

TESTIMONY OF

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for the

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**“Protecting Children: The Battle against Child Pornography
and Other Forms of Sexual Exploitation”**

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Mr. Chairman and distinguished members of the Commission, I thank you for this opportunity to appear before you to discuss child protection and the ongoing battle to combat child pornography and other forms of child-sexual exploitation. Chairman Brownback and Co-Chairman Smith, you are tireless advocates for children and, as President and CEO of the National Center for Missing & Exploited Children (NCMEC) and its sister organization, the International Centre for Missing & Exploited Children (ICMEC), I commend you and your colleagues for your leadership and initiative. We join you in your concern for the safety of the most vulnerable members of our society and we thank you for bringing attention to this often under-recognized problem.

I would like to provide you with some background information on NCMEC and ICMEC.

NCMEC is a not-for-profit corporation, mandated by Congress and working in partnership with the U.S. Department of Justice as the national resource center and clearinghouse on missing and exploited children. NCMEC is a true public-private partnership, funded in part by Congress and in part by the private sector. Our federal funding supports specific operational functions mandated by Congress, including a national 24-hour toll-free hotline; a distribution system for missing-child photos; a system of case management and technical assistance for law enforcement and families; training programs for federal, state, and local law enforcement; and programs designed to help stop the sexual exploitation of children.

ICMEC works to identify and coordinate a global network of organizations fighting child-sexual exploitation and abduction. ICMEC's work brings promise to children and families by: establishing global resources to find missing children and prevent child-sexual exploitation; creating national centers and affiliates worldwide; building an international network to disseminate images of and information about missing and exploited children; providing training to law enforcement, prosecutors, judges, legal professionals, nongovernmental organizations, and government officials; and advocating for changes in laws, treaties, and systems to protect children worldwide.

While the exact scope of the problem of child pornography is difficult to determine, it is absolutely clear that the problem has exploded with the advent of the Internet. Cyberspace is home to more than one million images of tens of thousands of children being subjected to sexual abuse and exploitation, with 200 new images being posted daily.¹ A 2002 survey by ECPAT International and the Bangkok Post estimated that 100,000 child pornography web sites existed in 2001.² And in the United States alone, child pornography is a multi-billion dollar industry.

NCMEC's CyberTipline, the "9-1-1 for the Internet," serves as the national clearinghouse for investigative leads and tips regarding crimes against children on the Internet. In the 8 years that

¹ See ECPAT International, *Violence Against Children in Cyberspace*, at 30 (2005), at http://www.ecpat.net/eng/publications/Cyberspace/PDF/ECPAT_Cyberspace_2005-ENG.pdf; Richard Wortley and Stephen Smallbone, *Child Pornography on the Internet*, at 12 (Office of Community Oriented Policing Services, U.S. Department of Justice, 2006), at <http://www.cops.usdoj.gov/mime/open.pdf?Item=1729>.

² See Isabelle Michelet, *Children At Risk Online*, slide 4 (Oct. 9, 2002), at <http://www.prasena.com/public/partners/researchers/Children%20At%20Risk%20Online.ppt>.

CyberTipline has been in existence, NCMEC has received and processed more than 417,000 leads, resulting in hundreds of arrests and successful prosecutions.

We have seen the victims portrayed in the images of child pornography getting younger and younger and the images themselves becoming more graphic and more violent. A recent study demonstrated that 83% of arrested child-pornography possessors had images of children 6 to 12 years old; 39% had images of children 3 to 5 years old; and 19% had images of infants and toddlers under age 3.³ 92% had images of minors focusing on genitals or showing explicit sexual activity; 80% had pictures showing the sexual penetration of a child, including oral sex; and 21% had child pornography depicting violence such as rape, bondage, and torture.⁴ Most of these images involved children who were gagged, bound, blindfolded, or otherwise suffering sadistic sex.⁵

The same study also showed that 40% of arrested child-pornography possessors were “dual offenders,” who sexually victimized children and possessed child pornography,⁶ suggesting there may be a correlation between simple possession and committing sexual abuse upon a child.

