the nuclear family impact children.

Possible Courses of Action

It is against this backdrop we must now grapple with the question of how we, individually, and as a national family might best respond to pornography, in general, and pornography on the Internet, in particular.

We must acknowledge, however, that this discussion involves what may be one of the most complicated challenges of our time—how to reconcile the conflicting interests of promoting free speech, free thought, and free enterprise without abdicating our larger societal role to insure that parents have the freedom and resources necessary to raise and socialize their children as they see fit. Further, we must accept the fact that no single solution for protecting children from Internet pornography whether technical, legal, economic, or educational will be sufficient.

Within this framework, some recommendations can be offered for contemplation. First, we must give full consideration of the desirability of pornography as a rudimentary “educator” about sex for children and adults alike. “The promotion of social and educational strategies that teach children to make wise choices about using the Internet and to take control of their online experiences” has, as noted in the National Academies’ National Research Council report *Youth, Pornography, and the Internet*, been “largely ignored in the present debate.”²¹ This, it seems, is a trend that urgently needs correction.

Towards this goal the Federal Government could support research initiatives (1) to more clearly document the incidence and prevalence of pornography use on the Internet by children, (2) that would better illuminate the impact of pornography use on the economic and relational stability of the family, and (3) effective strategies to counteract the distorted, redundant stereotypes perpetuated by an industry designed to sell sex as an entertainment commodity.

Comprehensive educational strategies should also be developed and offered to educators for adaptation to their local community needs. And, clearly, these curricula should not be conceived of as “sex education” class; but, rather, as media literacy programs. As recently demonstrated at a Midwestern high school²² our ongoing national strategy concerning pornography has produced a difficult paradox: Despite our developing recognition of the adverse consequences that pornography can have on individuals, families, and our society, many of us remain afraid to engage in public discourse on the issue because it pertains to sexual behaviors. We proclaim, in other words, that pornography is “bad” but shy away from explaining why leaving it to the curiosity of children and young adults to discover for themselves what all the fuss is about. Simply said, we must develop educational and social strategies that will tarnish the luster of the “forbidden fruit” of pornography and equip the American public with the resources needed to make informed decisions about the role of this type of media content in their lives.

Of course, initiatives such as these are not inexpensive and, given current budgetary constraints, it seems that innovative funding solutions must be explored. Personally, I’ve found the ideas expressed in the “Internet Safety and Child Protection Act of 2005” (S. 1507) sponsored by Senator Lincoln and others very provocative and hope that this bill will be expeditiously given full consideration.

Another, more immediate, consideration that should be explored concerns the current, seemingly universally applied, definition of pornography as “free speech.” Specifically, one can argue that the current practice of many Internet pornography vendors of offering “free samples” of sexually explicit images and videos as part of their marketing ploy involves the use of pornography as “commercial speech.”²³ Research suggests that websites attempting to lure consumers with free content typically incorporate no age verification mechanism and often feature explicit “gonzo porn” that depicts sex between multiple partners, involves physically abusive behaviors, and avoids safe-sex practices. Many images—especially those depicting incest or involving teenage and/or amateur female performers, for instance—appear inconsistent with current child pornography laws. Further, these sampler websites often include

the serialization of full films, providing the viewer with several one or two minute segments each week, thus encouraging the consumer to develop the habit of returning for more free content but always offering the opportunity to view the complete film for a fee. Taken together, these marketing practices raise the question: Does the use of sexually explicit images as part of a commercial transaction represent “commercial speech” and thus mitigating the degree of constitutional protection typically accorded pornography?

Conceptualization of pornography on the Internet as commercial speech would offer the opportunity to scrutinize the appropriateness of other common, but deceptive, marketing practices. A recent website survey, for example, found that searches of keywords such as *sex education*, *sexual health*, and *sex advice for teens* yielded a preponderance of pornography web pages. Specifically, 63 percent of 1,556 compatible web pages were categorized as pornographic.²⁴ This raises the question: Does this distorted use of terminology that most reasonable people would normally not associate with the commercial distribution of sexually explicit images constitute deceptive advertising and are their mechanisms available to correct this practice?

And, finally, we must recognize that our society is on the verge of an era when anyone with a cell phone will be able to watch sexually explicit videos anywhere. One can only wonder what mechanisms are being developed to provide protection to children with the newest distribution technologies such as video streaming to wireless telecommunication devices.

ENDNOTES

¹Weaver, J.B., III (November 18, 2004). Testimony before the U.S. Senate. http://commerce.senate.gov/hearings/testimony.cfm?id=1343&wit_id=3913.

²Brosius, H.B., Weaver, J.B., III, & Staab, J.F. (1993). Exploring the social and sexual “reality” of contemporary pornography. *The Journal of Sex Research*, 30, 161–170.

³Mun, A. (December 13, 2005). *Adult Industry Generates \$12.6 Billion in 2005, AVN Estimates; State of the U.S. Adult Industry Report Highlights Diverse Products and Delivery Options*. http://home.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20051213005951&newsLang=en.

⁴Arnold, T.K. (January 9, 2006). *Adult biz hot for home video*. <http://www.bizreport.com/news/9599/>.

⁵CBS News 60 Minutes (September, 2004). Porn in the U.S.A. <http://www.cbsnews.com/stories/2003/11/21/60minutes/main585049.shtml>; PBS Frontline (August, 2001). *Interview Dennis McAlpine*. <http://www.pbs.org/wgbh/pages/frontline/shows/porn/interviews/mcalpine.html#hotel>; Thompson, M. (April 13, 2004). *Porn profits go mainstream*. <http://moneycentral.msn.com/content/CNBCTV/Articles/TVReports/P80813.asp>.

⁶Paul, P. (January 19, 2004). The porn factor. *Time*, 163(3), 99. <http://www.time.com/time/archive/preview/0,10987,993158,00.html>; Paul, P. (2005). *Pornified: How pornography is transforming our lives, our relationships, and our families*. New York: Times Books.

⁷Brownmiller, S. (1975). *Against our will: Men, women, and rape*. New York: Simon and Schuster.

⁸United States Commission on Obscenity and Pornography (1970). *Report of The Commission on Obscenity and Pornography*. New York, Bantam. Over 30 years ago the Commission reported essentially the same observation noting that “It is often asserted that a distinguishing characteristic of sexually explicit materials is the degrading and demeaning portrayal of the role and status of the human female. It has been argued that erotic materials describe the female as a mere sexual object to be exploited and manipulated sexually. One presumed consequence of such portrayals is that erotica transmits an inaccurate and uninformed conception of sexuality, and that the viewer or user will (a) develop a calloused and manipulative orientation toward women and (b) engage in behavior in which affection and sexuality are not well integrated.”

⁹Cantor, J., Mares, M., & Hyde, J.S. (2003). Autobiographical memories of exposure to sexual media content. *Media Psychology*, 5, 1–31.

¹⁰Boies, S.C., Knudson, G., & Young, J. (2004). The internet, sex, and youths: Implications for sexual development. *Sexual Addiction & Compulsivity*, 11, 343–363. Greenfield, P.M. (2004). Inadvertent exposure to pornography on the Internet: Implications of peer-to-peer file-sharing networks for child development and families. *Journal of Applied Developmental Psychology*, 25, 741–750; Mitchell, K.J., Finkelhor, D., Wolak, J. (2003). Victimization of Youths on the Internet. *Journal of Aggression, Maltreatment & Trauma*, 8, 1–39; Ybarra, M.L., & Mitchell, K.J. (2005). Exposure to Internet pornography among children and adolescents: A national survey. *CyberPsychology & Behavior*, 8, 473–486.

- ¹¹ Wallis, C. (October 6, 2003). The thing about thongs. *Time*, 162(14), 94. <http://www.time.com/time/archive/preview/0,10987,1005821,00.html>.
- ¹² Denizet-Lewis, B. (May 30, 2004). Friends, friends with benefits and the benefits of the local mall. *The New York Times Magazine*. <http://select.nytimes.com/gst/abstract.html?res=F60713FA3C5A0C738FDDAC0894DC404482>.
- ¹³ *Judging Amy* (October 24, 2004) Consent (program #604). Episode synopsis at <http://judgingamy.tvfans.org/amy/episode/a604.htm>.
- ¹⁴ Weaver, J.B., III (1994). Pornography and sexual callousness: The perceptual and behavioral consequences of exposure to pornography. In D. Zillmann, J. Bryant, & A.C. Huston (Eds.), *Media, family, and children: Social scientific, psychodynamic, and clinical perspectives* (pp. 215–228). Hillsdale, NJ: Erlbaum.
- ¹⁵ Schneider, J.P. (2000). A qualitative study of cybersex participants: Gender differences, recovery issues, and implications for therapists. *Sexual Addiction & Compulsivity*, 7, 249–278; Stack, S., Wasserman, I., & Kern, R. (2004). Adult social bonds and use of Internet pornography. *Social Science Quarterly*, 85, 75–88; Mulac, A., Jansma, L.L., & Linz, D.G. (2002). Men's behavior toward women after viewing sexually-explicit films: Degradation makes a difference. *Communication Monographs*, 69, 311–328.
- ¹⁶ Oddone-Paolucci, E., Genuis, M., & Violato, C. (2000). A meta-analysis of the published research on the effects of pornography. In C. Violato, E. Oddone-Paolucci, M. Genuis (Eds.), *The changing family and child development* (pp. 48–59). Aldershot, England: Ashgate Publishing; Malamuth, N.M., Addison, T., & Koss, M. (2000). Pornography and sexual aggression: Are there reliable effects and can we understand them? *Annual Review of Sex Research*, 11, 26–91; Shope, J.H. (2004). When words are not enough: The search for the effect of pornography on abused women. *Violence Against Women*, 10, 56–72.
- ¹⁷ Russell, D.E.H. (1998). *Dangerous relationships: Pornography, misogyny, and rape*. Thousand Oaks, CA: Sage.
- ¹⁸ Beaugard, E., Lussier, P., & Proulx, J. (2004). An exploration of developmental factors related to deviant sexual preferences among adult rapists. *Sexual Abuse: Journal of Research and Treatment*, 16, 151–161; Fisher, W.A., & Barak, A. (1989). Sex education as a corrective: Immunizing against possible effects of pornography. In D. Zillmann & J. Bryant (eds.), *Pornography: Research advances and policy considerations* (pp. 289–320). Hillsdale, NJ: Erlbaum. Häggström-Nordin, E., Hanson, U., & Tydén, T. (2005). Associations between pornography consumption and sexual practices among adolescents in Sweden. *International Journal of STD & AIDS*, 16, 102–107; Smith, M. Gertz, E., Alvarez, S., & Lurie, P. (2000). The content and accessibility of sex education information on the Internet. *Health Education & Behavior*, 27, 684–694.
- ¹⁹ American Academy of Matrimonial Lawyers (November 14, 2002). *Is the Internet bad for your marriage ?* <http://www.expertclick.com/NewsReleaseWire/default.cfm?Action=ReleaseDetail&ID=3051>.
- ²⁰ Greenfield, D.N., & Davis, R. A. (2002). Lost in Cyberspace: The web @ work. *CyberPsychology & Behavior*, 4, 347–353 ; Griffiths, M. (2003). Internet abuse in the workplace: Issues and concerns for employers and employment counselors. *Journal of Employment Counseling*, 40, 87–96.
- ²¹ The National Academies (May 2, 2002). *No single solution for protecting kids from Internet pornography*. <http://www4.nationalacademies.org/news.nsf/isbn/0309082749?OpenDocument>; Committee to Study Tools and Strategies for Protecting Kids from Pornography and Their Applicability to Other Inappropriate Internet Content, Computer Science and Telecommunications Board, National Research Council (2002). Thornburg, D., & Lin, H.S. (Eds.), *Youth, pornography and the Internet*. Washington: National Academy Press.
- ²² Townsend, Angela (January 14, 2006). School gets lesson on porn : Don't bring it up in classroom. *The Plain Dealer*. <http://www.cleveland.com/news/plaindealer/index.ssf?/base/cuyahoga/113723103675680.xml&coll=2>.
- ²³ *U.S. Constitution—Analysis and Interpretation* (pp. 1020–1187). Washington: U.S. Government Printing Office via GPO Access.
- ²⁴ Smith, M. Gertz, E., Alvarez, S., & Lurie, P. (2000). The content and accessibility of sex education information on the Internet. *Health Education & Behavior*, 27, 684–694.

The CHAIRMAN. Thank you very much.

Our next witness at the table is Tatiana Platt, Chief Trust Officer and Senior Vice President of America Online.

**STATEMENT OF TATIANA S. PLATT, CHIEF TRUST OFFICER/
SENIOR VICE PRESIDENT, INTEGRITY ASSURANCE,
AMERICA ONLINE, INC.**

Ms. PLATT. Mr. Chairman and distinguished Members of the Committee, thank you for inviting me to testify before you today on the topic of protecting children on the Internet. My name is Tatiana Platt, and I am Chief Trust Officer and Senior Vice President at AOL.

AOL has played a significant role in the development of the on-line medium, and we have always had a special appreciation of its enormous potential to benefit society, especially children. Learning how to explore and understand the online world is an essential skill for our children in today's world, but we all agree that kids need, and deserve, special protection in this ever-evolving medium.

