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January 9, 2019

The Honorable Dianne Feinstein  
Ranking Member, Committee on the Judiciary  
U.S. Senate  
152 Dirksen Senate Office Building  
Washington, DC 20510

### **RE: Confirmation Hearing of William Barr for Attorney General of the United States; Assurance of Commitment to Combat Sexual Exploitation**

Dear Senator Feinstein:

As the confirmation hearings for Mr. William Barr for the position of United States Attorney General approach, we write urging you to ensure Mr. Barr's commitment to rigorous enforcement of the nation's laws combating sexual exploitation and to the development of institutional policy directives which also advance this end.

These matters include:

#### **1. Federal prosecution of Internet-based platforms (such as Skip the Games, Switter, Bedpage, and others) which promote prostitution and facilitate sex trafficking**

For nearly a decade the U.S. Department of Justice (DOJ), while having the legal authority, failed to prosecute websites like Backpage.com—a "company" with a business model dedicated to the promotion of prostitution and facilitation of sex trafficking. DOJ's failure to take proactive steps against this entity and its principal agents allowed the problem of Internet-based commercial sexual exploitation to metastasize and for Backpage.com to become its global "industry" leader. While we are deeply gratified that last year DOJ arrested Backpage's principals and shut down its operations, these actions came years too late—especially for those whose sexual exploitation and even deaths were facilitated by its operations. Moreover, DOJ's historic inaction and the lawless Internet-environment that it engendered has given rise to copycat platforms, which likewise seek to profit from sexual exploitation. Many of these platforms still exist today and, in the vacuum created by Backpage's shutdown, are seeking to fill the void. Thus, before a clear heir to the Internet-based sexual exploitation market can emerge, we desire assurance that under Mr. Barr the U.S. Department of Justice will investigate and prosecute such entities posthaste.

Additionally, because sexual exploiters—be they the mega-pimps behind Internet-based platforms, sex traffickers, or sex buyers—adapt to law enforcement pressure, it is important for law enforcement agencies to anticipate shifts in criminal behavior and to respond adroitly. For this reason, should he be confirmed, we request confirmation that Mr. Barr will take steps within the Criminal Division aimed at anticipating and following technologies used by sexual exploiters. For instance, we are especially concerned that sexual exploiters are increasingly using social media platforms such as Instagram, Snapchat, and Facebook to recruit and purchase minors for commercial sex. DOJ's future law enforcement measures must include proactive measures aimed at increased understanding of the modalities of sexual exploitation, as well as collaboration with social media companies to eradicate criminal exploitation occurring on their platforms.

## **2. Vigorous enforcement of federal obscenity laws, 18 U.S.C. § 1460 to 18 U.S.C. § 1470**

The government can curb the demand for child-on-child harmful sexual behavior, sexual violence, prostitution, and sex trafficking *if* the Attorney General enforces existing federal laws which prohibit distribution of hardcore pornography on the Internet, on cable/satellite TV, on hotel/motel TV, in retail shops, and by common carrier.

Converging evidence from peer-reviewed research finds that pornography consumption is associated with a broad array of adverse impacts, including:

- Less egalitarian and more hostile sexist attitudes of men towards women<sup>1</sup>
- Increased acceptance of rape myths<sup>2</sup>
- Male sexual aggression against women (effects being more pronounced among men who are predisposed to sexual aggression, who consume pornography with higher frequency, or who use violent pornography)<sup>3</sup>
- Physical and verbal aggression among both male and female pornography consumers<sup>4</sup>
- Greater likelihood of adolescents sexually harassing a peer<sup>5</sup>
- Adolescents perpetrating coercive and forced sexual behavior (i.e. child-on-child harmful sexual behavior)<sup>6</sup>
- Physical and sexual victimization of adolescents<sup>7</sup>
- Illegal purchase of sex<sup>8</sup>

In an age in which law enforcement resources are particularly strained, strategies that yield far-reaching results are imperative. As an approach that has the potential to yield ripple effects across the full web of sexual abuse and exploitation issues, strong enforcement of obscenity laws holds great promise. Yet, for nearly a decade, the U.S. Department of Justice has completely abdicated its responsibility for enforcement of this body of law and the results have been devastating.

