



July 19, 2022

Senator Charles Schumer
322 Hart Senate Office Building
Washington, D.C. 20510

Re: Opposition to S.1207 EARN IT Act & S.1199 STOP CSAM Act

Dear Senator Schumer:

The Senate is considering several bills affecting how we access and utilize the Internet. We would like to call your attention to two of these bills and discuss how their passage would violate the human rights of all Americans. If passed, Eliminating Abusive and Rampant Neglect of Interactive Technologies Act of 2023 (EARN IT) (S.1207) & STOP CSAM Act (S.1199) will violate our human rights to privacy and free expression. We urge you to refrain from bringing these bills to the floor for a vote!

Woodhull Freedom Foundation's work includes fighting censorship, eliminating discrimination based on gender or sexual identity, or family form, and protecting the right to engage in consensual sexual activity and expression. We do this through advocacy, education, and coalition building. We are the only national organization focused on the human right to sexual freedom, and we have grave concerns about these bills.

We agree with the intentions of the Senators who have introduced these bills in an attempt to keep child sexual abuse materials offline. However, the unintended consequences of these bills will have disastrous effects on our privacy. EARN IT and STOP CSAM are very similar and flawed. End-to-end encryption is crucial to protecting the privacy of communication between individuals online. Applications like Signal and WhatsApp provide millions of people with a safe way to communicate and connect with one another.

Encrypted communication is essential for women and LGBTQ+ people in a country that seeks to limit their rights every day. It is necessary for abortion seekers to have access to private communication tools, especially in states where abortion has been banned or limited. The same privacy is of the utmost importance to members of the LGBTQ community, especially trans people who are facing bans on gender-affirming care in numerous states. We must equip Americans with the tools to keep them safe and healthy in the states where their very existence is dangerous. EARN IT & STOP CSAM will eliminate any security from encrypted communication applications by allowing private companies to scan users' messages for CSAM prior to sending. This violates Article 12 of the Universal Declaration of Human Rights (UDHR) and our Fourth Amendment rights to protection from unreasonable search and seizure. Allowing this kind of digital scanning is equivalent to the Postal Service reading our mail prior to sending it.

Section 230 of the Communications Decency Act is an important safeguard for free speech online. The Section 230 carve-out written into the STOP CSAM Act would diminish the power of Section 230 and inhibit speech online. A new exception to Section 230 that allows companies to be sued for "facilitating" child sexual exploitation simply for allowing users to upload their own content would massively chill free



Affirming Sexual Freedom as a Fundamental Human Right

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speech. Platforms like Facebook and Twitter will simply remove large swaths of legal content for fear of litigation. The Fight Online Sex Trafficking Act of 2018 (FOSTA) has already shown us how these Section 230 exceptions chill speech. Sex Workers were the victims of FOSTA, and we fear that any kind of sexuality content will be removed from the internet should either of these bills pass. Sex workers, adult film stars, sex educators, sex therapists, and artists have reported mass removal of their content and accounts since FOSTA became law in 2018. We cannot let the mass silencing of anyone who talks about sexuality online continue. We turn to the Internet for education, resources, and information. When sexual content is censored to avoid CSAM or sex trafficking, those exercising their free speech rights to speak about sexuality are caught in the net and silenced.

Senator Schumer, we urge you to protect our human rights and guard our First and Fourth Amendment rights by not bringing the EARN IT Act and the STOP CSAM Act to the floor for a vote. Woodhull remains committed to protecting these rights, and we would be happy to discuss our concerns about ideas for alternative solutions with you or your staff.

Thank you for your time and attention to this very important matter.

Sincerely,

A handwritten signature in black ink that reads "Ricci J. Levy". The signature is written in a cursive, flowing style.

Ricci J. Levy
President & CEO
Woodhull Freedom Foundation