By promoting major public-education campaigns and closely cooperating with elected officials and government agencies on outreach and enforcement efforts, we have tried to offer strong, proactive leadership in every area of children's safety online. In some ways, even more important than those efforts, however, has been our commitment to providing our members with the resources and tools that they need to make informed decisions. No law, no technology, and no corporate initiative can ever take the place of an educated and involved parent when it comes to their children's online safety. That's why we work hard at AOL to give parents the most useful information, tools, and safety tips to help protect their children. By doing so, we've tried to empower parents so they can reinforce the rules of online safety, pay attention to what their children are doing, and make use of technologies, such as our parental controls, to protect their children from inappropriate content and help ensure that their online experience is safe and age-appropriate.

AOL parental controls have been integrated into the AOL service since the very first days of our company. In the beginning, those controls were mostly focused on limiting or filtering children's access to inappropriate websites and content areas such as chat rooms and message boards. Over time, however, our parental controls have evolved in response to technological changes in the medium, such as broadband access and multiple devices, as well as shifting consumer demand. We have added new age categories for parents who want a one-button solution to setting controls. We launched an online timer to give parents the ability to set limits on how much time their children spend online. We created the AOL Guardian, a feature that enables parents to receive daily and weekly updates on their child's online activities. And we have given parents the ability to view, set, or modify their parental controls from anywhere they have access to the Web through the AOL.com portal. Today, with over 5 million screen names on parental controls, they are the foundation of our child-protection package and a key offering of our subscription service.

But AOL parental controls are only one of the tools that we use to keep children safe online. Because we know that e-mail is the number-one technique used by spammers and pornographers to spread their filth, we wage an around-the-clock war against unwanted and inappropriate e-mail. AOL blocks approximately 1.5

billion spam e-mails per day, and has reduced complaints about spam from its members by 75 percent in the past 2 years.

Creative pornographers have also started to attack computers directly via adware and spyware. While annoying and potentially dangerous for adult users, spyware and adware can be devastating for younger users, bombarding them with a never-ending stream of pop-ups for pornography, gambling, and other inappropriate material. To respond to this threat, AOL introduced AOL Spyware Protection, software that can block more than 28,000 different types of spyware and adware.

Equally important, as viruses and hackers don't stop to check for age verification, AOL is also working hard to make online safety and security easier for members of all ages through our technology offerings, such as the AOL Safety and Security Center.

We have found that education of our members is an ongoing process. As new consumers come online every day, and as our existing customers' lives evolve, their parental control needs may change, as well. We believe that every family should periodically review new information, check their child's parental control settings, and update them as appropriate for their child's age and maturity. We also try to offer relevant tips to help ensure their child is having a safe online experience. These tips include commonsense advice, like finding out if your child has a profile on any of the common social-networking sites, and either removing or reviewing that profile for inappropriate content.

AOL's commitment to families and child safety includes a wide range of elements: educating consumers, providing great age-appropriate content for young audiences, working with law enforcement to go after bad actors, building an industry-wide coalition of like-minded companies and organizations, and offering parents easy-to-use, flexible parental control technology tools to customize their child's online experience.

Finally, it bears repeating that there is no substitute for parental involvement. Raising consumer awareness about parental control choices in children's online safety is a collaborative effort, and we welcome continued private and public partnerships to achieve that goal.

I thank the Committee, and I welcome the opportunity to answer any questions.

[The prepared statement of Ms. Platt follows:]

PREPARED STATEMENT OF TATIANA S. PLATT, CHIEF TRUST OFFICER/SENIOR VICE PRESIDENT, INTEGRITY ASSURANCE, AMERICA ONLINE, INC.

Thank you for inviting me to testify before you today on the topic of protecting children on the Internet. My name is Tatiana Platt, and I am Chief Trust Officer and Senior Vice President at America Online, Inc. My responsibilities include providing strategic leadership for the development and execution of processes and practices that ensure the integrity of AOL Inc. businesses. I oversee the integrity of the user experience, consumer protection, advertising and programming standards, privacy, online safety, accessibility, community standards and policy. This includes oversight of our child safety and privacy protections.

AOL has played a significant role in the development of the online medium, and we have always had a special appreciation of its enormous potential to benefit society—especially children. Learning how to explore and understand the online world is an essential skill for our children in today's wired world, but we all agree that kids need and deserve special protection in this ever-evolving medium. AOL wants

to give parents the tools and information to help ensure that their children can enjoy a rewarding and safe interactive experience online.

By promoting major public education campaigns and closely cooperating with elected officials and government agencies on outreach and enforcement efforts, we have tried to offer strong proactive leadership in every area of children's safety online. In some ways even more important than those efforts, however, has been our commitment to providing our members with the resources and tools they need to make informed decisions. No law, no technology, and no corporate initiative can ever take the place of an educated and involved parent when it comes to their children's online safety. That's why we work hard to give AOL parents the most useful information, content, tools and safety tips to help protect their children, as well as convenient access to other resources available for families both on AOL and elsewhere on the Internet. By doing so, we've tried to empower parents so they can reinforce the rules of online safety, pay attention to what their children are doing, and make use of technology such as our Parental Controls to protect their children from inappropriate content and help ensure that their online experience is safe and age-appropriate.

AOL Parental Controls have been integrated into the AOL service since the very first days of our company and have long been one of the most compelling reasons for parents and families to use AOL. In the beginning, those controls were mostly focused on limiting or "filtering" children's access to inappropriate websites and content areas such as chat rooms and message boards.

Over time, however, our Parental Controls have evolved in response to technological changes in the medium—such as broadband access and multiple devices—as well as shifting consumer demand. For example, we created a new *Kids Only* category setting in 1995, recognizing the increasing popularity of our children's content and the increasing number of families getting online. As the online medium became more mainstream, we focused on simplifying our Parental Controls. In 1997, we added our two "teens" categories, for parents who wanted a "one button" solution to setting controls. Even so, we continued to offer fully customizable selections for those parents who wanted to customize their child's experience. This "category" approach has proven very successful and popular with our millions of families with children.

In 1998, we changed our registration process to prompt parents to set Parental Controls for each of the screen names or subaccounts that they can create with their AOL account for a child or other family member. When we integrated that step into the *Create A Screen Name* process, we saw a dramatic increase in adoption of the Parental Controls tools as a result. This process allows parents to make a decision for their child with age-specific Parental Control settings at the time that they are creating a user name for them, rather than leaving it up to the parents to remember to go back later. And to ensure that those controls cannot be circumvented by the child, only the parent's account—or a "master" account—can create a new screen name or set or change Parental Control settings.

In the spring of 2000, we launched an online timer to give parents the ability to set limits on how much time their children spend online. A parent can determine when and for how long their child can be online. By doing so, a parent can help ensure that their child can only access the Internet for limited times per day, after homework is done, or when they are there to supervise.

In February 2003, we created *AOL Guardian*, a feature that enables parents to receive updates on their child's online activities. Parents can choose to receive daily or weekly notices that include information about which websites their child visited or attempted to visit and to or from whom they sent or received e-mails or Instant Messages (IMs). The feature provides parents with a higher level of information about their children's online activities and can act as a springboard to help parents engage in conversations with their children about appropriate online behavior.

Soon after that, we helped parents move their households into the high-speed world with a new feature called *Internet Access Controls*. This feature allows parents to apply Parental Controls to the entire computer, rather than just activities within the AOL software, so that children in the household will always have the protections of those controls, regardless of whether they have a dial-up or always-on broadband connection.

We also gave parents the ability to view, set or modify their Parental Controls from anywhere they have access to the Web through the AOL.com portal, rather than having to log on through AOL at home to change those settings. In addition, we created a new *Web Unlock* feature that lets a child e-mail a request to their parents to be given access to a specific site that has been blocked by the Parental Control settings.

These content settings are judiciously embedded into many of the widely used features on the AOL service including, but not limited to, search (a child's search capabilities are limited to his or her web settings), e-mail (a child will not be able to click on any links that are deemed inappropriate), and shopping (children will be restricted from accessing and purchasing products deemed to be mature or adult in nature).

When creating a separate screen name for their child, parents are given the opportunity to choose one of three different standard age "category" settings: *KOL*, *RED*, or *RED Plus*. These settings offer compelling age-appropriate content that allow a child to experience all the great things being online has to offer while providing parents a level of comfort that their child is only being exposed to content or people they have approved.

A *KOL* setting (recommended for 12 and under) restricts children to the *KOL Channel*, which has been specially created and programmed for children 12 and under. The child also receives a customized Welcome Screen. In addition, KOL offers *Radio KOL*, a daily online radio show which now draws more than a million weekly listeners, Games, Interactive storybook, and Homework Help.

Our goal is to create compelling age-appropriate content that will keep kids coming back, while blocking our youngest members from reaching any questionable websites or content areas or communicating with unknown people. For example, a child using a KOL screen name can access age-appropriate content on AOL and the Web and interact with others online through e-mail and in special supervised kids' message boards and chat areas, but he or she is blocked from taking part in general audience chat rooms and message boards on AOL, is blocked from Instant Messaging and cannot visit any website that has not been approved as age-appropriate.

The reaction from members and media to this online safe zone for kids has been outstanding. In 2001, *Yahoo! Internet Life Magazine* awarded the Kids Only Channel as the "Best Kids Community" for "kid-friendly games, chat and homework helpers." In 2003 and 2005, KOL got a "Best of Web" award from *WiredKids*, the world's largest online safety and help group after being nominated by kids and teens and chosen by parent volunteers. And in 2004, KOL won the *National Parenting Seal of Approval*.

AOL's *RED*, or *Young Teen* (recommended for ages 13–15) category provides more freedom than a Kids Only screen name, but does not provide full access to more mature content and potentially-dangerous interactive features. The RED service is designed to respond to the surge in online activity among today's teens and to empower them by letting them customize and personalize their desktop and choose content to highlight based on their specific interests. The RED service gives teens their own Welcome Experience, toolbar and Buddy List® feature as well as exclusive content and features from leading brands, original programming and expanded community tools.

Young Teen screen names are allowed to access most AOL content, and they can visit websites that have been approved as age appropriate. They may communicate with others online through e-mail, IM and in Teen chats and message boards that are monitored by background-checked employees. Teens are restricted, however, from visiting inappropriate websites, or taking part in private chat rooms.

Older teens are channeled into *RED Plus*, or *Mature Teen* (recommended for ages 16–17) settings, which allow older teens more freedom than the younger Parental Controls categories as they learn to be responsible adult online users. Mature Teens are offered access to the same RED content areas as younger teens, but they can also access almost all content on AOL and the Web except sites that have been classified for an adult (18 plus) audience. They can locate others and communicate online through Instant Messaging, Teen chats and message boards, and e-mail.

Each of these category settings has a pre-selected set of "defaults" for different features such as chat, e-mail, Instant Messages and Internet access. A parent can choose to customize any of these defaults within a category to ensure the experience best matches his or her child—so even on a KOL screen name (our most conservative), a parent may choose to further limit access to e-mail to an "approved" list, or, alternately, may decide that the child is mature enough to fully participate in Instant Message conversations.

Today, with over 5 million screen names on Parental Controls, they are the foundation of our child protection package and a key offering of our subscription service. While providing kids with entertaining and educational experiences has always been an important mission for AOL, we strongly feel that it is also our responsibility to help parents manage their child's online experiences.

AOL's Parental Controls give parents both control and peace of mind, enabling them to make informed decisions about their kids' online activities by selecting the appropriate level of participation for each child. Parents also have the ability to cus-

tomize additional features—such as chat, e-mail and Internet access—based on their children’s online savvy and maturity.

AOL’s Parental Controls also have another advantage, in that the majority of our technologies are run at the server level, rather than being limited to a single machine. Thus, we can provide equal protections to children regardless of where they log into AOL—at home, school, or a friend’s house—and we can give parents the ability to check and update those controls from any computer with Web access.

But AOL Parental Controls are only one of the tools we use to help keep children safe online. Because we know that e-mail is the number one technique used by spammers and pornographers to spread their filth, we wage an around-the-clock war against unwanted and inappropriate e-mail.

AOL blocks approximately 1.5 billion spam e-mails per day and has reduced complaints about spam from its members by 75 percent in the past two years. To reduce the amount of spam received by subscribers, AOL has developed new, more efficient and accurate spam blocking technology over the past few years, investing and continuing to invest millions of dollars every year. This technology permits AOL to identify and stop spam from even reaching a subscriber’s mailbox.

AOL is also working with other Internet businesses, including Yahoo! and Microsoft, on standards for identifying legitimate e-mail. While the industry hasn’t yet settled on a standard, e-mail providers, including Yahoo!, Microsoft, and AOL, are testing a variety of technologies, including Sender Policy Framework (SPF), Microsoft Sender ID, and DomainKeys.

To add an additional layer of protection for our younger members, AOL gives parents the ability to create an approved list of screen names and e-mail addresses that limits with whom their child can communicate by e-mail and IM. Manual spam filtering is also available, which allows a parent to block all mail with specific words, from specific senders, or which includes specific content.