DOJ's willful failure to perform its duty has allowed a toxic torrent of hardcore material to thrive on cable television, in hotel guest rooms, and the Internet, and permeate virtually every corner of public life—including schools. One popular pornography tube site reports that in 2016 users in the U.S. and around the world watched nearly 4.6 billion hours of pornography on its site alone.<sup>9</sup> Importantly, the pornography on this “mainstream” site

features such as themes such as teens, incest, sexual assault, sex trafficking and slavery, suffocation, bondage, and cartoons of pornography derived from popular children's shows and movies such as *My Little Pony* and *Zootopia*.

This bleak picture grows even more disturbing in view of a study of university students which found that 93% of boys and 62% of girls had seen Internet pornography during adolescence. The researchers reported that the degree of exposure to paraphilic and deviant sexual activity before age 18 was of "particular concern."<sup>10</sup> Another sample has shown that among college males, nearly 49% first encountered pornography before age 13.<sup>11</sup> Younger age at first viewing is associated with recent mental health problems, younger age at first sexual contact,<sup>12</sup> as well as the future use of pornography exhibiting the sexual abuse of animals and children.<sup>13</sup>

In view of these considerations, **DOJ's current practice of *only* prosecuting cases of child sexual abuse images (i.e. child pornography) is wholly inadequate.** We wholeheartedly applaud the efforts of DOJ's Child Exploitation and Obscenity Section (CEOS) to identify and prosecute those who create, trade, and profit from the sexual abuse images of children. We know that theirs is dark and soul-sucking task. We ask that under new leadership at DOJ their resources, financial and otherwise, will be substantially increased to help them shoulder the immense burden of their task. However, it is imperative that the prosecutorial efforts at DOJ be broadened to include adult obscenity.

As the Supreme Court held in *Paris Adult Theatre I v. Slaton*, 413 U.S. 49 (1973), there are several "... governmental interests that justify a prohibition on obscenity." As the court stated: "In particular, we hold that there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even if it is feasible to enforce effective safeguards against exposure to juveniles and to passersby ... These include the interest of the public in the quality of life and total community environment, the tone of commerce ... and, possibly, the public safety itself (57-58)."

Accordingly, we request affirmation of Mr. Barr's commitment to upholding *all* federal obscenity related statutes—including those pertaining to adult obscenity.

### **3. Implementation of policy and law enforcement efforts aimed at combating demand for commercial sex**

For the past two decades, efforts to fight sex trafficking have typically addressed two sides of the triangle of activity that comprises sex trafficking—*supply* (i.e., victims) and *distribution* (i.e., sex traffickers).<sup>14</sup> The third side of this triangle, *demand* (i.e., male buyers of people in the prostitution marketplace)<sup>15</sup> has received considerably less attention, despite calls to address demand dating to the mid-2000s.<sup>16</sup> The irony of this situation can scarcely be overstated, since demand for prostitution is the fulcrum on which all sex trafficking rests. Failure to combat sex buyer demand guarantees the survival of sex trafficking and future generations of victims.

In recognition of this fact, the Abolish Human Trafficking Act of 2017 (passed by Congress in December 2018), amended 34 U.S.C. 20711 (b). Among the law's provisions, the Attorney

General is directed to create a national strategy to prevent human trafficking and *reduce demand* for human trafficking victims. This law also directs the Attorney General to issue guidance to all offices and components of DOJ emphasizing the following:

- An individual who knowingly solicits or patronizes a commercial sex act from a person who was a minor (consistent with section 1591(c) of title 18, United States Code) or was subject to force, fraud, or coercion is guilty of an offense under chapter 77 of title 18, United States Code, and is a party to a severe form of trafficking in persons, as that term is defined in section 103(9) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9))
- Clarifying that commercial sexual exploitation is a form of gender-based violence.

Further, National Security Presidential Directive 22 (2003) instructs federal agencies to strengthen collective efforts to combat trafficking in persons by recognizing that activities such as prostitution, pimping, pandering, and maintaining brothels contribute to the phenomenon of trafficking in persons, and formalizes the U.S. government's opposition to prostitution and related activities as inherently harmful and dehumanizing.

Accordingly, we seek assurance that Mr. Barr will actively pursue efforts to combat demand for commercial sex and uphold NSPD-22 (e.g., promptly issuing the guidance directed by the Abolish Act; providing technical and financial support to state and local law enforcement efforts aimed at prosecuting commercial sex buyers; issuing internal guidance delineating that DOJ does not endorse "sex work" or full decriminalization of prostitution) and ensure that DOJ anti-trafficking funding directives support such initiatives.

