Human Trafficking Front

THE CHILDREN'S TRUST

Duties and Responsibilities of Electronic Service Providers to Combat Exploitation Content and Protect Minors

Online Child Sexual Exploitation Is A Real And Growing Danger

- More than **32 million reports** of suspected online child sexual exploitation were received by NCMEC's CyberTipline in 2022.
- More than **88.3 million images and videos** distributed in 2022.

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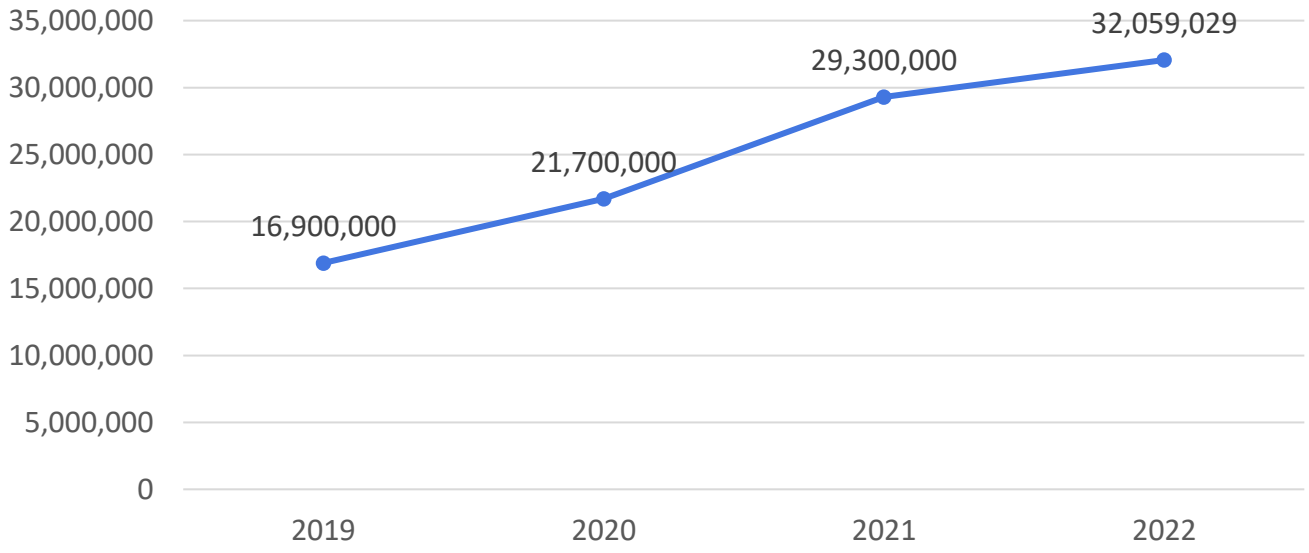
NCMEC's CyberTipline Reports in the U.S.



The ESPs' Duty of Care of Children

Electronic service providers (ESPs) play a critical role in the prevention and combat of online child sexual exploitation crimes, including in the detection, removal, and reporting of child sexual abuse material (CSAM) and child sexual exploitation material (CSEM) and activities with the intent to sexually exploit children. The protection of children online is indeed a significant challenge faced by ESPs.

Problems Faced by ESPs to Safeguard Children

While the sexual exploitation of children has always existed, the internet has driven a surge of abuse. Risks and harms of children of trafficking and exploitation are increasingly associated with online platforms.

ESPs struggle to prevent the scale and volume of online child sexual exploitation.

Tech companies' self-regulation, both individually and cross-industry, is significantly diverse, with:

- Uneven awareness
- Differing in how they regard the extent of the problem
- Varying mechanisms to detect and remove CSAM/CSEM
- Divergent standards in the implementation of policies to address online child sexual exploitation
- Different criteria in the information to include in their CyberTips for law enforcement to conduct proper investigations of instances of online child sexual exploitation.