To help ensure that kids never see graphic images in e-mail from unknown senders, AOL’s default setting for KOL and RED members is to have file attachments, embedded images or videos blocked in both e-mail and IMs. A parent can make the choice to turn this feature on for their specific child.

Keeping younger members from seeing inappropriate Internet content is not enough, however. One of the greatest strengths of the online medium is its ability to build community, and we want to be sure that our younger members have safe access to chat rooms and message boards where they can make new friends, get homework help, or chat about current events.

Because we know that community areas in both the online and offline worlds can be dangerous if left unsupervised, all KOL and RED chat rooms and message boards are monitored by trained staff. These dedicated individuals have gone through background checks and careful training in order to sensitively work with children and help prevent inappropriate language or conversation in chat rooms and message boards. They control the tone and content of each chat room and message board, warn or remove disruptive participants, and can alert parents if their children engage in dangerous or inappropriate behavior.

Because creative pornographers have started to attack computers directly via surreptitiously-installed software, AOL is also on the forefront of fighting adware and spyware, sometimes referred to generically as spyware. While annoying and potentially-dangerous for adult users, spyware and adware can be devastating for younger users, bombarding them with a never-ending stream of pop-ups for pornography, tobacco, gambling, pharmaceuticals and other inappropriate material.

Once installed on a computer, spyware can also perform other malicious acts such as tracking a user’s online behavior. Spyware can be installed on a user’s computer surreptitiously using a vulnerability in the operating system or browser, with permission buried deep in an End User License Agreement (EULA), or in exchange for “free” software.

Regardless of how it is installed, spyware can be difficult to remove. First, a user must be able to find it. With the advent of “root kits” and other tricks, spyware authors are hiding their software on users’ computers, making detection more difficult. Second, newer versions of spyware are being written with self-healing routines, delete one file and, the next time the spyware starts up, it creates a new copy of the file.

Early last year, AOL introduced *AOL Spyware Protection* software (ASP). ASP searches for and attempts to block more than 28,000 different types of spyware and adware. Once installed, ASP conducts four separate scans—every few seconds, every 15 minutes, daily, and weekly to find programs that can track users and detract from their online experience. ASP also automatically checks for and installs any new updates every time a user logs on, so it can find and block the hundreds of new

types of spyware being unleashed every month. AOL is continuing to improve the software and a new version of ASP was released just a few months ago.

Equally important, as viruses and hackers don't stop to check for age verification, AOL is working hard to make online safety and security easier for members of all ages. In December 2005, AOL released its first version of the *AOL Safety and Security Center* (SSC). SSC is an interface for all aspects of the AOL Safety and Security Center, including anti-virus, anti-spyware, and firewall software. By default, all the safety and security features are on, and all of the features are automatically updated to help protect against the latest threats.

In addition to the tools mentioned here, AOL also makes available extensive educational content to help keep parents as savvy as their children when it comes to the Internet.

We have found that education of our members is an ongoing process. As new consumers come online every day and as our existing customers' lives evolve, their Parental Controls needs may change as well. We believe that every family should periodically review new information, check their child's Parental Controls settings and update them as appropriate for their child's age and maturity. Also important, we have worked to quickly and effectively notify our members of significant news and developments in the area of children's safety, like the Children's Online Privacy Protection Act or new Parental Controls offerings that may impact their family's online safety decisions.

Furthermore, by updating parents on Internet and online developments we try to offer relevant and reasonable tips on how to help ensure their child is having a safe online experience. These tips include:

- Keeping the family computer in a central location and not behind closed doors in a child's room.
- Finding out if your child has a profile on any of the common social networking sites and either removing or reviewing that profile for inappropriate content.
- Checking Google and other major search engines for your child's name, address, phone number and school name to determine if any personally-identifiable information has been placed online that could enable a predator to find them.
- Reviewing your child's e-mail address book and IM Buddy List to be sure you know who all of your child's online and offline friends are.

We have also worked with leading industry groups to help form a common alliance to help protect children online. In 1998, America Online was the first Internet Service Provider to partner with the National Center for Missing and Exploited Children (NCMEC) and helped launch its CyberTipLine. Since then and on an ongoing basis, AOL has been successfully working with NCMEC in many different arenas including technical assistance, technology training, event sponsorship, online safety campaigns, and financial contributions.

AOL has a variety of different content areas on the service that explain and link to NCMEC's site and the CyberTipLine specifically. AOL is a member of NCMEC's Board of Directors and helps conduct training for the NCMEC staff and the law enforcement community for investigative and prosecutorial training. In November 2002, AOL and NCMEC also launched online "*Amber Alerts*" to help find missing children by instantly sending an alert to both AOL members and Internet users who have opted into those alerts via e-mail, phone or Instant Message.

Furthermore, AOL through its leadership role in the Internet Service Provider trade association, USISPA, has partnered with NCMEC to produce a Best Business Reporting Practices document to promote a uniform and comprehensive referral protocol to facilitate the investigation of online trading of illicit graphic images.

Although the majority of our online efforts are designed to help protect children against the daily threats of pornography, adult content, viruses, hackers, spam, phishing, and spyware, America Online also has a robust process in place to deal with the darkest players of the Internet, those online predators who might attempt to solicit a child for sexual activity. As soon as an AOL member notifies us of such an attempt, we will investigate and, if appropriate, engage NCMEC and/or the local law enforcement agency in order to prevent the incident. We also work very closely with local, State, and Federal law enforcement agencies to track down and prosecute child predators. This operation has been ongoing for the last three to four years and as of last year, over 150 of these reports have led to arrests for child solicitation.

Our criminal investigation staff also works to share their experience by training Federal, State, local, and military investigators and prosecutors. AOL conducts ongoing cybercrime training and digital evidence training at the FBI Academy, the Federal Law Enforcement Training Center, the U.S. DOJ's National Advocacy Center, the National White Collar Crime Center, the National District Attorneys Asso-

ciation, the American Prosecutors Research Institute, the National Association of Attorneys General, and NCMEC. AOL also has periodic law enforcement training at its own facilities in Dulles, Virginia. There are AOL technologists on around-the-clock call when law enforcement contacts AOL with criminal cases that relate to the AOL networks and services. AOL realizes that critical data and the understanding of this information is vital to a case especially if children are involved and at risk.

Because child pornographers often share their illegal images by posting them to public sites, America Online has developed state of the art technology that uses sophisticated processes and protocols designed to help detect illegal image files (child pornography) that are posted to the AOL network. Once detected, an immediate report is made to law enforcement via NCMEC for further investigation and prosecution. It has taken several years of research and testing to produce this countermeasure and has now been in use successfully for the last two years.

We believe this type of cooperation with law enforcement and investigative organizations is critical to supporting AOL's online safety mission.

Despite all of these technological, industry, and legal efforts, however, the most important force in protecting children is actively-involved and well-informed parents. That's why we don't just arm parents with online tools; we also provide them with tips, training, and information to monitor and guide their children's online experience.

To do so, AOL has been a leader in organizing industry efforts to educate consumers about online safety and is committed to continuing this leadership role. AOL was a leading corporate host of the *America Links Up* national public education campaign, designed to give parents information to help their children have a safe, educational and rewarding experience online.

In addition, AOL created and distributed a special video for kids—called *Safe Surfin'*—that features online safety tips presented by some of the younger generation's favorite celebrities. This video was developed in partnership with the National School Boards Association and has been introduced into schools across the country.

Furthermore, AOL, in conjunction with the American Library Association, launched the *Internet Driver's Ed* program. This program is a traveling Internet education and safety class for children and parents, hosted in children's museums and other prominent venues in major cities nationwide.

AOL was also a key partner in forming the *GetNetWise.org* website—a resource designed to provide consumers with comprehensive online safety information that includes guidance from some of the major industry leaders. We also launched the Safety Clicks! Campaign through a partnership with Childhelp USA and the National School Board Foundation (NSBF). This is a nationwide effort to provide parents, kids and educators with the resources they need to enjoy a safe and enriching online experience. And AOL partnered with scores of governors and first spouses to launch the Internet Keep Safe Coalition, a state-supported educational program whose mascot, *Faux Paws the Techno Cat*, helps educate children to safely navigate the Internet.

AOL also partnered with leading computer manufacturer, Dell, to create the *TechKnow* program. This program trains kids on computer technology and includes training on Internet safety. The program reaches between five and ten thousand children each year. They "earn" a computer from Dell, and AOL gives them a free account after they take the safety course. Learning about safety on the Internet should be as basic to computer users as the mouse, keyboard or software.

AOL regularly speaks on the topics of protecting children online and Parental Controls and often provides safety demonstrations to local area schools and children's organizations. Such efforts serve to reinforce to parents the need for them to take their child's Internet use seriously and to avail themselves of the tools that can control the access their child has online.

In conclusion, AOL's commitment to families and child safety includes a wide range of elements: educating consumers about online child safety, providing great age appropriate content for young audiences; working with law enforcement to go after bad actors, building an industry-wide coalition of like-minded companies and organizations, and offering parents easy to use, flexible Parental Controls tools to customize their children's online experience.

We are constantly enhancing our offerings to families and working closely with others in the industry to fine-tune our technological tools so that they are the most up to date and effective as possible. The Internet is evolving every day as new types of interactivity arise, and new content is posted. We must strive to be ahead of the curve.

Finally, it bears repeating that there is no substitute for parental involvement. Raising consumer awareness about Parental Controls, choices and child online safe-

ty is a collaborative effort. We welcome continued private and public partnerships to achieve that goal.

The CHAIRMAN. Well, thank you very much.

We'll print all of your statements in full in the record, just in case there's any question.

Mr. Lordan—that's Tim Lordan, Executive Director of the Internet Education Foundation.

**STATEMENT OF TIM LORDAN, EXECUTIVE DIRECTOR,
INTERNET EDUCATION FOUNDATION (IEF)**

Mr. LORDAN. Chairman Stevens, Senators, and the Committee, I thank you for inviting me to testify today, and I thank you, the staff, who spent their past holiday season investigating Internet pornography. Couldn't have been a fun holiday season.

The CHAIRMAN. Pull that mike a little closer to you.

Mr. LORDAN. Yes.

We are—the Internet Education Foundation which is a 501(c)(3) nonprofit organization dedicated to educating the public and policymakers to the potential of the Internet to promote communications, commerce, and democracy. We have two major projects which are relevant for this discussion today.

The first is, we do the event programming for the advisory committee to the Congressional Internet Caucus, which Senator Burns co-chairs with Senator Leahy and Congressmen Goodlatte and Boucher on the House side. Over the years, starting in 1997, we have held Congressional briefings on Internet technology and policy. And a perennial favorite of the committee is holding information seminars on parental-empowerment tools, how to protect children online, and the like. We've been doing this since 1997. And, from that perspective, we have an interesting view on the evolution of the marketplace for protecting kids.

In addition, we host an award-winning website called GetNetWise.org. And that particular website advises parents and caregivers on how to protect their kids online. It also includes, as the cornerstone, a large database of searchable parental-empowerment tools, from filters to time-limiting tools, and two other types of monitors. We developed that website with the help of folks in the industry, the experts from AOL, and others, but also with a—with an advisory board of the real experts in the community on parental empowerment in child safety, like Donna Rice Hughes, Larry Magid, Anne Collier, Stephen Balkam, from ICRA, as you—as mentioned earlier. And the—each one of those individuals is doing a tremendous amount of education on their own to help educate parents about the availability of these tools and how to protect their kids online. So they really should be commended. And most of them are doing it from a nonprofit perspective, as well.

Porn is certainly a challenge. No parent will say that access to pornography for their children is a good thing. We heard disturbing testimony earlier today about parents actually taking explicit pictures of their children and abusing them in that manner. Child pornography developed in that way is obviously against the law and really disturbing. And I was really glad to hear Mr. Burrus and Ms. Parsky saying they have the resources they need to address the problem, and the tools to go after those criminals.

I think, today, I want to focus my comments on the average American family, who is trying to deal with keeping their children away from either inadvertently or purposefully going to look at inappropriate material. And you can define it any way—obscenity is certainly against the law; pornography, itself, however you define it; or just plain old trash. The question is—a parent doesn't care, whatever they think is objectionable, it's pornography to them.

I think that it bears repeating, and Senator Stevens began his comments, that the Internet isn't an appliance you can just simply turn off. It is so critical to a child's development, his success in the workplace, success in school. Essentially, we cannot turn off the Internet and expect the children of today to be competitive in a global information economy. So, we have to find the strategies to empower parents to help keep their kids online while also away from pornographic material.

Congress has asked this question before. And Dr. Weaver had mentioned the National Academy of Sciences' two-year study on this issue. The Congress also commissioned the COPA Commission to look at this issue, as well. And both those blue-ribbon panels have suggested that Congress needs to take a—the solutions problem is a holistic one—no substitute for the parenting, as Tatiana had mentioned, and that public education, Congressionally funded public education, wouldn't be a bad idea, either, but good parenting, use of parental-control tools, whether they be filters or monitors, or a combination thereof, is the effective way to go.

The good news is that parents are getting this message. The majority of parents are actually using—with teenaged children—filters. Also, there's a sharp increase in the amount of parents, according to the Pew Internet & American Life Project, in the last several years who are using filters. So, there's hope.