We live in a world in which the old rules no longer apply. Today, victims of child pornography can be anywhere, in absolutely any country. Children have become a tradable commodity for sale or use. Recently, Pravda, a Russian news source, reported that organized criminals, extremist organizations, and terrorist groups are increasingly moving into child trafficking and child pornography to generate revenue to support their activities.⁷ Why? Because:

- Children are plentiful and easily accessible;
- Child pornography is easy and inexpensive to produce;
- There is a huge consumer market for child pornography;
- Child pornography is enormously profitable; and
- There is virtually no risk, far less than drugs, guns, and tobacco.

There are documented cases in which child-pornography enterprises have been found to be operated by organized-crime networks. One such case was that of the Regpay Company, a major Internet processor of subscriptions for third-party commercial child-pornography web sites. The site was managed in Belarus, the credit card payments were processed by a company in Florida, the money was deposited in a bank in Latvia, and the majority of the almost 300,000 credit card transactions on the sites were from Americans.

³ Janis Wolak et al., *Child-Pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study*, at 4 (Nat'l Ctr. for Missing & Exploited Children ed., 2005).

⁴ *Id.* at 5.

⁵ *Id.*

⁶ *Id.* at viii.

⁷ Sergey Stefanov, *Russia Fights Child Porn and Terrorism on the Internet*, PRAVDA, Dec. 4, 2002, at <http://english.pravda.ru/main/2002/12/04/40373.html> (on file with the International Centre for Missing & Exploited Children).

One of the greatest challenges we confront as champions of child safety, child protection, and children's rights globally, is the fact that few of the world's nearly 200 countries have any kind of meaningful system in place to adequately and effectively combat the sexual exploitation of children, especially through child pornography.

In November of 2004, we began researching the child-pornography legislation in place in the 184 Interpol Member Countries to gain a better understanding of existing legislation and also to gauge where the issue of child pornography stands on national political agendas. In particular, we were looking to see if national legislation:

- (1) exists with specific regard to child pornography;
- (2) provides a definition of child pornography;
- (3) criminalizes computer-facilitated offenses;
- (4) criminalizes possession of child pornography, regardless of the intent to distribute; and
- (5) requires Internet Service Providers (ISPs) to report suspected child pornography to law enforcement or to some other mandated agency.

Once the relevant information was assembled and legal analysis was conducted, preliminary results were compiled. In January 2006, letters were sent to the attention of Ambassadors of the Interpol Member Country Embassies in Washington, D.C.; if no Embassy listing was available, a letter was sent to the Ambassador at the Permanent Mission to the United Nations in New York City. All letters consisted of a summary of the model-legislation project as well as country-specific results. Ambassadors were asked to verify our research and provide us with corrected information by a certain date, if such was necessary.

In April of this year, we published a report of our findings, as well as recommendations for model legislation. We were, to say the least, shocked and alarmed by the results of our research. We found that the majority of countries around the world have no laws that outlaw child pornography. And, in many other countries, existing laws are simply inadequate.

Our study found that in 95 countries, there are no child pornography laws at all. In 136 countries, the possession of child pornography is not a crime. In 122 countries, there is no law that specifically addresses the distribution of child pornography via computer and the Internet. In 149 countries, the term "child pornography" is not sufficiently defined.

There are 63 countries around the world that do have legislation specific to child pornography, but meet few of the other criteria we researched. Legislation in these 63 countries is insufficient and must be enhanced in order to work toward the overall goal of better protecting our world's children.

Only 22 countries were in substantial compliance with the criteria we deemed as essential to basic child-pornography legislation. The legislation in these 22 countries meets all but the last criteria of ISP reporting.

And finally, just 5 countries have laws in all 5 recommended categories: Australia, Belgium, France, South Africa, and the United States.

The lives of children who are exploited through child pornography are forever altered, not only by the molestation, but by the permanent record of the exploitation. No country is immune from this form of child-sexual exploitation, and it will take a concerted effort from governments, law enforcement, and civil society to ensure that the world's children are protected.

