

December 11, 2017

The Honorable Robert Goodlatte
Chairman
U.S. House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jerrold Nadler
Ranking Member
U.S. House of Representatives
Committee on the Judiciary
2109 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte, Ranking Member Nadler, and Members of the Committee:
As the leading organizations and survivors dedicated to ending human trafficking, we are writing to express our strong opposition to the amendment in the nature of a substitute to H.R. 1865, the Fight Online Sex Trafficking Act of 2017 (FOSTA) that will be considered by the full Committee during Tuesday's markup.

The need for legislation to clarify Section 230 of the Communication's Decency Act (CDA) arose in response to the recent 1st Circuit ruling in Doe v. Backpage. That ruling held that even if Backpage had participated in the crime of sex trafficking, Section 230 shielded the company from the claims filed by child victims. The court wrote that the exploited children needed a legislative solution.

Unfortunately, the proposed substitute fails to remedy the tension between Section 230 and the TVPRA for civil litigants and is a far departure from the language and intent of the FOSTA legislation, H.R. 1865, as originally introduced. As an example of the substitute's shortcomings, the new language imposes a specific "intent" standard for any liability, which makes it nearly impossible for any civil litigant to file successfully against bad actors. The substitute also forecloses an existing avenue of redress for civil litigants in state court. Although the amended version may be well intended, by ignoring the possibility of a private right of action, it fails.

We also note that that not a single trafficking survivor or victim's group that we have been working on this legislation supports this amended version. Therefore, we hope the substitute will be withdrawn and the full Committee will have an opportunity to vote on legislation that truly addresses the insurmountable hurdles Section 230 presents for survivors seeking accountability and redress for their exploitation. Our goal is simple: websites that engage in human trafficking must no longer be able to hide behind the CDA and must be held accountable for their actions.

The Senate Commerce Committee recently and unanimously approved legislation that directly addresses the Section 230 issue, allows for civil and criminal liability, and has the support of survivors, advocates, and the tech community, most notably the Internet Association, Facebook, Oracle, IBM, Hewlett Packard, Disney, and 21st Century Fox. Our hope is that the House can find a similar solution that will provide survivors with the legal remedies they so clearly need and will have the support of advocates as well as the tech sector.

Respectfully,

RIGHTS4GIRLS
WORLD WITHOUT EXPLOITATION
SHARED HOPE INTERNATIONAL
MY LIFE MY CHOICE
ECPAT USA

SANCTUARY FOR FAMILIES
COALITION AGAINST TRAFFICKING IN WOMEN
TASK FORCE ON TRAFFICKING IN AMERICA
DEMAND ABOLITION
SURVIVORS FOR SOLUTIONS
HUMANS FOR JUSTICE AT ORANGE COAST COLLEGE
THE VOICES AND FACES PROJECT
EXODUS CRY
NEW ABOLITIONISTS
CENTER FOR SEXUAL EXPLOITATION INSTITUTE AT VILLANOVA UNIVERSITY LAW
SCHOOL

Mary Mazzio and the I AM JANE DOE, Survivors and Families
Ambassador Swanee Hunt
Yvonne Robinson, Parent of human trafficking victim
Nacole and Tom Svendgard, Parents of a survivor and an advocate JS, survivor – plaintiff in JS v
Village Voice Media Holdings
Kubiiki Pride, Mother of a survivor and an advocate
Jerome Elam, Survivor
Jenelle Gordon, Survivor and college student
Autumn Burris, Survivor/Leader
Allison Franklin, Survivor Leader
Alisa Bernard, Survivor Advocacy Coordinator, The Organization for Prostitution Survivors,
Survivor of Prostitution
Kathi Hardy, Freedom From Exploitation, Inc.
Audrey Morrisey, Survivor Leader and Director, My Life My Choice
Rev. Dr. Marian Hatcher, SPACE International USA