We're also very concerned about Dr. Weaver's comments about content as being untethered from its World Wide Web roots. Filters and filtering tools analyze text in a Web page. And just the same way that Google returns a perfect result for your search, filters do the same thing when it comes to analyzing text and Web pages, the text that pornography is embedded in. As that content and that multimedia gets untethered from those roots, we think that there's a challenge there, but, as the industry converges, the multimedia of today and tomorrow, we think there's a lot of opportunities to empower parents.

I was thinking, in the—I've been attending your obscenity—or your indecency discussion, and I've been wondering whether—why don't I use the V-chip? I have three young children—and I have implemented, and then I've used it, but I—my parental-control choice, at the moment, is my TiVo. The TiVo on my television set is basically a large computer with really intuitive software. I actually select the content and prerecord the content I only want my children to see, and that content only. And they watch it on the terms that I dictate. And I think those tools are just a sample of the powerful and innovative tools we'll see coming down the road. And I think if the industry gets together, we can do it right, just the way that we can filter content in today's Internet.

I thank the Committee.

[The prepared statement of Mr. Lordan follows:]

PREPARED STATEMENT OF TIM LORDAN, EXECUTIVE DIRECTOR, INTERNET EDUCATION FOUNDATION (IEF)

Chairman Stevens, Co-Chairman Inouye and Members of the Committee, thank you for inviting the Internet Education Foundation to comment on this enormously important issue.

I am Tim Lordan, Executive Director of the Internet Education Foundation (IEF).

About Us

IEF is a non-profit, 501(c)(3) organization dedicated to educating the public and policymakers about the potential of a decentralized global Internet to promote democracy, communications, and commerce. In furtherance of this mission, IEF executes two main projects: the Congressional Internet Caucus Advisory Committee¹ and the GetNetWise Project.² Working on the former project has allowed IEF to closely follow the development of policies and practices aimed at ensuring that children have safe and rewarding experiences online. Through the latter project IEF works to educate parents on the steps they can take to keep their children safe online.

The Congressional Internet Caucus Advisory Committee has held over a half-dozen Congressional education panels and technology demonstrations on the state of the art in keeping children safe online. For these Congressional briefings we have assembled experts in the field of children's online safety—from law enforcement officials to technologists.

In developing the *GetNetWise.org* site we rely on similar experts in the field of child safety to develop our educational materials. Further, our industry partners bring important technical expertise to the project. The site includes precautionary tips, short video tutorials and suggested actions to take to combat various cyber threats including kids' Internet safety and privacy. In the last year alone, the site has attracted over 200,000 unique visitors, and is widely recognized as a critical resource for parents looking for information on how best to protect their children online. In fact *PC Magazine* lists GetNetWise as one of its "Top 100 Websites" they "can't live without."³ In addition to tips the *GetNetWise.org* site also includes a searchable database of over 70 parental empowerment tools that provides parents with detailed information about tools that filter sexually explicit content, limit a child's time online, monitor their online activities, and block children from providing information about themselves to strangers. This tools database is the cornerstone of the GetNetWise website and central to its success.⁴

The Challenge

Access by children to age-inappropriate material is a parenting challenge in any medium. Parents must make decisions everyday about the types of content that are appropriate for their children at every stage of their development. While the concerns families harbor about Internet pornography are very real, parents are also realizing that the Internet has become an integral and necessary component of their children's future success in school and, ultimately, in the workplace. The Internet, in all of its myriad manifestations, is not an appliance that parents have the option of simply turning off. Nor should they—even if they were able.

It is beyond the scope of my testimony to detail how transformative the Internet is becoming to virtually every human endeavor. Obviously, this committee understands the Internet's profound affect the Internet is having on all manner of commerce. Soon the Internet will become the primary conduit to the digital repositories of all human knowledge. Even now, when faced with a challenging research assignment, today's school children reach for the mouse and keyboard just as naturally as I would have reached for my library card. A child's capacity to master the Internet—to communicate, to research, to collaborate—will directly impact his or her success in future academic and career endeavors. Taken one step further, mastery of

¹The Congressional Internet Caucus Advisory Committee (ICAC) is a diverse group of public interest, non-profit and industry groups working to educate Congress and the public about important Internet-related policy issues. See <http://www.netcaucus.org>.

²GetNetWise is a public service provided by Internet industry corporations and public interest organizations to help ensure that families have safe, constructive, and educational or entertaining online experiences. The GetNetWise coalition wants Internet users to be just "one click away" from the resources they need to make informed decisions about their family's use of the Internet. GetNetWise is a project of the Internet Education Foundation with an advisory board to children's online safety experts and advocates. See <http://www.getnetwise.org>.

³"2004 100 Top Websites You Didn't Know You Couldn't Live Without." *PC Magazine*, Apr 20, 2004. Available online at <http://www.pcmag.com/article2/0,1759,1554208,00.asp>.

⁴Tools database at <http://kids.getnetwise.org/tools/>.

the Internet today is a critical factor in keeping America competitive and culturally relevant tomorrow.

How do parents allow their children to use the Internet for all its many and undeniable benefits while at the same time rest assured that they are not accessing pornography while online? As any parent can attest, parenting is not restful and there are no panaceas.

Certainly in the decade since the Internet started to become widely available, Congressional intervention has provided anything but a panacea to the availability of pornography online. Neither the Communications Decency Act (CDA)⁵ nor Child Online Protection Act (COPA)⁶ has ever been enforced. While the Supreme Court struck down the CDA outright,⁷ COPA survives yet, but its outcome is far from certain. Even if COPA were to pass constitutional muster, experts say that parents would find it of little solace as the vast majority of Internet pornography—about 75 percent—comes to the U.S. from overseas Web servers outside the jurisdictional reach of U.S. laws and enforcement.⁸ This is the conclusion of a blue ribbon, National Academy of Sciences panel commissioned by Congress to undertake a study of “computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet.”⁹ The panel, chaired by former U.S. Attorney General Richard Thornburgh, reached its conclusions after two years of research, with the assistance of extensive expert testimony, and numerous meetings, plenary sessions, workshops, and site visits.

Parenting Online

There is no substitute for old-fashioned parenting when it comes to keeping children safe online and away from pornography. However, responsible parents can employ the assistance of technology tools such as content filters with remarkable efficiency. Content filtering and other parental empowerment tools are supplements, not substitutes, for parenting in the online age. As with any other approach to ensuring proper child development, active participation by parents in a child’s online activities is critical.¹⁰

Content filters use some of the same technology as your favorite search engines. A search engine uses complex mathematical formulas to return the most relevant results. The engine examines all the words you type in, it analyzes their relation to one another, searches its index of websites for similar word relationships. Content filters work in much the same way—by mathematically analyzing the relationships between words and websites to determine whether the content should be blocked. Thus, the text-based nature of today’s Internet has enabled these filtering tools to work remarkably well.

Statistics show that parents are starting to use parental empowerment tools more and more. A March 2005 report by the Pew Internet & American Life Project (Pew) showed a sharp increase in the percentage of parents who used filters—compared to those who used filters in 2000.¹¹ Any number of factors could explain this sharp increase. Major Internet service providers provide robust parental control tools as a benefit of the service itself. Most of these services or software tools use a combination of tools to help parents guide their child’s experiences online.

Pew also found that a substantial number of parents have implemented “house rules” that detail when and for how long children can use the Internet.¹² Also according to Pew, 62 percent of parents say that they have “checked up on where a child has gone online.”¹³

The statistics show that parents continue taking their online parenting responsibilities seriously. While there are no silver bullets to the problem of Internet por-

⁵ See <http://www.fcc.gov/Reports/tcom1996.txt> at § 223.

⁶ 47 U.S.C. § 231.

⁷ See *Reno v. ACLU*, 521 U.S. 844.

⁸ See Nat’l Research Council of the Nat’l Academy of Sciences, “Youth, Pornography, and the Internet” (2002) at page 4. The full report is also available online in HTML format at http://books.nap.edu/html/youth_internet/ and in PDF format at <http://books.nap.edu/books/0309082749/html/index.html>.

⁹ *Id.*

¹⁰ The Nat’l Academy of Sciences report emphasized this point by noting “[t]echnology-based tools, such as filters, can provide parents and other responsible adults with additional choices as to how best to fulfill their responsibilities. Though even the most enthusiastic technology vendors acknowledge that their technologies are not perfect and that supervision and education are necessary when technology fails, tools need not be perfect to be helpful.” *Id.* at 15.

¹¹ See Pew Internet & American Life Report, “Protecting Teens Online” 2005 by Amanda Lenhart. The full report is available online at http://www.pewinternet.org/PPF/r/152/report_display.asp.

¹² Pew Report at 10.

¹³ Pew Report at 11.

nography, the studies and research show that a holistic parenting solution can go a long way. The Congressionally appointed COPA Commission in its 2000 report to Congress shared this view. The commission concluded that the “most effective current means of protecting children from content on the Internet harmful to minors include: aggressive efforts toward public education, consumer empowerment, increased resources for enforcement of existing laws, and greater use of existing technologies.”¹⁴ The holistic approach includes active involvement in a child’s online activities, using parental control tools such as filters, and setting basic rules for proper Internet use.

Opportunities for Parental Control Solutions in the Age of Convergence

While the Committee has chosen to bifurcate the Internet hearing from the mass media decency hearing, we believe that these seemingly disparate issues are headed for a convergence. Digital convergence means that the lines separating various types of media platforms are blurring. Now, more and more audio and video segments are coursing through online and wireless networks, increasingly un-tethered from the common Web browser. These segments are streaming to a new array of applications and devices in ways never imagined when *GetNetWise.org* was launched in the last millennium. The terms video iPods, IPTV, flash video, and vlogging have suddenly entered our daily lexicon. In fact, the Internet is starting to become the delivery vehicle of choice for traditionally produced mass media content.

On the one hand these developments pose challenges to industry efforts to give users effective parental empowerment tools to protect children from inappropriate content. Conversely, because of the power and flexibility of information communications technologies multimedia convergence presents an incredible opportunity for the industry to develop intuitive, flexible and powerful parental control solutions that parents can use.

The Challenge of Multimedia Convergence

As it becomes easier to host, distribute, and access video content online, filters will have to evolve to keep up. Until just recently Internet content was limited to HTML-wrapped text and static images. While Internet video has been a concern for parents for some time now, online video always seemed inextricably bound to its World Wide Web text platform, and easily filtered by software tools. The multimedia Internet of tomorrow will very likely contain the same content as mass media networks. Even today, video content produced for network television is available for viewing on Apple iTunes and Google Video. Further, the Internet is starting to become the dominant ecommerce distribution mechanism for popular music.

A substantial amount of the multimedia content coming online lacks basic ratings information that would otherwise be present if delivered through traditional channels (e.g. broadcast, cable TV, satellite TV, DVD, VHS, compact disc, etc.). Ratings information, embedded digitally into the content, would be invaluable in developing powerful and flexible content control tools for the age of multimedia convergence. Internet filtering tools of tomorrow could sort PG-rated content from G-rated content by reading the embedded digital ratings information. This is the type of nuanced content controls parents will want and need.

Further complicating matters is the distribution of non-traditional multimedia over wireless networks and the Internet. While mainstream media firms are starting to move their movie, television and music content online, the Internet is awash in new multimedia content that is sprouting from myriad content producers using readily available and low-cost digital tools. Increasingly available and robust broadband connections to homes and businesses will also fuel the explosion of non-traditional content flowing online.

Eventually parents will demand that they have the same ability to control their children’s access to the multimedia content online as they do the content from their television, DVD player, local cinema, or record store. The COPA Commission was prescient in recommending in its report to Congress in 2000 that “as we move forward, it is important that technologies to protect children reflect next-generation Internet systems and the convergence of old and new media.”¹⁵

The Opportunity

These challenges can be met and the possibilities for parental controls in the multimedia Internet of tomorrow are truly breathtaking. The smart devices connected to the Internet are capable of performing any number of complex tasks given

¹⁴The “Final Report of the COPA Commission,” released on October 20, 2000, is available online in HTML format at <http://www.copacommission.org/report/> and in PDF format at <http://www.copacommission.org/report/COPAreport.pdf>.

¹⁵See Final Report of the COPA Commission, at 39.

the proper information. A former Federal Communications Commission Chairman once famously quipped that a television set is nothing more than a toaster with pictures. With respect to the intelligence built into the device itself, the metaphor may not be far off when compared with computers or other similar multimedia devices.

It is difficult to stand here today and ponder the innovations of tomorrow that will provide parents intuitive and flexible parental control tools to help them meet the challenges of parenting in the digital age. Yet we believe that by working together with industry at all levels to develop some voluntary industry best practices and technical guidelines, the content, software and technology industries can meet this challenge and create framework to help empower parents as we hurtle towards convergence.

Next Steps

To meet these challenges and seize these opportunities IEF is convening a working group of leading thinkers, family advocates, consumer groups, and technologists to explore practical solutions for promoting parental empowerment as multimedia platforms converge. During a full-day discussion on February 17, 2006, IEF will bring together members of its GetNetWise Advisory Board to help explore the issues related to multimedia convergence and parental empowerment. A select group of experts in various fields will be asked to attend and comment on different social, technical and policy issues. We believe that this is an important undertaking and necessary to assure that parental control technologies of tomorrow meet parents' needs.

