



Congress of the United States

House of Representatives

Washington, DC 20515

September 26, 2023

The Honorable Lina M. Khan
Chair, Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Chair Khan,

I write to voice serious concerns related to unlawful activities on two prominent online platforms, namely Instagram, a subsidiary of Meta, and OnlyFans.com. The gravity of these concerns, underscored by a combination of reports from concerned constituents, law enforcement, and recent media investigations, necessitates immediate attention.

In 2022, the National Center for Missing and Exploited Children received 31.9 million reports of child pornography, with 5 million of those reports originating from Instagram alone.¹ Recent investigations by the *Wall Street Journal* and a collaborative study by the University of Massachusetts and Stanford University have revealed how Instagram's features, such as its hashtag system, algorithms, and search options, are facilitating the process of locating and purchasing child sexual abuse material ("CSAM").²³ Regrettably, even users who inadvertently encounter such material, and rightfully report it to the platform, are often suggested similar content by the platform's algorithms.⁴ Meta is aware that Instagram's features are promoting CSAM in this manner.⁵

OnlyFans.com has transformed the pornography industry by creating a subscription-based business model—emulating Uber and other gig-economy apps—which requires users to subscribe to individual creator accounts where most content is concealed behind a paywall. According to a report issued by the Anti-Human Trafficking Intelligence Initiative and the Center for Forensic Investigation of Trafficking in Persons, included in the Congressional Record pursuant to hearings held last year on the topic, "...it is relatively easy to identify significant 'red flags' indicating the likelihood of criminal activity occurring on OnlyFans.com through open source investigations, the paywall enables traffickers, rapists, and other criminal elements to better evade detection. To investigate and pursue these criminals at scale is extremely cumbersome for law enforcement, both in terms of direct financial commitment incurred by the paywall as well as the additional time required to investigate each paywall-enabled case of suspected criminal activity."⁶

¹ <https://www.missingkids.org/blog/2023/ncmec-verisign-partnership#:~:text=In%202022%2C%20NCMEC's%20CyberTipline%20received,image%20or%20video%20is%20located.>

² <https://www.wsj.com/articles/instagram-vast-pedophile-network-4ab7189>

³ <https://cyber.fsi.stanford.edu/news/addressing-distribution-illicit-sexual-content-minors-online>

⁴ *Id.* at 2.

⁵ *Id.*

⁶ <https://followmoneyfightslavery.org/expert-analysis-of-broopen-source-material-relating-to-child-sexual-abuse-material-and-sex-trafficking-occurring-on-onlyfans-com/>

The unique structure of the OnlyFans.com platform, employing a paywall system for accessing its user-generated content poses significant investigative challenges to law enforcement. This structure interferes with the task of law enforcement officers who are responsible for identifying and pursuing cases of illicit content distribution, rendering existing tools broadly ineffective.

This structure also directly implicates credit card companies, which are intermediating and facilitating sex-trafficking transactions between OnlyFans “channels” publishing child exploitation or non-consensual content and their subscribers. In fact, credit card operators are facilitating the ability of subscribers to “tip” electronically to induce certain acts to be performed in real-time. There need to be effective guardrails to protect consumers from these services being used to perpetuate a black market in illicit content, which lacks First Amendment protection.

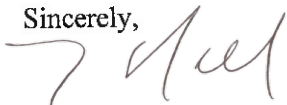
Such cases raise obvious concerns about the ineffectiveness of anti-money laundering (“AML”) compliance programs in the financial services sector, especially as regards credit card associations like Mastercard and Visa (in addition to their partner banks that issue their branded cards and use their payment networks).⁷

Your agency, as the premier agency to enhance consumer protection and protect against fraud, has had notable successes working with the Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”) and the Department of Justice (“DOJ”) under a Title 31 approach to ensure the effectiveness of well-established AML regulatory requirements in the financial services industry.⁸ These requirements clearly extend to ensuring that the industry, and especially the credit card associations like Mastercard and Visa take effective steps to protect against their products and services serving as the financial gateway to accessing illicit CSAM and content produced by victims of sex trafficking. By following a well-established regulatory approach, your agency can address the monetization of CSAM and content depicting victims of sex trafficking.

I respectfully ask the Federal Trade Commission to initiate comprehensive investigations into these alarming issues on both Instagram and OnlyFans.com. Consideration must be given to appropriate regulatory or legislative remedies that can harmonize user privacy, platform business models, and the necessity for robust law enforcement mechanisms to stem the tide of horrific online child abuse and other illegal material. Given the urgency and gravity of these issues, the FTC must prioritize these investigations, ensuring that all necessary steps are taken to protect vulnerable individuals who may become victims of the criminal enterprises perpetuated on these platforms.

Thank you for your attention to these critical matters. I eagerly await your response and anticipate diligent action by the FTC in resolving these concerns.

Sincerely,



Troy E. Nehls
Member of Congress

cc: Andrea Gacki, Director of FinCEN; Ryan McInerney, CEO of VISA; and Michael Miebach, CEO of Mastercard.

⁷ *Id.*

⁸ <https://www.ftc.gov/news-events/news/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles-consumer-fraud-charges-forfeits-586>; <https://www.ftc.gov/news-events/news/press-releases/2023/02/more-115-million-refunds-sent-consumers-result-ftc-doj-charges-moneygram-failed-crack-down-scams>; <https://www.justice.gov/opa/pr/moneygram-international-inc-agrees-extend-deferred-prosecution-agreement-forfeits-125-million>