

verified billing address, or, if not reasonably available, at least 1 form of geographic identifying information, including area code or zip code.

“(B) INCLUSION.—The information described in subparagraph (A) may also include any geographic information provided to the electronic communication service or remote computing service by the customer or subscriber.”

Subsec. (b)(4). Pub. L. 115-395, §2(3)(E), in heading, substituted “Visual depictions” for “Images” and, in text, substituted “visual depiction” for “image” and inserted “or other content” after “apparent child pornography”.

Subsec. (b)(5). Pub. L. 115-395, §2(3)(F), substituted “visual depiction” for “image” and inserted “or other content” after “apparent child pornography” in introductory provisions and substituted “visual depictions” for “images” in subpar. (B).

Subsec. (c). Pub. L. 115-395, §2(4), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to forwarding of reports to domestic and foreign law enforcement agencies.

Subsec. (d)(2). Pub. L. 115-395, §2(5)(A), substituted “may designate a” for “shall designate promptly”.

Subsec. (d)(3). Pub. L. 115-395, §2(5)(B), substituted “may” for “shall promptly” in introductory provisions and “designate” for “designate the” in subpar. (A).

Subsec. (d)(4). Pub. L. 115-395, §2(5)(C), substituted “may” for “shall”, “NCMEC” for “the National Center for Missing and Exploited Children”, and “providers” for “electronic communication service providers, remote computing service providers”.

Subsec. (d)(5). Pub. L. 115-395, §2(5)(E), (F), redesignated par. (6) as (5) and amended it generally. Prior to amendment, par. related to contents of Center’s notification to providers of report forwarded at request of foreign law enforcement agency.

Pub. L. 115-395, §2(5)(D), struck out par. (5). Text read as follows: “It is the sense of Congress that—

“(A) combating the international manufacturing, possession, and trade in online child pornography requires cooperation with competent, qualified, and appropriately trained foreign law enforcement agencies; and

“(B) the Attorney General, in cooperation with the Secretary of State, should make a substantial effort to expand the list of foreign agencies designated under paragraph (3).”

Subsec. (d)(6). Pub. L. 115-395, §2(5)(E), redesignated par. (6) as (5).

Subsec. (e). Pub. L. 115-395, §2(6), substituted “A provider” for “An electronic communication service provider or remote computing service provider”.

Subsec. (f). Pub. L. 115-395, §2(7)(A), substituted “a provider” for “an electronic communication service provider or a remote computing service provider” in introductory provisions.

Subsec. (f)(3). Pub. L. 115-395, §2(7)(B), substituted “search, screen, or scan for” for “seek”.

Subsec. (g)(2)(A)(vi). Pub. L. 115-395, §2(8)(A)(i), which directed substitution of “a provider” for “an electronic communication service provider or remote computing service provider”, was executed by making the substitution for “an electronic communication service provider or remote computing provider”, to reflect the probable intent of Congress.

Subsec. (g)(2)(B). Pub. L. 115-395, §2(8)(A)(ii), amended subpar. (B) generally. Prior to amendment, text read as follows:

“(i) LIMITATIONS ON FURTHER DISCLOSURE.—The electronic communication service provider or remote computing service provider shall be prohibited from disclosing the contents of a report provided under subparagraph (A)(vi) to any person, except as necessary to respond to the legal process.

“(ii) EFFECT.—Nothing in subparagraph (A)(vi) authorizes a law enforcement agency to provide child pornography images to an electronic communications service provider or a remote computing service.”

Subsec. (g)(3). Pub. L. 115-395, §2(8)(B)(i), (ii), in heading, substituted “NCMEC” for “THE NATIONAL CENTER

FOR MISSING AND EXPLOITED CHILDREN” and, in introductory provisions, substituted “NCMEC may disclose by mail, electronic transmission, or other reasonable means, information received in a report under subsection (a) only to” for “The National Center for Missing and Exploited Children may disclose information received in a report under subsection (a) only”.

Subsec. (g)(3)(A). Pub. L. 115-395, §2(8)(B)(iii), substituted “any Federal law enforcement agency” for “to any Federal law enforcement agency” and inserted “or that is involved in the investigation of child sexual exploitation, kidnapping, or enticement crimes” before semicolon at end.

Subsec. (g)(3)(B). Pub. L. 115-395, §2(8)(B)(iv), substituted “any State” for “to any State” and “child sexual exploitation” for “child pornography, child exploitation”.

Subsec. (g)(3)(C). Pub. L. 115-395, §2(8)(B)(v), substituted “any foreign law enforcement agency” for “to 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.)

Editorial Notes

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 relating to any CyberTipline report from NCMEC to use the elements to stop the online sexual exploitation of children.

(d) **PROVISION OF ELEMENTS TO LAW ENFORCEMENT.**—NCMEC may make available to Federal, State, and local law enforcement, and to foreign law enforcement agencies described in section 2258A(c)(3), involved in the investigation of child sexual exploitation crimes elements, including hash values, relating to any apparent child pornography visual depiction reported to the CyberTipline.

(e) **USE BY LAW ENFORCEMENT.**—Any foreign, Federal, State, or local law enforcement agency that receives elements relating to any apparent child pornography visual depiction from NCMEC under subsection (d) may use such elements only in the performance of the official duties of that agency to investigate child sexual exploitation crimes, and prevent future sexual victimization of children.

(Added Pub. L. 110–401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4249; amended Pub. L. 115–395, §4, Dec. 21, 2018, 132 Stat. 5292.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–395, §4(1), substituted “to reports made to” for “to images reported to” in section catchline.

Subsec. (a)(1). Pub. L. 115–395, §4(2)(A), substituted “NCMEC may provide elements relating to any CyberTipline report to a provider” for “The National Center for Missing and Exploited Children may provide elements relating to any apparent child pornography image of an identified child to an electronic communication service provider or a remote computing service provider” and “that provider to stop the online sexual exploitation of children” for “that electronic communication service provider or remote computing service provider to stop the further transmission of images”.

Subsec. (a)(2). Pub. L. 115–395, §4(2)(B), substituted “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” for “specific image, Internet location of images, and other techno-

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

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