This is an important time because we are just moments ahead of the curve on this issue. The project that we are starting will require the participation of content producers, software developers, information intermediaries, broadband providers and parents themselves. Our goals in promoting a solutions-oriented discussion on Multimedia Convergence and Parental Controls are three-fold.

First and foremost, we want to assist parents in making informed and nuanced decisions about the multimedia content their children access whether it comes over the air, down from a satellite, over a broadband connection, or through a mobile entertainment device.

Second, we want to develop strategies to help assure that multimedia content includes appropriate ratings information and that distribution intermediaries are able to interpret the information and display it—ultimately enabling access control for underage users.

Third, we want to help educate parents how to understand the various ratings schemes so that they can make informed decisions about what content they will let their child access.

The CHAIRMAN. Thank you very much.

Mr. Cambria is the counsel to the Adult Freedom Foundation. Pleased to hear from you, Mr. Cambria.

STATEMENT OF PAUL J. CAMBRIA, JR., GENERAL COUNSEL, ADULT FREEDOM FOUNDATION

Mr. CAMBRIA. Thank you. Thank you, Chairman Stevens, Senator Inouye, and distinguished Members. I thank you for the opportunity to speak to you today about this important national topic.

I am general counsel to the Adult Freedom Foundation, but I am also counsel to numerous individual and corporate clients who offer lawful adult-oriented entertainment to interested adults.

In years of representing the adult-entertainment industry, I've come to know firsthand the commitment of the industry to providing adults, and not children, with legal, mature entertainment. The perspective I have gained through more than a quarter century I think is unique among the panel members here today.

My own views concerning adult entertainment are not only influenced by my profession, my experiences, but they're also tempered by my experiences as a father of five children, all girls, between the ages of 2 and 16. With teenagers at home, I share the concerns of parents and Members of this Committee for the welfare of children in all their activities, including online communication, but I also

want them to appreciate that the true freedom of living under our system of government means that we do not succumb to efforts to restrict First Amendment rights of the majority of adults by unlawfully restricting access to non-obscene and, therefore, lawfully protected material.

Lawful adult expression is accepted in mainstream America, in both the marketplace of ideas and in the commercial marketplace. The *Adult Video News*, which is a trade-industry paper publication, estimates, as we have heard here today, that the revenue in 2005 from such material was approximately \$12 billion, with over \$2.5 billion generated from the Internet. The Free Speech Coalition reported, in its 2005 White Paper, nearly half of the retail outlets in the United States sell or rent adult titles, which generated revenue in excess of \$3.95 billion. Approximately 40 percent of American hotels offer adult videos, while the Nation's major cable and satellite television providers offer many channels, as well.

A Nielsen/NetRatings study estimated that approximately 34 million Americans visited adult entertainment sites on the Internet during August of 2003, and, on an average day, American adult websites have as many as 60 million unique visitors, far more than we see for the top news sites in the world.

Given this indisputable popularity, adult entertainment on the Internet is clearly an acceptable form of legal entertainment for a substantial segment of our community.

The Committee asked what role government should play in protecting children on the Internet. My answer is, government clearly plays a major role and has provided a variety of powerful tools sufficient to address any concern it may have about adult expression on the Internet, not the least of which is the willingness of the adult-entertainment industry, as evidenced by your gracious invitation to me here today, and my words and efforts to work with Congress and work with the Department of Justice, to demonstrate that the adult-entertainment industry is interested in fashioning effective solutions to the concerns that we have here today.

As I have listened this morning, I realize just how far behind we are in communication. Mr. Valenti, this morning, the various things that he said, I agree with and think could be applied, as well, to the adult side with regard to, for example, ratings—self-ratings of the materials. Self-ratings of the materials could dovetail with filtering processes, which allow parents to block, at the destination computer—the one in the home—sites that are unwanted as far as parents are concerned, for children, but, at the same time, not censor unlawfully the flow of information which would be available and acceptable to an adult, who would have the right to acquire this kind of material.

The adult-entertainment industry has been a staunch supporter of efforts by groups that are against child pornography. They are involved in supporting groups that are against child pornography. They are involved in reporting cases of child pornography. They've been involved in offering and paying rewards for those involved in child pornography.

I think that the adult-entertainment industry is certainly ready, willing, and able to discuss, in a productive manner, a rating system much like we heard about this morning—obviously, tailored to

the content that we're dealing with—the same as the music industry is involved in voluntarily, and the same as we have with some video games, and others. Every American website is governed by the Federal obscenity laws and the child pornography laws. Adult-entertainment producers had been meticulously verifying the age of performers long before they were required to do so by Federal law. You passed the CAN-SPAM Act of 2004. It protects children by regulating the market, by American companies. And it certainly has been doing a good job, as we heard again here this morning.

Congress doesn't need to burden Internet speech, particularly with controls that are not constitutional. And we've seen some examples of attempting to do that, and the Supreme Court has struck them down.

I submit to you that a dot-kids domain would be the same as a family tier situation that you were discussing here this morning, and that a dot-kids domain would be far more beneficial than a dot-xxx domain, because, in a dot-xxx domain, foreign countries could totally ignore that and feel that they weren't bound by it and still send the material in; whereas, a dot-kids domain would be a situation where, if you programmed your computer so you could only accept that, that would mean that that material, fit for children, would be all that that computer would access. And that seems to be a more workable solution.

I've exceeded my time here. I apologize for that. I obviously welcome this opportunity. I hope that this is the beginning of an ongoing opportunity to attempt to come up with solutions. The adult-entertainment industry is interested in coming up with solutions, and in cooperating, and in helping the filtering process be successful. I welcome your questions, and I, again, thank you for this opportunity.

[The prepared statement of Mr. Cambria follows:]

PREPARED STATEMENT OF PAUL J. CAMBRIA, JR., GENERAL COUNSEL, ADULT FREEDOM FOUNDATION

Good afternoon. Thank you for the opportunity to speak with you today about this important national topic. I am Paul Cambria, general counsel to the Adult Freedom Foundation, and counsel to numerous individual and corporate clients who offer lawful adult-oriented entertainment to interested adults via magazines, movies, and the Internet. During my years of representing the adult entertainment industry, I have come to know first hand the commitment of the industry to providing adults, not children, with legal, mature entertainment. The perspective I have gained through more than a quarter century representing individuals and businesses involved in adult entertainment is probably unique among the panel members you will hear from today. It is my hope that my remarks will bring some balance to a discussion before this Congress that is too often dominated by a vocal minority intent on vilifying expression protected by our Constitution.

My own views concerning adult entertainment and, in particular, its availability on the Internet, are informed by my professional associations, but are tempered by my experiences as a father of five children. With teenagers at home, I share the concerns of parents and the Members of this Committee for the welfare of children in all of their activities, including online communication. But I also want them to appreciate the true freedom of living under a government that does not succumb to efforts by a motivated minority to restrict the First Amendment rights of the majority of adults by way of speech-limiting schemes camouflaged as child protection or "pornography" initiatives.

Indeed, the pejorative phrase "Internet pornography" wrongly marginalizes legitimate adult expression that is accepted by mainstream America in both the marketplace of ideas and the commercial marketplace. Americans spend billions of dollars on adult entertainment each year. Adult Video News, the industry's trade magazine,

estimates 2005 industry revenue at approximately \$12.6 billion, with over \$2.5 billion generated by adult Internet entertainment. The Free Speech Coalition also reports in its 2005 White Paper that nearly half of the retail outlets in the United States that sell or rent videos also carry adult titles and, in 2002, adult video and DVD rentals and sales at these stores exceeded \$3.95 billion. Adult movies are available in approximately 40 percent of American hotels, and the Nation's major cable and satellite television providers offer many channels of adult programming.

And, of course, adult entertainment is popular among Internet users. A Nielsen/NetRatings study in 2003 estimated that approximately 34 million Americans visited adult entertainment sites on the Internet during August of that year. On an average day, American adult entertainment websites have as many as 60 million unique visitors—far in excess of the unique visitors to even the top news sites in the world. Given its indisputable popularity, Internet adult entertainment cannot be written off as mere “pornography” at the whim of those who refuse to acknowledge that it is an acceptable form of legal entertainment for a substantial segment of our community.

This Committee asks whether the government should play a role in controlling so-called “pornography” on the Internet. My answer is that the government already plays a major role, and has at its disposal a variety of powerful tools sufficient to address any concern it may have about adult expression on the Internet—not the least of which is the willingness of the adult entertainment industry to work with Congress to fashion effective solutions to concerns that are proven to be legitimate.

Contrary to the claims of those who wish to stifle any adult expression with an erotic theme, the adult entertainment industry does not exploit children. The industry does not employ child performers, and does not condone access by minors to materials created for the entertainment of adults. Put simply, the market for adult entertainment producers is adults, not children. In fact, the adult entertainment industry is a staunch supporter of efforts by the Association of Sites Advocating Child Protection (ASACP), and also supports voluntary labeling and content-rating, and the use of parental filters such as Netnanny.

Moreover, adult businesses on the Internet are currently subject to an array of legal requirements. Every American website is governed by the requirements of Federal obscenity laws. Similarly, these websites must also comply with strict Federal child pornography laws. Consequently, adult entertainment producers were meticulously verifying that their performers were of the age of majority long before Federal law in 1995 required them to keep performer identification records.

Additionally, the 2004 CAN-SPAM Act protects children by regulating the marketing by American companies of adult materials through e-mail. Several states have also enacted laws prohibiting the dissemination of harmful materials to minors, and these laws compliment long-standing state obscenity and child pornography laws that can also apply to adult entertainment websites.

Consequently, before Congress acts to further burden Internet speech protected by the First Amendment, it should consider the objective need for additional laws, and it should avail itself of the adult entertainment industry's repeatedly rejected offers to assist Congress in fashioning effective and lawful solutions. Congress cannot control through legislation the illegal activities of overseas webmasters or spammers, whose business practices reflect negatively on the Internet as a whole. As seen after the implementation of the CAN-SPAM Act, foreign webmasters will continue to engage in illegal and unethical activities with impunity, resulting in no noticeable impact from the end user's standpoint. It is unjust to punish American webmasters, who are attempting to run ethical and legal businesses, with over-regulation in response to problems caused by those who are beyond the reach of the United States law, and it is equally unfair to exclude the adult entertainment industry from the political process of resolving issues central to the industry.

While no system is perfect, effective means of controlling children's access to adult material on the Internet presently exist. For instance, a 2005 study by the Pew Internet and American Life Project revealed that 54 percent of Internet-connected families use some sort of filter or monitoring software. Additionally, parents themselves have the means to restrict their children's access to material they deem inappropriate for minors, and implementation of a “.KIDS” domain would assist them in this endeavor.

The adult entertainment industry would also welcome the opportunity to work with Congress and the Department of Justice to explore the potential for age verification systems that employ constitutionally valid standards or a voluntary rating system for adult-oriented content similar to those used by the Motion Picture Association of America, the recording industry, and the video game industry. In the global context of the Internet, the development of effective and affordable voluntary solutions, with the help of the adult entertainment industry, will certainly have a

broader impact than additional laws that burden only American Internet businesses while diminishing their global competitiveness, and stifle in a constitutionally unacceptable manner what is perhaps the world's most valuable source of entertainment and information.

I thank the Honorable Senators again for inviting me to testify today. I welcome the opportunity to answer any questions that the Committee Members may have.

The CHAIRMAN. Well, thank you very much, Mr. Cambria.

The balance of the programming industry has the burden of doing the rating. Why don't you just rate them yourselves?

Mr. CAMBRIA. I think that what we've lacked is a structure. We've lacked a dialogue with authorities, with either Congress or with law enforcement—

The CHAIRMAN. No, no, no, not Congress. I'm talking about, when you offer a program, it ought to be rated as adult-only and marked so that it cannot be misunderstood.

Mr. CAMBRIA. And I don't think that any adult producer would disagree with that.

The CHAIRMAN. But you don't do it now.

Mr. CAMBRIA. I agree that what we need is organization, and we need a belief that it will be meshed with, for example, filtering—

The CHAIRMAN. Well, in my advice—

Mr. CAMBRIA.—so that it means something.

The CHAIRMAN.—you need to tell your clients, they'd better do it soon, because—

Mr. CAMBRIA. I—

The CHAIRMAN.—we'll mandate it, if you don't.

Mr. CAMBRIA. I take that advice seriously, and I appreciate it.

The CHAIRMAN. Thank you.

Now, Ms. Platt, we've had questions about filtering software. Now, could you tell us, do you market filtering software with your AOL presentations?

Ms. PLATT. Yes, we do. And, actually, some of our advertising, even on TV over the years, has talked about the AOL parental controls.

The CHAIRMAN. And we've got people down there looking at that presentation now, about the V-Chip. Do you go through the process of educating people on how to use the filtering process?

Ms. PLATT. We employ a different tiered approach to educating our customers about parental controls. We do it, you know, kind of a spreading information of marketing materials, putting information online, but, more importantly, we choose to put the information in parents' hands right as they are creating accounts for their children.

