

any foreign law enforcement agency” and “or that has an established relationship with the Federal Bureau of Investigation, Immigration and Customs Enforcement, or INTERPOL, and is involved in the investigation of child sexual exploitation, kidnapping, or enticement crimes;” for “; and”.

Subsec. (g)(3)(D). Pub. L. 115-395, §2(8)(B)(vi), substituted “a provider” for “an electronic communication service provider or remote computing service provider” and “; and” for period at end.

Subsec. (g)(3)(E). Pub. L. 115-395, §2(8)(B)(vii), added subpar. (E).

Subsec. (g)(4). Pub. L. 115-395, §2(8)(C), added par. (4).

Subsec. (h)(1). Pub. L. 115-395, §2(9)(A), substituted “a completed submission by a provider of a report to the CyberTipline under subsection (a)(1) shall be treated as a request to preserve the contents provided in the report for 90 days after the submission to the CyberTipline” for “the notification to an electronic communication service provider or a remote computing service provider by the CyberTipline of receipt of a report under subsection (a)(1) shall be treated as a request to preserve, as if such request was made pursuant to section 2703(f)”.

Subsec. (h)(2). Pub. L. 115-395, §2(9)(D), in heading, substituted “content” for “images” and, in text, substituted “a provider” for “an electronic communication service provider or a remote computing service”, “visual depictions” for “images”, and “reasonably accessible and may provide context or additional information about the reported material or person” for “commingled or interspersed among the images of apparent child pornography within a particular communication or user-created folder or directory”. Final substitution, which directed striking out text containing “user created”, was executed instead to text which contained “user-created”, to reflect the probable intent of Congress.

Pub. L. 115-395, §2(9)(B), (C), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve the contents of the report provided pursuant to subsection (b) for 90 days after such notification by the CyberTipline.”

Subsec. (h)(3). Pub. L. 115-395, §2(9)(E), which directed substitution of “A provider” for “An electronic communication service or remote computing service”, was executed by making the substitution for “An electronic communications service or remote computing service”, to reflect the probable intent of Congress.

Pub. L. 115-395, §2(9)(C), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (h)(4), (5). Pub. L. 115-395, §2(9)(C), redesignated pars. (4) and (5) as (3) and (4), respectively.

§ 2258B. Limited liability for providers or domain name registrars

(a) IN GENERAL.—Except as provided in subsection (b), a civil claim or criminal charge against a provider or domain name registrar, including any director, officer, employee, or agent of such provider or domain name registrar arising from the performance of the reporting or preservation responsibilities of such provider or domain name registrar under this section, section 2258A, or section 2258C may not be brought in any Federal or State court.

(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the provider or domain name registrar, or a director, officer, employee, or agent of that provider or domain name registrar—

(1) engaged in intentional misconduct; or

(2) acted, or failed to act—

(A) with actual malice;

(B) with reckless disregard to a substantial risk of causing physical injury without legal justification; or

(C) for a purpose unrelated to the performance of any responsibility or function under this section,¹ sections 2258A, 2258C, 2702, or 2703.

(c) MINIMIZING ACCESS.—A provider and domain name registrar shall—

(1) minimize the number of employees that are provided access to any visual depiction provided under section 2258A or 2258C; and

(2) ensure that any such visual depiction is permanently destroyed, upon a request from a law enforcement agency to destroy the visual depiction.

(Added Pub. L. 110-401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4248; amended Pub. L. 115-395, §3, Dec. 21, 2018, 132 Stat. 5292.)

AMENDMENTS

2018—Pub. L. 115-395, §3(1), substituted “providers, or domain name registrars” for “electronic communication service providers, remote computing service providers, or domain name registrar” in section catchline.

Subsec. (a). Pub. L. 115-395, §3(2), substituted “a provider” for “an electronic communication service provider, a remote computing service provider,” and substituted “such provider” for “such electronic communication service provider, remote computing service provider,” in two places.

Subsec. (b). Pub. L. 115-395, §3(3), substituted “provider” for “electronic communication service provider, remote computing service provider,” in two places in introductory provisions.

Subsec. (c). Pub. L. 115-395, §3(4), substituted “A provider” for “An electronic communication service provider, a remote computing service provider,” in introductory provisions and “visual depiction” for “image” wherever appearing in pars. (1) and (2).

§ 2258C. Use to combat child pornography of technical elements relating to reports made to the CyberTipline

(a) ELEMENTS.—

(1) IN GENERAL.—NCMEC may provide elements relating to any CyberTipline report to a provider for the sole and exclusive purpose of permitting that provider to stop the online sexual exploitation of children.

(2) INCLUSIONS.—The elements authorized under paragraph (1) may include hash values or other unique identifiers associated with a specific visual depiction, including an Internet location and any other elements provided in a CyberTipline report that can be used to identify, prevent, curtail, or stop the transmission of child pornography and prevent the online sexual exploitation of children.

(3) EXCLUSION.—The elements authorized under paragraph (1) may not include the actual visual depictions of apparent child pornography.

(b) USE BY PROVIDERS.—Any provider that receives elements relating to any CyberTipline report from NCMEC under this section may use such information only for the purposes described in this section, provided that such use shall not relieve the provider from reporting under section 2258A.

(c) LIMITATIONS.—Nothing in subsections¹ (a) or (b) requires providers receiving elements re-

¹ So in original. The comma probably should be “or”.

¹ So in original. Probably should be “subsection”.