Realizing the importance of taking into consideration varying cultural, religious, socio-economic, and political norms, our model legislation resembles more of a menu of concepts that can be applied in all countries throughout the world, as opposed to actual statutory language. In our report, we propose 10 fundamental provisions that are essential to a comprehensive legislative strategy to combat child pornography. Those 10 provisions are as follows:

- (1) Define “child” for the purposes of child pornography as anyone under the age of 18, regardless of the age of sexual consent;
- (2) Define “child pornography,” and ensure that the definition includes computer- and Internet-specific terminology;
- (3) Create offenses specific to child pornography in the national penal code, including criminalizing the possession of child pornography, regardless of one’s intent to distribute, and including provisions specific to downloading or viewing images on the Internet;
- (4) Ensure criminal penalties for parents or legal guardians who acquiesce to their child’s participation in child pornography;
- (5) Penalize those who make known to others where to find child pornography;
- (6) Include grooming provisions;
- (7) Punish attempt crimes;
- (8) Establish mandatory-reporting requirements for healthcare and social-service professionals, teachers, law-enforcement officers, photo developers, information-technology professionals, ISPs, credit-card companies, and banks;
- (9) Address the criminal liability of children involved in pornography; and
- (10) Enhance penalties for repeat offenders, organized-crime participants, and other aggravated factors to be considered upon sentencing.

A comprehensive legislative strategy that is aimed at combating child pornography and that allows law enforcement to aggressively investigate and prosecute offenders must extend beyond the criminalization of certain actions by child-sex offenders. While such is of obvious importance, of equal value are: adequately defining the terminology that is used in national penal codes; legislating corporate social responsibility; enhancing sanctions; forfeiting assets; and strengthening sentencing provisions.

One of the biggest impediments to investigation and prosecution - in addition to the absence of meaningful legislation - is the lack of experience, knowledge, and training on the part of law enforcement. That is why, since 2003, ICMEC has, in conjunction with Interpol and through the generous support of the Microsoft Corporation, traveled throughout the world to train law-enforcement officers on how to investigate and “work” cases of computer-facilitated crimes against children. To date, more than 1,600 law-enforcement officers from 92 countries have benefited from the training program. We have broken ground in China, Jordan, and Russia, with future trainings planned in India, Morocco, and Panama, just to name a few.

The goal of ICMEC is not to be the only NGO or even the primary NGO attacking the problem of child pornography - our goal is to work with governments, NGOs, law enforcement, and industry in a coordinated effort.

For example, 23 of the world's most prominent financial institutions and Internet industry leaders have joined with ICMEC and NCMEC to create the Financial Coalition Against Child Pornography. Our goal: to eradicate commercial child pornography by 2008. Our mission: to follow the money.

Members include MasterCard, Visa, American Express, Bank of America, Citibank, PayPal, Microsoft, America Online, Yahoo, and many others. And every day we are bringing new financial institutions into this Coalition. Our newest member is HSBC North America, and the American Bankers Association has recently agreed to support the Coalition's efforts. These are significant additions to our team.

The members of the Coalition represent 87 percent of the U.S. payments industry, measured in dollars running through the system.⁸ This offers great potential to eradicate the commercial child-pornography industry. We would have a greater chance of success if we had 100 percent participation by industry players around the world. ICMEC representatives have met with the heads of the European Banking Association as well as with officials from Central American banks. We are also actively recruiting banking institutions in Asia.

Much has been accomplished; however, there is more work to be done. We need to continue to train law-enforcement officers around the world and capitalize on the investigative talents of multiple law-enforcement agencies on a multi-national basis. We need full participation by the payments industry worldwide so that we can begin to dismantle enterprises that profit from the heinous victimization of children. We need to aggressively target heads of state to declare their support in the fight against child pornography, and encourage them to enact a thorough legislative strategy to combat child-sexual exploitation.

During the July 2006 meeting in Brussels of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, an important, historic resolution was unanimously adopted by attending members of Parliament from more than 50 nations. The Resolution on Combating Trafficking and the Exploitation of Children was offered by Congressman Chris Smith and was presented to the Parliamentary Assembly by Congressman Joseph Pitts.

We are particularly grateful for the strong leadership and support for the Resolution at the Parliamentary Assembly in Brussels by Congressman Pitts, Congressman Alcee Hastings, Congressman Ben Cardin, and Congresswoman Diane Watson. Its passage lays the foundation on which we can build a comprehensive effort to ensure that there is uniform, consistent law for attacking this truly global problem.

Today, we are here to urge lawmakers, law enforcement, industry, and the public to take a serious look at the dangers threatening our children, and to move decisively to minimize the risks

⁸ Nilson Report, No. 849, 850, 851 (2006).

posed by those who exploit the world's children and rob them of their innocence. We look forward to working with you to put an end to this international epidemic.

Now is the time to act.

Thank you.