Voluntary action by ESPs has proven ineffective in preventing this crime, with inconsistent reporting to law enforcement:

- In 2022, fewer than 50 internet companies voluntarily accessed the hash-matching technology provided by NCMEC to proactively detect images and videos of CSAM/CSEM on their services.
- Even though 83% of the 1500 registered ESPs are registered in the United States, **only 236** of them reported to the CyberTipline in 2022, and **over 90%** of these reports **came from** five ESPs: **Facebook, Instagram, Google, WhatsApp, and Omegle**.
- **Only 49%** of the reports submitted by ESPs to the CyberTipline **contained actionable (i.e., necessary and sufficient) information** for law enforcement for analysis and investigation.

There is no international legally binding instrument to apply to the business sector vis-à-vis human rights (e.g., to internet companies vis-à-vis the rights of the child).

ESPs' Responsibility to Respect the Rights of Children Online

The responsibility of internet companies to respect children's rights exists independently from governments' legal obligations. The U.N. Guiding Principles on Business and Human Rights provide a framework for businesses, including internet companies, to respect human rights, including the rights of children (A/HRC/17/31, Annex).

The Guiding Principles emphasize the responsibility of companies, including internet companies, to prevent or mitigate adverse human rights impacts on their business operations. This duty of internet companies includes addressing child exploitation and abuse risks facilitated through their platforms.

*The **Guiding Principles** offer guidance to internet companies to implement safety by-design safeguards through which they can implement privacy measures that balance safety protection for children.*

The Guiding Principles most relevant to facilitating the goal of reducing child exploitation and abuse on ESPs' platforms include:

- **Principle 13:** Avoid causing or contributing to adverse human rights impacts and seek to prevent or mitigate such impacts directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.
- **Principle 16:** Make high-level policy commitments to respect the human rights of their users.
- **Principle 17-19:** Conduct due diligence that identifies, addresses, and accounts for actual and potential human rights impacts of their activities, including through regular risk and impact assessments, meaningful consultation with potentially affected groups and other stakeholders, and appropriate follow-up action that mitigates or prevents these impacts.
- **Principles 20-21:** Conduct ongoing review of their efforts to respect rights, including through regular consultation with stakeholders, and frequent, accessible, and effective communication with affected groups and the public.
- **Principles 22, 29, and 31:** Provide appropriate remediation, including through operational-level grievance mechanisms that users may access without aggravating their "sense of disempowerment."
- **Principle 23:** Engage in prevention and mitigation strategies that respect principles of internationally recognized human rights to the greatest extent possible when faced with conflicting local law requirements.

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14 Key Preventive Measures that ESPs Should Consider Implementing

1) **Robust Terms of Service:** Corporations should establish, regularly update, and communicate to its users clear and strict terms of service that explicitly prohibit any form of content and activities related to child sexual exploitation.

2) **Content Moderation:** Corporations should invest in advanced content moderation systems and technologies to detect and remove explicit or abusive content that may target or exploit children. The use of artificial intelligence and machine learning algorithms can assist in flagging and removing such content more efficiently.

3) **Reporting Mechanisms:** User-friendly reporting mechanisms should be in place, allowing users to report any instances of suspicious or inappropriate content or behavior easily.

4) **Age Verification and User Authentication:** Internet companies should implement robust age verification mechanisms to ensure that children are not accessing age-inappropriate features or content in which they may be vulnerable to online sexual exploitation. Age verification technologies can include identity verification systems or age estimation algorithms and user authentication processes, such as two-factor authentication.

5) **Privacy Protection:** Internet companies should prioritize the privacy and data protection of children. They should clearly outline their data collection practices, seek parental consent where necessary, and comply with relevant privacy regulations.

6) **Collaboration with Law Enforcement:** Corporations should establish strong partnerships with law enforcement agencies, sharing relevant information and collaborating in investigations. This includes promptly responding to requests for information and providing necessary assistance to law enforcement authorities to identify and apprehend offenders involved in online child sexual exploitation.

7) **Financial Measures:** Corporations can implement financial measures to disrupt the profitability of online child sexual exploitation. This includes closely monitoring financial transactions and implementing measures to block or freeze funds associated with illegal activities. Collaboration with financial institutions and payment

processors is crucial in identifying and preventing transactions related to child exploitation.

8) **Industry Collaboration and Best Practices:** Corporations should actively participate in industry collaborations, working together with other technology companies and relevant stakeholders to develop and promote best practices for preventing online child sexual exploitation. Sharing knowledge, experiences, and resources can help establish consistent standards and guidelines across the industry.