On AOL, you can have up to seven screen names that use the account, get e-mail and different things like that. The first account is the adult/parent account that is opened up with a credit card. From there, the parent can create user names for other members of the household, including maybe a spouse or, you know—not necessarily all children. But when the master holder of the account goes to create a secondary account of any kind on AOL, they are asked, right off the bat, is that user going to be a child? Are they going to be under the age of 13, or, if not under the age of 13, they are given the choice to pick different categories—13-to-15-year-old, 16-to-17-year-old, or else 18-and-over. And so, right at the outset,

you know, trying to educate parents that they need to have controls in place, we push them through a process where they can't even avoid communicating about whether or not the user is going to be a child.

Once the account gets set up, the parent presumably will have chosen parental controls for their child. There are various e-mails that we send out. I mentioned in my oral testimony, and also my written testimony, the AOL Guardian report that we provide to parents, where they actually can sign up to get a list of the websites that their child has been to, and also who their child has sent e-mails to, or received e-mails from, as well as instant messages. So, there's ongoing communication with the parent about what the parental controls mean.

Say a parent chooses to set up the account, but, at the time, it's not meant for the child; and so, they set it up as an adult account, and then they realize that they're letting their child use it. We make information available throughout the service. In our safety areas, we actually have a keyword, parental controls. We put different promotions from time to time in our programming areas to talk about parents and children online and safety. So, we employ a variety of different push mechanisms to get information out there.

The CHAIRMAN. Well, that's all nice. I wonder, you weren't here this morning when we heard about the new initiative of the people involved in satellite, cable, and broadband, and now broadcasting, to have an initiative through the Advertising Council to bring a common education program to families on how to use the devices and the techniques that are there now to block or to, in effect, filter out with a V-Chip, programs that parents may not want their children to see. Is AOL involved in any Internet provider/supplier, I don't know what the generic term would be, to get everyone involved to see if we can have a common education program, like the television media and the radio media are trying to do?

Ms. PLATT. Well, you're correct, I was not here earlier today for that. As indicated in my written testimony, AOL engages in a variety of different efforts where we partner with other companies in the business to launch education campaigns, I mentioned Safety Clicks!, America Links Up, and there are a few others that are mentioned where we're going out there to spread the word, leveraging the resources of not only AOL, but other players in the industry, to get information out there into the hands of parents, and also information directly to children about safety tips they can follow about being safe online.

There is a difference, though, you know, in terms of the different filtering that different companies provide, and how it works and things like that. One of the approaches that AOL has taken from the beginning, recognizing that a lot of parents don't really understand what this technology is all about, and they're completely confused by what their kids seem to know so much more than they do, is to create these kind of default settings for parents, so that it's not too confusing. So, you, as a parent, you can tell us the age of your child, and we will tell you what the normal setting would be, what would be the normal appropriate content for that child's age. We then also allow parents to customize the parental controls.

Say they're really confident about their technical ability, or they want to give a little bit more room to their child after the child has been online for a year or so and they've spent some time with them, seeing that the child is acting mature online, then they can go in and fine-tune, change the Internet settings, change the instant-messaging settings, or what the case might be. But, really, understanding that we pull together, as a company, resources that we have to understand that there's content out there on the Web. We can use our own internal technology to rate websites out there to determine what is appropriate and what is not appropriate, creating a sort of white-list approach. Say, in the kids environment, we will ensure that kids are not going to be able to get to websites that have inappropriate content. And so, that there isn't a sense that the child is on the parental controls, they start complaining to their parent, "Well, why am I on this restrictive control?" Because parents often succumb to the pressures of their child, saying, "Oh," you know, and take off the parental controls. We also provide additional content that we create specifically for the children. We have an award-winning kids channel, called KOL, which provides really engaging, age-appropriate content.

The CHAIRMAN. That's all well and good, but, you know, in my State, I just got the figure the other day, 90 percent of our children in sixth grade are totally computer literate. Their parents aren't. Now, we are looking at these other entities that we talked to this morning, and organizations. But with a family, where a husband and wife both work out of the house, you've got three kids coming back to the house between 2 and 4 o'clock in the afternoon, and then the parents come home at about 6 o'clock, it seems to me that the industry itself that's marketing all this computer stuff has a burden it has not shouldered yet, and that is to find a way so that those parents, who really don't understand it that well, can ensure that their children are not getting in this pornography while they're not there. Do you agree with that?

Ms. PLATT. I do, and I welcome the opportunity to increase awareness. And I think that, you know, not only industry players need to come together, but we need to work with public and private partnerships.

But let me say—

The CHAIRMAN. Well, wait a minute.

Ms. PLATT.—one piece of—

The CHAIRMAN. I'm over—I've run over my time. I'm a chairman that usually uses the gavel on other people, so I have to do it to myself.

Senator Inouye?

Sorry about that. He may ask you the same question, I don't know.

Senator INOUE. Please continue.

Ms. PLATT. Thank you. What I wanted to say is, contrary to some research, actually, that I think Tim quoted from Pew, there was a study conducted late last year, the AOL-NCSA study, that found that only 8 percent of parents using the Internet, as a rule—not AOL users—are actually using filters on their computers. That means there are households with kids in the household. Now, AOL, the percentage is significantly higher. But that, to me, points to a

problem that I called it earlier, the laziness of parents, or perhaps the overwhelmed nature that parents have in dealing with these computer issues, where we have to make it easy for them, but we have to also reinforce to them that they do need to consider it part of their parental duty.

Mr. LORDAN. If I may interject, Senator, with regard to your question earlier about the Ad Council, I do recall several years ago there was a movement to try to get the Ad Council to spearhead a campaign about keeping kids safe online, either from predators or from pornographers. And I don't know if it ever did go anywhere. But an interesting thing, as far as education goes, you see that the major online providers, like MSN, AOL, Earthlink, and others, are essentially competing in marketing the effectiveness of their parental controls. Now, obviously, Tatiana would say that theirs is the best. That's a healthy, healthy marketing campaign. If parents are—if they view that as a competitive advantage against their competitors, then they're obviously advertising the strength of their parental controls. I mean, that's a huge amount of money that you would otherwise have to raise from a nonprofit way and go to the Ad Council to do. I don't know how much advertising dollars are going into those marketing campaigns, but it's substantial.

The other thing is that Congress, when it comes to asking these questions about how to keep kids safe online, sometimes they ask the questions, but the commissions that are tasked to do it over a 2-year period, or a 1-year period, like the COPA Commission or the National Academy of Sciences, don't have the funding to actually spread the word. In fact, the COPA Commission, when it was asked to do its study, didn't even have the funds to do the report. They cobbled together a few dollars over the course of a year, they did a tremendous amount of research. They didn't have the money to even host a website to hold all their findings and their research. We scraped the Internet Caucus Advisory Committee, which advises the Congressional Internet Caucus Senator Burns chairs—we cobbled together a few dollars to host that website, and we host it, to this day, because the report to Congress is available for download today, but they didn't have the funds to do it.

So, there's a lot that can be done on the education campaign, not only from government, but also industry. But you don't see a lot of the cable companies or the broadcasters competing—doing marketing campaigns about the effectiveness of their V-Chip versus the other guy's V-Chip.

The CHAIRMAN. Well, you're wrong. They're down there right now doing it.

Mr. LORDAN. But as far as a marketing, almost education campaign, I'm not sure we've seen that in the past, not the way that these online companies are competing.

The CHAIRMAN. No, because at our request, they're working together. That was the question—

Mr. LORDAN. Perhaps.

The CHAIRMAN.—Why doesn't the computer area work together?

Mr. LORDAN. Oh, they do.

Ms. PLATT. They do.

Mr. LORDAN. They do. All the time. There are lots of different initiatives, as I mentioned earlier in my testimony.

The CHAIRMAN. Sorry, Daniel.

Senator INOUE. Dr. Weaver, what is your definition of “child pornography”?

Dr. WEAVER. Well, now, my research hasn’t focused on child pornography. I rely on the definitions that have been provided by Federal legislation, and refined by the courts, when I use that term. Obviously, it’s pornography involving children. I think there’s also a condition that, you know, individuals who appear to be children. I think that’s part of our necessity for—

Senator INOUE. I can understand—

Dr. WEAVER.—age verifications.

Senator INOUE. As a witness said, 12-year-old, that’s obviously a child. But in some definitions they speak of “involving minors.” What would that mean?

Dr. WEAVER. I’m not sure. I mean, I have, in our research, we’ve seen images, we’ve seen videos, that appear to involve women, very young women, 13–14. But it’s impossible to be sure, because some people are very petite, et cetera, et cetera. There is one, a famous case within the adult industry of an actress who made a considerable number of productions, and we later learned she was 16 years old when she was making those. So, I think it’s not an easy issue. I think the problem is that anytime we use images of an individual who appears to be particularly young, a minor, then we’re perhaps conveying a message to potential young viewers that, “Hey, there’s somebody just like me.” And that might be problematic. And I think it is.

I would like to, if I could, point out one other issue. Actually, a couple. Today, we’ve heard a lot of discussion about the adult-video industry, and my experience, and our research, suggests that we need to be careful when we think about the adult-video industry, because it’s much like discussing, and the best metaphor I can come up with is the Alcohol Distillers Association. Sure, there are legitimate individuals, legitimate organizations, that are trying to do the best they can to operate within the law, but you know, there are plenty of moonshiners out there, too. And I think that’s the problem today on the Internet, is that the Internet provides those people who want to operate outside the bounds of organizational constraints, perhaps provided by the adult industry, et cetera, with the opportunity to do so, to have these websites where content is free.

We did one study where we got a group of undergraduate students involved, and, in one afternoon, we, at 3 o’clock, with permission from the State of Virginia, began searching websites. We started off with a search term from the 1960s, “free love,” you know, hypothesizing that a student might be wanting to write a paper about the youth movement of that era. We instantly got, I think, 25,000 hits, the first eight of which were porn sites. And, in 1 hour, recording the content onto videotape, we never got to anything other than the porn sites. And many of them were just streaming movies, complete images of people engaged in sexual behaviors in all sorts of public locations, et cetera. And, as a parent, I couldn’t help but imagine what that would be like, to have a child come

home at 3 o'clock in the afternoon and sit down at the computer, and most children are so sophisticated, as Chairman Stevens noted. There's no problem to override, you know, any sort of software controls that most filtering companies offer, most providers offer, or go to a friend's house and work on their computer. It's just really frightening, when you think about the amount of material that is perhaps illegitimate, outside of the adult industry's management structure, that's being streamed to, and available to children today.

Senator INOUE. Every witness today, in the morning and this afternoon, has touched upon parental obligation or parental responsibility. And yet, our study indicates that, on the V-Chip for television, only 15 percent of the parents are either aware of it, or know how to use it, or have used it. And Ms. Platt just said that—8 percent. Are you suggesting that the filtering process is not working?

Ms. PLATT. I'm suggesting that there needs to be greater work done in the area of educating parents about the availability of filters that are there for them, and how to use them.

Dr. WEAVER. Senator, if I may, how many homes have you walked into, remember 10–15 years ago, where the videocassette recorder always flashed the incorrect time? How many people had trouble programming the time on their home videocassette recorders? And now we're expecting parents to be able to figure out how to manage the Web filters, et cetera, on their computers? I think we have not done the job that needs to be done to, number one, talk about sexual images, talk about perhaps how they're not a forbidden fruit that needs to be craved by young adults, but also to provide parents with the understanding of how to program their V-Chip, how to program their digital cable box, how to get their computer to block certain images that are inappropriate.

Senator INOUE. My concern with this hearing is that our first witness this morning said that, in a poll, about 70 percent of the parents who were polled said they were very much concerned about pornography and obscenity, adult and children. In the same poll, they asked question number two, do you want the Government involved? Seventy percent said no. My concern is that this matter has become—has incensed Members of Congress to a degree that if the industry is not going to act upon it, Congress will. And, oftentimes, Congress does a lousy job.

Dr. WEAVER. Well, if I may, I've talked to a lot of my colleagues, and I think that one approach that would be very, very valuable is to treat this as a public-health crisis. We now have a situation where we have sexual-education content, essentially, that is more vivid, more salient than anything we could hope to teach in our school systems, that's being offered free every afternoon on the Internet. And I think that we really need to consider this, and put the resources that have done so well at helping us reduce smoking, reduce drunk driving, et cetera, to work, perhaps, to talk about, you know, "Pornography is not something that's cool and hip. It's something else," and that perhaps those who use pornography, as many who smoke or drink and drive, will realize that it's perhaps not a socially acceptable activity. The problem is, we're not saying anything, as a society; we're staying quiet. And by staying quiet, we're conveying acceptance or approval.

Senator INOUE. I notice my time is up.

The CHAIRMAN. Senator Allen?

Senator ALLEN. Thank you, Mr. Chairman. Thank you for these good questions, very probing questions. And thank you all for your testimony here.

