

STATEMENT OF CHAIRMAN ROB PORTMAN
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING: SEX TRAFFICKING
NOVEMBER 20, 2015

This hearing will come to order. [gavel]

Senator McCaskill and I called this hearing to address the difficult but important subject of sex trafficking. Over the past seven months, the Subcommittee has conducted a bipartisan investigation into how sex traffickers increasingly use the Internet to advance their trade and evade detection. The aim of this investigation is straightforward: We want to understand how lawmakers, law enforcement, and even private businesses can more effectively combat this serious crime that thrives on an online black market.

As the Co-Chair of the Senate Caucus to End Human Trafficking, this is an issue that I have worked on for a number of years. I have spent many hours with those dedicated to fighting this crime and those victimized by it. For victims, the toll of sex trafficking is measured in stolen childhoods and long-lasting trauma. For traffickers, it's measured in dollars—and often a lot of dollars. It's a problem that I believe should command attention in Congress.

Sex Trafficking On The Internet

Precise data is hard to come by because this market exists in the shadows. But experts tell us that there were as many as 27 million victims of human trafficking in 2013, including 4.5 million people trapped in sexual exploitation. In the United States, about 8 in every 10 suspected incidents of human trafficking involve *sex* trafficking—that is, the sale of minors or forced sale of adults for commercial sex.

Sex traffickers prey on the vulnerable. The Department of Justice has reported that more than half of sex-trafficking victims are minors. And the problem appears to be getting worse. Over the last five years, the leading authority on child exploitation, the National Center for Missing and Exploited Children (known as NCMEC), reported an 846% increase in reports of suspected child sex trafficking. NCMEC says that increase is “directly correlated to the increased use of the Internet to sell children for sex.”

Traffickers have found refuge and new customers through websites that specialize in advertising “ordinary” prostitution and lawful escort services. A business called Backpage.com is a market leader in that industry, with annual revenues in excess of \$130 million last year. With a look and layout similar to the better known Craigslist.com, Backpage has a special niche: According to one industry analysis in 2013, eight out of every ten dollars spent on online commercial sex advertising in the United States goes to Backpage. Some of that advertising is for legal work. Much of it is illegal. A federal court in Chicago noted this year, for example, that Backpage’s “adult services section *overwhelmingly* contains advertisements for prostitution, *including* the prostitution of minors.”

The public record indicates that Backpage sits at the center of the online black market for sex trafficking. NCMEC tells us that Backpage is linked to 71% of all suspected child sex trafficking reports that it receives from the general public through its “CyberTipline.” According to a leading anti-trafficking organization called Shared Hope International, “[s]ervice providers working with child sex trafficking victims have reported that between 80% and 100% of their clients have been bought and sold on Backpage.com.” It is easy to see why the National Association of Attorneys General described Backpage as a “hub” of “human trafficking, especially the trafficking of minors.”

A study of recent press accounts reveals scores of serious crimes linked to Backpage. Shared Hope International has catalogued more than 400 reported cases of children being trafficked using Backpage.com across 47 states. And PSI staff have identified at least 13 reported cases of child sex trafficking in my home state of Ohio linked to Backpage over the past four years.

Our Subpoena

On this record, PSI saw a compelling need to better understand the business practices of Backpage.com, especially the efforts it takes to prevent use of its site by sex traffickers.

We thought that might be simple enough because Backpage holds itself out as a “critical ally” against human trafficking. The company has stated that it “leads the industry” in its review and screening of advertisements for illegal activity—a process it calls “moderation.” Backpage’s top lawyer has described its moderation

process as the “key” tool for “disrupting and eventually ending human trafficking via the World Wide Web.”

But Backpage has refused to turn over documents about the key “moderation” process that it touts, as well as other relevant aspects of its business. Specifically, the company refused to comply with an initial subpoena issued by the Subcommittee on July 7. Sen. McCaskill and I then agreed to withdraw that subpoena and issue a new, more targeted subpoena designed to accommodate some of Backpage’s concerns, but the company again refused to comply.

Defiance of a Congressional subpoena is rare and serious. Backpage has tried to excuse its noncompliance based on a sweeping claim of constitutional privilege. The company’s argument is vague, but it can be summed up this way: Backpage says that the First Amendment to the Constitution shields it from this investigation of advertising by sex traffickers, because it *also* publishes some lawful advertisements that are protected speech. That argument has no support in law or logic.

In a detailed ruling issued on behalf of the Subcommittee, Senator McCaskill and I explained why Backpage’s legal argument is meritless. We also explained the great care that PSI has taken to protect any potential First Amendment interests at stake here. We have made that ruling publicly available today on PSI’s website.

After overruling Backpage’s objections, Senator McCaskill and I ordered the company and its CEO to produce the documents we asked for by last Thursday, November 12. That day came and went with no response. The next day Backpage again informed PSI that it would not comply. But at the same time, Backpage made quite a show of producing certain cherry-picked documents favorable to the company, along with a 16,000-page pile of material the Subcommittee does not need and was not seeking.

We don’t think Backpage’s response to the subpoena has been in good faith. It’s fine for parties to have legal disagreements with us about constitutional privileges or the appropriateness of particular requests. We treat those objections seriously. But Backpage has done more than just raise a legal objection to producing certain documents: Just this week, Backpage’s lawyers told PSI that the company had not even bothered to *look* for the documents responsive to the subpoena—which means

Backpage does not even *know* what all it is refusing to produce, much less why those documents are protected by the First Amendment.

Our Investigation

PSI was disappointed with Backpage's noncompliance, but we were not deterred. Through other sources, including a contractor that Backpage outsourced its ad-screening process to, we sought to learn more about the issues under investigation. In a bipartisan staff report released today, we have outlined some preliminary findings and further questions that need answers.

Without objection, that report will be made part of the record.

The report reveals that Backpage has had a practice of editing some advertisements by deleting words and images *before publication*. This is important because changing the appearance of a published ad obviously does not change the advertised transaction. The staff report finds that in some cases these editing practices likely served to conceal evidence of the illegality of the underlying transaction. That finding raises some very serious questions.

We want to know more about the purpose and effect of those editing practices—which is why we issued a subpoena to Backpage for documents that could tell us whether and how Backpage deletes text or images that could alert law enforcement about a crime being advertised. When that failed, the Subcommittee tried to take the testimony of two Backpage employees in charge of its moderation practices, but they refused to testify on the grounds that it might incriminate them. Nevertheless, we continue to seek documents from Backpage that would allow us to understand this and other aspects of its screening practices.

In a moment, Senator McCaskill is going to describe our other findings in greater detail.

And at the close of today's hearing, we will address the next steps that the Subcommittee plans to take to enforce the subpoena that Backpage has violated.

I am grateful to our Ranking Member, Senator McCaskill, and her staff for their shoulder-to-shoulder work with us on this bipartisan investigation, and I would like to turn to her from an opening statement.