9) **Transparency Reporting:** Corporations should provide regular transparency reports that outline their efforts in combating online child sexual exploitation. These reports should detail the number of reported incidents, content removal statistics, and actions taken against offenders. Transparency promotes accountability and demonstrates a commitment to addressing the issue.

10) **Employee Training and Policies:** Corporations should provide comprehensive training to employees on recognizing and responding to online child sexual exploitation. Employees should be aware of reporting mechanisms, legal obligations, and the role they can play in preventing and combating this crime.

11) **Research and Innovation:** Corporations should invest in research and innovation to develop new technologies and tools that can identify, prevent, and combat online child sexual exploitation more effectively. This includes exploring advancements in artificial intelligence, data analytics, and blockchain technology to create safer online environments for children.

12) **Education and Awareness Programs:** Corporations should prioritize educational initiatives and awareness campaigns to educate users about online safety, the risks of child sexual exploitation, and the importance of responsible online behavior. Internet companies can collaborate with nonprofit organizations to develop resources and campaigns that raise awareness about potential online risks and how to mitigate them and and safety tips to users. These initiatives may include the combat to the dissemination of child sexual abuse material.

13) **Parental Controls:** Internet companies should provide robust parental control features that allow parents or guardians to manage and restrict their child's online activities. These controls can include content filtering, time limits, and monitoring tools to ensure a safer online experience for children.

14) **Continuous Improvement:** Internet companies should regularly review and enhance their prevention measures by staying updated on emerging technologies, industry best practices, and user feedback. They should be responsive to changing trends and work towards adapting their platforms to ensure ongoing protection for children.

The safety and well-being of children (i.e, any person up to 18 years old) should be a top priority for ESPs.

Recommendations to ESPs for Preventing Online Child Exploitation

- ESPs should implement clear policies, with a stricter process of due diligence, to ensure adequate protective measures to children and collaboration with law enforcement and relevant stakeholders.
- ESPs should implement stricter content moderation policies and utilize artificial intelligence and machine learning algorithms to identify, remove, and report, *known* and *new*, illegal or exploitative images and videos.
- ESPs should implement measures to identify and prevent grooming (solicitation of children) activities.
- The implementation of Industry-wide standards are needed to specifically tailored a consistent and harmonized approach to combat online child sexual exploitation crimes.
- ESPs should provide educational resources to children and their parents about online safety, responsible internet usage, and the potential risks children may encounter.

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Recommendations to Governments to Protecting Children

- Governments should enact and revise legislation that places greater responsibility on internet companies to safeguard children and increase coordination efforts.
- Governments should provide clear guidance to ESPs to improve transparency and accountability and ensure the protection of fundamental rights.
- Governments should provide and enforce effective remedies for abuses of children's rights online and effective access to justice.
- Governments should revise the national policy framework to penalize the infringements of the rights of the child by third parties in cyberspace.
- Governments should promote a multistakeholder approach to protect children from harm online, involving collaboration with various actors from different sectors, including technology companies, civil society organizations, parents, educators, and children.

Additional Details

This best-practices prevention guide and publication is part of the Human Trafficking Front's program: *Putting an End to the Online Sexual Exploitation of Children: Preventing Victimization and Strengthening Child Protection Systems.**

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References

- NCMEC. (2023). *CyberTipline 2022 Report.* https://www.missingkids.org/cybertiplinedata.
- A/HRC/17/31, Annex, https://www.ohchr.org/sites/default/files/Documents/Issues/Business/A-HRC-17-31_AEV.pdf.

Human Trafficking Front is a non-profit organization with 501(c)(3) status with the IRS, committed to eliminating all forms of slavery and human trafficking, especially of women and children. Human Trafficking Front works to end these forms of exploitation by equipping professionals with best practices, empowering communities to be less vulnerable to exploitation, and promoting more effective implementation of legal and policy frameworks that address prevention and protection. Human Trafficking Front is under the leadership of Dr. Beatriz Susana Uitts, who is the author of the book, *Sex Trafficking of Children Online: Modern Slavery in Cyberspace*. For further information see: www.humantraffickingfront.org.

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