There are the legal distinctions in here about free speech that Mr. Cambria's talking about, and all of us understand the concept of free speech, freedom of expression, and Dr. Weaver talking about, "This is commercial speech." What AOL is trying to do, and Mr. Lordan was talking about educating people—it's not so much into—you get the child-pornography situation, and that has to be prosecuted. The pornography, though, that ends up invading a computer, whether it's adware or these pop-ups, are something that takes over your computer, but it is also something that you don't have any controls to stop, unless you use these various sort of filters, which we've figured out, at least in our household. Thank goodness, my wife Susan's father taught computers at Piedmont Virginia Community College, and so he's the most tech-savvy one in our family, and helped us do this.

The e-mails and so forth that come in are clearly commercial, in my point of view. They are not e-mailing people whatever it is because it's a freedom-of-expression matter; they want to entice you to open the e-mail up. Once you open it up, sometimes you don't know what it is, you think it's your sister's name, so "Oh well, my sister's written me," and you open it up. Well, no, it was not your sister or someone you know.

So, at any rate, it—can we have a discussion here between Mr. Cambria and Dr. Weaver on this question of whether or not this is commercial. Why would that not be considered commercial? Mr. Cambria and Dr. Weaver, I'll allow you some time to posit and argue your case, because there is a distinction between commercial speech versus freedom of expression. And would you answer what Dr. Weaver said? Or, Dr. Weaver, if you want to state your case, very quickly, let's get a discussion going on that, because there is a different sort of regulation. We can try to get dot-kids. And I've been a big supporter of that. But, reportedly, that's just not doing very well, it doesn't have the content, and so forth. I agree with you, as a strategy, that does make more sense. Unfortunately, as a practical matter, dot-kids, from what I've been told, has not been successful, as supportive as I have been for it.

So, Mr. Cambria, why would that not be considered commercial speech—

Mr. CAMBRIA. Well—

Senator ALLEN.—these ads or these e-mails or these pop-ups?

Mr. CAMBRIA. Well, first of all, commercial—

Senator ALLEN.—which is regulated differently, and it may be a deceptive practice.

Mr. CAMBRIA. Well, there's a regulation with regard to commercial speech that always talks about the issue of fraud. If there's fraud involved with it, then it's not protected speech. If it's obviously not a situation of fraud, it is protected speech. And I think that's what we're talking about here, there are a number of filters and other programs, and I'm not the technophile here to come up with that, but the way I understand it, in my own home with my

own children—I happen to use the AOL system with my children, and it works great. There are a number of things that are coming in that, if I understand Dr. Weaver correctly, talking about movies and/or other images. It seems to me these can easily be blocked by the various filtering techniques that we have. On the other hand, they should be blocked at the destination computer, if you will, the one in the home. But you should be in a position where an adult in the home can unblock and then have access to this speech, which is lawful speech. And that really comports with the First Amendment and free speech, and it comports with my understanding of the issue, which is, How do we live in this society, where we have this wonderful thing called free speech, and it's legal speech? Once we get to the legal part of it, meaning adults have a right to it, how do we then address our concerns with regard to our children?

Senator ALLEN. All right, but—

Mr. CAMBRIA. And it can be addressed.

Senator ALLEN.—it may—I'm not saying there's not a right to it. Just like you can order whatever you may want, whatever may be legal, through the mails, but you could not, I don't believe, legally send, through snail mail, regular mail, or U.S. Postal Service mail some of the things that get solicited that are e-mailed to you and come up on one's computer if you don't have all these proper filters. And there are all these roadblocks you can put in, but most people apparently are not doing that. So, would—

Mr. CAMBRIA. Well, on that—

Senator ALLEN.—you have a legal right to send that kind of thing, unsolicited, to people's mailboxes?

Mr. CAMBRIA. Well, obviously, you know, we have the CAN-SPAM Act, and it appears to be working. And it's obviously triggered by certain keywords. And we heard, that it was, in fact, cutting down tremendously on the number of e-mails and so on that people are receiving. Clearly if somebody is deceptive in speech, I believe that the government can reach that. If, on the other hand, the speech is straightforward, if it's adult, if it's not obscene, if it's not child pornography, then it is lawful. It is lawful for all purposes. And then the question is, well, what do we do about it with regard to our children? And then we come up with a measure that doesn't violate the Constitution, but solves our problem. What we've been discussing here is not only parents being responsible—put the computer in a room where you can observe it, observe your child, go through Guardian, which I do every day to my children, and all of that, but the thing is that you, in addition, come up with a way of filtering it that doesn't stamp out the speech. I mean, it's the old adage about, you know, burn the house down to light the candle. I mean, we don't do that. And we can't do that. And we've seen, historically, that each time Congress has attempted to, if you will, douse more than they're able to legally, the Supreme Court's struck that down.

Senator ALLEN. Well, and for good reason, because I'm not one who's in favor of the government restraining people's First Amendment rights, but they also do have a right to what they would like to have in their homes or their properties and so forth, and some

of this ends up being offensive. And I'm trying to find logical, legal, constitutional ways, mostly technological, as my solution.

Now, Dr. Weaver, I've gone over, 30 seconds, in—

Dr. WEAVER. I'll try. I'll try. First of all—

Senator ALLEN. Yes.

Dr. WEAVER.—we need to recognize, I discussed this with two communication-law specialists, the way that the explicit images are now being used as advertisements on the Internet, at Web portals, they both consider it, and they're very familiar with this area of the law, to be examples of commercial speech.

Second, this dependence upon filtering by the adult-video industry is just not right. It's really—there's recent research that shows, for example, that attempts to search terms like “public,” “sexual health,” “sex education,” “teenage advice about sex,” resulted in 1,500-plus websites being revealed. Sixty-three percent of those were pornography vendors. So the notion that you're going to be able to, as a family member, as a parent, somehow—that's deceptive use of those key terms. That's all there is to it. Someone has used “teenage advice about sex” deceptively to attract people to their porn vending site, and that's commercial speech, a deceptive practice.

Senator ALLEN. Thank you. Thank you.

And thank you, Mr. Chairman, Ranking Member, for your forbearance. Thank you.

The CHAIRMAN. Thank you very much.

And thank you, Senator Pryor, for waiting. But you're on.

Senator PRYOR. Thank you. Thank you so much, Mr. Chairman. Mr. Cambria, let me start with you, if I can. I tried to listen very carefully to your testimony. And I don't want to put words in your mouth, but it sounds as if you can—you do support the use of filters, as long as they're structured the right way. Is that right?

Mr. CAMBRIA. I think, as long as they don't violate the First Amendment. And I get that, actually, from what our Supreme Court told us—

Senator PRYOR. Right.

Mr. CAMBRIA.—in a unanimous decision.

Senator PRYOR. Right. And age verification, in terms of the user's age verification, you wouldn't be opposed to that, it sounds like.

Mr. CAMBRIA. Absolutely not. And I might point out, though, as Dr. Weaver mentioned the one case, there have been three cases in perhaps the last 25 years of the detection of underage performers, and, in those cases, those individuals had government-issued impeccable proof of age. And when it was discovered, the material was obviously recalled, they were not using it. It's contraband, and so on. So, it's not like it's a pervasive issue.

Senator PRYOR. Now, let me ask this. Do you believe that the U.S. Government currently has enough law on the books?

Mr. CAMBRIA. Yes, I do.

Senator PRYOR. OK. Now, let me ask—I asked an earlier panel about this dot-xxx.

Mr. CAMBRIA. Yes.

Senator PRYOR. And, a moment ago, you said you think that dot-kid is better?

Mr. CAMBRIA. Better.

Senator PRYOR. I want to know why.

Mr. CAMBRIA. Well, two reasons. Dot-xxx would not—you—we can't, in this country, unless we're able to engage in treaties with the rest of the world, impose that on the rest of the world. So, it—

Senator PRYOR. Well, how can you—OK, with dot-kid, you can't, either.

Mr. CAMBRIA. Well, except dot-kids only has one content, and that's what fit for children-only. So, in other words, if I'm home with my daughters, and I configure my computer, very easily, so that it only accepts dot-kids on the Internet, I know that's all general—

Senator PRYOR. But what if—

Mr. CAMBRIA.—information.

Senator PRYOR. But what if, then, folks who are peddling pornography and child predators, et cetera, somehow could latch onto the dot-kid. Isn't that a gateway into your house?

Mr. CAMBRIA. Well, but, again, now, you know, we're assuming something that would be a technology question. I don't know the answer to that. I'm told that that—that that can be prevented.

Senator PRYOR. I'll say this—

Mr. CAMBRIA. Like the family tier, for example—

Senator PRYOR. For the—

Mr. CAMBRIA.—that you were talking about this morning.

Senator PRYOR. For the Committee's benefit, I like the dot-xxx, and I think that's something that we ought to pursue. And I don't know exactly how that should be structured, but I think there's value in us at least throwing that on the table and talking about it at some point in the future.

What about the problem—and let me first ask about your industry and your association.

Mr. CAMBRIA. Yes.

Senator PRYOR. You represent filmmakers? Do you represent Internet websites? Both? What—

Mr. CAMBRIA. Yes.

Senator PRYOR. What percentage—

Mr. CAMBRIA. All of the above.

Senator PRYOR. OK. You called it, a few moments ago, the adult-entertainment industry.

Mr. CAMBRIA. Yes.

Senator PRYOR. Does that mean that everybody that makes adult films is a member of your association?

Mr. CAMBRIA. No. No, no, no.

Senator PRYOR. What percentage?

Mr. CAMBRIA. No. The individuals who I represent, the Adult Freedom Foundation, is basically a group of very influential producers and distributors.

Senator PRYOR. But it could be a very small percentage, as well.

Mr. CAMBRIA. Except that it would be like saying, if you were dealing with Mr. Valenti, and he was representing Universal, Sony, Paramount, and so on, that that wouldn't drive the rest of the industry.

Senator PRYOR. OK.

Mr. CAMBRIA. I think the people that I represent drive, and would drive, the rest of the industry.

Senator PRYOR. But my guess is, it really would only be a tiny fraction of the overall number of websites out there.

Mr. CAMBRIA. Here's how that would work. This is the first time Chairman Stevens has invited us here. And I think it's the same as years ago, when the Motion Picture Association was invited to Congress, and all of a sudden they came up with a rating system, because Congress wanted to know, and we respond to our government, for sure. And this is the first time. And now I'm invited here. Now I clearly will try to make this a reality. Congressman—I'm sorry, Senator Stevens said, today, "Your clients should do that." And I agree with that. And I take that as a message and mandate to my clients that we should do that.

Senator PRYOR. Yes. My advice on that would be to pay very careful attention to what Senator Stevens says, because I think he's taking a shot across your bow as a warning shot. And it sounds to me like if you don't clean up your act, we will.

Mr. CAMBRIA. I might welcome a shot across the bow, rather than one between the eyes.

[Laughter.]

Senator PRYOR. Yes. Well, the one between the eyes sounds like it's coming, if you guys don't clean up your act.

Mr. CAMBRIA. Yes.

Senator PRYOR. But, one last—

Mr. CAMBRIA. And we're here to do that—not clean up our act. We're here to cooperate and to try to make these filters work. And I think we need to do that. In other words, the same way as the motion-picture individuals have to rate their movies—and they do it voluntarily—and the music people and the video game people—if we do that, that allows us to dovetail with filtering companies so that we can then accomplish this goal. The worst thing is when the First Amendment collides with the rights of children in a way where one or the other has to give. The best situation is when we're in the middle, and we can solve the problem without hurting one or the other.

Senator PRYOR. Let me ask one last question, if I may. And that is, foreign versus domestic, how much, in your estimation, if you know—how much Internet pornography actually comes from overseas or comes offshore? My impression is that, even some of the people that we think of as U.S.-based may have offshore sites, and it's very difficult to regulate. And this may be particularly true with the free stuff. There's a lot of free stuff out there that tries to lure people onto the websites, and my impression is, a lot of the offshore people use the free lures to try to get people on their websites.

Mr. CAMBRIA. I think that it's almost the same. And I only say this because that's just my opinion; I don't have any statistics. I'm sure that we could attempt to put some together. But I think it basically mirrors what it does for the general motion-picture industry, that most of the films that are out there and generating the money and are having the most attraction come from here, but there will always be those from other countries—like today, again, Mr. Valenti said, "There may be—there were only 200-and-some movies

made in Hollywood, and they're great movies, but there may be 1,000 movies made out there, and the rest aren't so good." There are movies made all over Europe, and a lot of times we see those movies the subject of prosecution by the Federal Government because they are—they are movies that go beyond what the usual producers do here. And we see that—I've been involved in cases like that many times, and we see them from other countries, and it's far beyond what's done here. But I think most of it is done here.

Senator PRYOR. Mr. Lordan?

Mr. LORDAN. The statistics that you were looking for with regard to how much pornography on the websites is overseas or domestic is an important question. The National Academy of Sciences, in their 2002 report, determined that three-quarters of all Internet pornography is washing upon our shores from overseas sites. So, that led them to the conclusion that, even if you were—you know, put us—I'm no First Amendment lawyer, but if you—even if the COPA statute, or the CDA statute before it, were effective, you still have the problem with this 75 percent, which will undoubtedly increase after a domestic ruling. How do you deal with that? And that's why they pursued the holistic approach of parental education, parenting, and filtering tools.

Mr. CAMBRIA. Which, by the way, I think indicates that controls that stifle what American producers do punish American producers for speech that's not unlawful and have no reach on foreign producers. And so, why would that happen? And that doesn't accomplish our goal, which is to be able to protect our children, in our opinion, from what they should be protected from.

The CHAIRMAN. Thank you very much, Senator.

And thank you all. Thank you, particularly, Mr. Cambria, for coming, at—

Mr. CAMBRIA. Thank you.

The CHAIRMAN.—our request. And we thank you all for your presentation.

We'll continue our series of hearings Tuesday morning at 10 o'clock, and we're going to be dealing with broadcast and audio-flag questions on that day.

Thank you.

[Whereupon, at 4:34 p.m., the hearing was adjourned.]

A P P E N D I X

SUPPLEMENTARY INFORMATION SUBMITTED BY PAUL J. CAMBRIA, JR., GENERAL COUNSEL, ADULT FREEDOM FOUNDATION

During the hearing before the Committee on January 19, 2006, Senator Pryor commented, “in terms of the user’s age verification, you wouldn’t be opposed to that, it sounds like.” Misapprehending the point, I responded, “absolutely not,” and pointed out that in the past twenty-five years there had been only three cases of underage performers in the adult entertainment industry, and all three had government-issued proof of age.

Of course, Senator Pryor was referring to Internet user age verification—not performer age verification—an entirely different issue requiring a different response. While I am obviously in favor of verifying the ages of performers (as are my clients and the adult entertainment industry at large), I do not agree that Internet user age verification is a practical or effective solution at this time.

As the Supreme Court emphasized in *Ashcroft v. America Civil Liberties Union*, 542 U.S. 656, 667–68, 124 S.Ct. 2783 (2004), use of filtering software is preferable to employing age-verification systems. Indeed, Congress’ own Commission on Child Online Protection researched ways to protect children online and concluded that end-user filters are more effective than age verification requirements. See, Commission on Child Online Protection (COPA), Report to Congress, pp. 19–21, 23–25, 27. Further, age-verification requirements will not affect the substantial amount of explicit content coming from overseas. Rather, American adults will be burdened with credit card access hurdles that only encourage content providers to locate offshore to avoid costly age-verification obligations.

I favor the Supreme Court’s perspective: the evidence shows that end-user filtering is more effective than age-verification, and less burdensome on First Amendment rights. As the Court observed on this point:

One argument to the contrary is worth mentioning—the argument that filtering software is not an available alternative because Congress may not require it to be used. That argument carries little weight, because Congress undoubtedly may act to encourage the use of filters. We have held that Congress can give strong incentives to schools and libraries to use them. *United States v. American Library Assn.*, 539 U.S. 194, 123 S.Ct. 2297, 156 L.Ed.2d 221 (2003). It could also take steps to promote their development by industry, and their use by parents. It is incorrect, for that reason, to say that filters are part of the current regulatory status quo. The need for parental cooperation does not automatically disqualify a proposed less restrictive alternative. *Playboy Entertainment Group*, 529 U.S., at 824, 120 S.Ct. 1878. (“A court should not assume a plausible, less restrictive alternative would be ineffective; and a court should not presume parents, given full information, will fail to act”). In enacting COPA, Congress said its goal was to prevent the “widespread availability of the Internet” from providing “opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control.” Congressional Findings, note following 47 U.S.C. § 231 (quoting Pub. L. 105–277, Tit. XIV, § 1402(1), 112 Stat. 2681–736). COPA presumes that parents lack the ability, not the will, to monitor what their children see. *By enacting programs to promote use of filtering software, Congress could give parents that ability without subjecting protected speech to severe penalties.*

Ashcroft v. ACLU, 542 U.S. at 669, 124 S.Ct. 2783. (emphasis added)

Parental supervision and end-user filtering are the most effective options. The adult entertainment industry would welcome the opportunity to work with Congress, the Department of Justice, and the major Internet service providers and filtering software companies to devise effective and constitutional methods of protecting children online through filtering and parental supervision.

Notably, many adult websites already self-rate for use in conjunction with popular filtering software programs. Many of these companies self-rate under the auspices of the Internet Content Rating Association (ICRA). The ICRA is an international, nonprofit organization with a goal of making the Internet safer for children through self-rating of website content. Self-rating of websites started in 1996, when the Recreational Software Advisory Council developed the "RSACi" rating system for nudity, sex, language, and violence. In 2000, the ICRA substantially expanded the scope of self-rating with the unveiling of a more comprehensive, international rating system intended to work hand-in-hand with parental filtering systems.

Today, working cooperatively with many of the world's major Internet companies—AOL, AT&T, Verizon, Microsoft, T-Mobile—the ICRA operates a free self-rating system that meshes with its own free *ICRAplus* parental filter and other popular filtering systems to give parents effective means to control their children's access to content on the Internet. More information about these important parental control efforts can be found at www.icra.org.

Significantly, since the Committee's hearing on January 19, 2006, I have met with ICRA representatives and key self-rating and filtering experts on behalf of the Adult Freedom Foundation to discuss an even more aggressive industry self-rating program. These discussions continue to develop, and I would be happy to report back to Chairman Stevens and the Committee on our progress.

PREPARED STATEMENT OF KAT SUNLOVE, LEGISLATIVE AFFAIRS DIRECTOR, FREE
SPEECH COALITION

On behalf of the Board of Directors and members of Free Speech Coalition, we wish to thank Chairman Stevens, Ranking Minority Member Inouye and Members of the Senate Commerce Committee for this opportunity to submit testimony in regards to your recent hearing on "Protecting Children on the Internet."

Founded in 1991, Free Speech Coalition (FSC) is the trade association of the adult entertainment industry in the United States and has a membership of more than 3000 adult businesses, nightclubs, webmasters, attorneys and other individuals who make their living providing legal adult entertainment products and services for a receptive and appreciative adult market. A good portion of our membership is also composed of fans and customers who benefit from our defense of their free speech and privacy rights. FSC represents both the largest and most recognizable names in the industry as well as hundreds of smaller and medium-sized entrepreneurs, from mom-and-pop video stores to home-based websites. These business owners employ thousands of Americans in well-paying jobs across the Nation and contribute many millions in State and Federal taxes. According to Adult Video News (January 2006), the adult entertainment industry contributes more than \$12 billion annually to our national economy.

Many of our members are also parents and grandparents and sincerely share your concerns about protecting our children from accessing adult material on the Internet or becoming the target of child predators. As was pointed out by several witnesses at your January 19th hearing, there is no "silver bullet," no comprehensive solution to this problem because of today's easy access to the Internet, its ubiquitous presence in American life and perhaps most significantly, the international nature of the Internet. The fact that some 60 percent or more of adult material available online comes to our shores from overseas greatly complicates our efforts to find an effective solution to the problem of protecting minors here in the United States.

But let us first define our terms. Child pornography is, as Ms. Parsky of the Department of Justice pointed out at your hearing, a misnomer, which would be better referred to as a "record and exhibition of child sexual abuse." It is reprehensible and tragic and is appropriately illegal; not only its transmission over the Internet but even mere possession can be, and rightly is, prosecuted. America's adult entertainment industry universally rejects such material and supports government efforts to eradicate it, including the fact that FSC offers and has awarded a \$10,000 reward for information leading to the conviction of a child pornographer. In furtherance of our goal of protecting children in the online world, the adult entertainment industry supports the Association of Sites Advocating Child Protection, a non profit organization that is dedicated to eliminating child pornography on the Internet. (See more on ASACP at www.asacp.org).

Obscenity, on the other hand, is material which has been deemed by a court of law to exceed a community's standards of decency and which lacks serious literary, scientific, political or artistic value, as judged by the reasonable person. However, undesirable obscene material may be to a community, it should not be confused with a depiction of child sexual abuse in which an actual minor is harmed.

Sexually explicit materials, which are legal, constitutionally protected forms of adult entertainment, while not obscene for adults, are obviously not appropriate for minors. Materials in this category, widely available on the Internet, create problems in how to shield minors while still allowing adults access. Often referred to as “pornography,” it is this legal adult product, along with sex education materials, sex toys, marital aids, novelties and other adult entertainment products, that members of FSC produce and sell to an adult marketplace. While not everyone enjoys or appreciates the full range of adult entertainment, it is nevertheless a legal and indeed very popular line of goods.

The Supreme Court has determined that some of these non-obscene materials, which are legal for adults, are nevertheless obscene as to minors and their distribution to minors may be prohibited. Material deemed “harmful to minors,” when placed in the Internet environment, means that the transmission of constitutionally protected, i.e., non-obscene, material to adults becomes more difficult to accomplish without risking unintended access to it by minors. FSC is actively seeking secure means of preventing access to such materials by minors without intruding on the free speech rights of adult consumers.

As was pointed out by Senator Inouye at the hearing, a recent survey showed that while a large majority of American parents are concerned about the problem of protecting their children on the Internet, an equally large majority do not want the government involved in determining solutions for them. Parents and grandparents, as well as others in a supervisory role, such as teachers or librarians, are the first line of defense in protecting children from accessing inappropriate materials on the Internet. Common sense public policies like putting filtering software in libraries on computers used by minors, while leaving some computers unfiltered for adult use only, serve to protect children without restricting the free speech rights of adults. By sending the challenge to the Child Online Protection Act of 1998 (COPA) back to a lower court, the Supreme Court brought attention to the question of whether parental use of filters on the home computer may not offer the best approach to protecting our children. Results of that lower court inquiry are pending.

Historically, it was possible to segregate adult material in the public marketplace so that children could be prevented from accessing matter intended only for adults. A brick and mortar store could provide signage at the doorway, turning young people away. If a youngster dared venture inside, a gatekeeper was available to check an identification document and thus determine the potential customer’s age. With the advent of the Internet and its prevalence in society, the challenges are much more complex.

America’s legitimate adult entertainment industry eagerly awaits a technology to serve as that gatekeeper that will accurately, economically, and with minimal intrusion into adults’ privacy rights, determine the age of the website visitor prior to exposure to adult material. Numerous attempts have been made in this regard, with varying degrees of success. Despite the failure to date to develop such a fully effective Age Verification System (AVS), many adult websites have employed one of the models currently available, despite their expense and their reduction in adult customer traffic. Some of the problems involved are that many adults do not wish to reveal personal data needed to determine their age and Americans move frequently, so that drivers’ license and other such databases may be as much as six months out of date. Plus, AVS is an imperfect screening mechanism in that an under-age person can input personal data from their parents or another adult and still gain access to materials.

In the COPA legislation, Congress essentially endorsed the use of a credit card for restricting access to adult sites by minors. Unfortunately, in recent years credit card companies have indicated that they do not wish to be used in this way and indeed, are now issuing credit cards to minors without unique identifiers as to the age of the holder, making their use less effective for age verification.

Another approach to inhibiting minors’ access to adult sites is through meta-tagging—either of adult content or conversely, by tagging content suitable for children. In fact, many, if not most adult sites based in the United States do employ some form of self-rating through a voluntary program such as Internet Content Rating Association (ICRA). Such identification at the “html code level” of a website allows for effective filtering at the destination computer, i.e., in the home or school computer used by a child. Most U.S.-based adult websites do utilize ICRA or other systems to self-rate as containing adult content. Unfortunately, meta-tagging of American adult websites does nothing to prevent the entrance of adult material from foreign sites. For this reason, while we support voluntary adult content tagging, it is the position of FSC that tagging of sites suitable for children and the broader use of a “kids.us” domain would be far more effective. FSC urges the establishment of a dot-kids Top Level Domain (TLD), the Internet equivalent of a safety zone, much

like a bicycle lane on a highway. In this way, a destination computer can be set to filter in those sites that are tagged as suitable for children, automatically eliminating any sites—including overseas sites—that are not so designated.

Some arguments were advanced at the January 19th hearing in favor of establishing “.xxx” as a TLD for use by adult entertainment. Although this solution has a surface appeal, there are substantial practical and constitutional obstacles to the success of such a proposal. If it is voluntary, there is little likelihood that it would be universally adopted by U.S.-based adult websites. Even for those who do adopt a dot-xxx identity, they will certainly not wish to drop their branded dot-com identity, in which they no doubt have a large financial investment in marketing and in customer loyalty. The result would be an expansion of available adult material, not a reduction, a fact which has elicited conservative opposition to the .xxx concept. And finally, if American adult dot-coms did not voluntarily migrate to .xxx, this would create a strong incentive for our government to mandate such segregation, raising tough First Amendment issues. Such a content-based approach restricting legal adult expression is unlikely to survive judicial scrutiny. Resulting court challenges would ultimately delay any resolution of the problem. And of course, overseas sites would not be affected by a U.S. adoption of .xxx. They would simply fill the marketing void created by the absence of U.S. adult dot-com sites. Clearly, .xxx is not a solution to the problem of keeping minors away from adult materials.

FSC respectfully requests the commencement of a genuine dialogue between representatives of our industry and the government. A candid and respectful discussion of these issues is needed, including consideration of the various alternative approaches to resolving them, the pros and cons of those approaches and finally, a consensus resolution that meets both our common goals of protecting children as well as protecting legal speech on the Internet. We look forward to working productively with the Committee on this complex and important problem facing today’s society.