### **Closing**

If confirmed Mr. Barr will have great power and opportunity to set U.S. law enforcement priorities. As outlined above, the matters presented here represent deep areas of concern that if purposefully addressed will do much to foster freedom from sexual exploitation in the U.S. and beyond. With this end in mind, we ask that you thoroughly question Mr. Barr on these topic areas and that your support of his nomination to the position of Attorney General be given only in response to Mr. Barr's pledge to vigorously address these matters.

Respectfully,



Patrick A. Trueman  
President & Chief Executive Officer  
Former Chief, Child Exploitation and Obscenity Section  
Criminal Division, U.S. Department of Justice

- <sup>1</sup> Gert Martin Hald, Neil N. Malamuth, and Theis Lange, "Pornography and Sexist Attitudes among Heterosexuals," *Journal of Communication* 63 (2013): 638–660, doi: 10.1111/jcom.12037. Pertaining to "less progressive gender roles," see also Jane D. Brown and Kelly L. L'Engle, "X-rated: Sexual Attitudes and Behaviors Associated with U.S. Early Adolescents' Exposure to Sexually Explicit Media," *Communication Research* 36 (2009):129–151, doi: 10.1177/0093650208326465.
- <sup>2</sup> Elizabeth Oddone Paolucci, Mark Genuis, and Claudio Violato, "A Meta-Analysis of the Published Research on the Effects of Pornography," *The Changing Family and Child Development*, ed. Claudio Violato, Elizabeth Paolucci, and Mark Genuis (Aldershot, England: Ashgate Publishing, 2000), 48–59; Gert Martin Hald, Neil M. Malamuth, and Carlin Yuen, "Pornography and Attitudes Supporting Violence Against Women: Revisiting the Relationship in Nonexperimental Studies," *Aggressive Behavior* 36 (2010): 14–20; John D. Foubert, Matthew W. Brosi, and R. Sean Bannon, "Effects of Fraternity Men's Pornography Use on Bystander Intervention, Rape Myth Acceptance and Behavioral Intent to Commit Sexual Assault," *Sexual Addiction & Compulsivity: The Journal of Treatment & Prevention* 18, no. 4 (2011): 212–231, doi: 10.1177/1524838017717745.
- <sup>3</sup> Kara Anne E. Rodenhizer and Katie M. Edward, "The Impacts of Sexual Media Exposure on Adolescent and Emerging Adults' Dating and Sexual Violence Attitudes and Behaviors: A Critical Review of the Literature," *Trauma, Violence, & Abuse* (2017): 1–14, doi: 10.1177/1524838017717745; Neil Malamuth, Tamara Addison, and Mary Koss, "Pornography and Sexual Aggression: Are There Reliable Effects and Can We Understand Them?" *Annual Review of Sex Research* 11 (2000): 26–91; Neil M. Malamuth, Gert Martin Hald, and Mary Koss, "Pornography, Individual Differences in Risk and Men's Acceptance of Violence against Women in a Representative Sample," *Sex Roles* 66 (2012): 427–439, doi: 10.1007/311199-011-0082-6;
- <sup>4</sup> Paul J. Wright, Robert S. Tokunaga, and Ashley Kraus, "A Meta-Analysis of Pornography Consumption and Actual Acts of Sexual Aggression in General Population Studies," *Journal of Communication* 66, no. 1 (2016): 183–205.
- <sup>5</sup> Silvia Bonino, Silvia Ciairano, Emanuela Rabagliette, and Elena Cattelino, "Use of Pornography and Self-Reported Engagement in Sexual Violence among Adolescents," *European Journal of Developmental Psychology* 3, no. 3 (2006): 265–288; Carl Göran Svedin, Ingrid Åkerman, and Gisela Priebe, "Frequent Users of Pornography. A Population Based Epidemiological Study of Swedish Male Adolescents," *Journal of Adolescence* 34, no. 4 (2011): 779–788; Michele L. Ybarra and Richard E. Thompson, "Predicting the Emergence of Sexual Violence in Adolescence," *Prevention Science* (2017), doi: 10.1007/s11121-017-0810-4. ); Jochen Peter and Patti M. Valkenburg, "Adolescents and Pornography: A Review of 20 Years of Research," *The Journal of Sex Research* (2016): 1–23, doi: 10.1080/00224499.2016.1143441; Jane D. Brown and Kelly L. L'Engle, *ibid.*
- <sup>6</sup> Michael C. Seto and Martin L. Lalumiere, "What is So Special about Male Adolescent Sexual Offending? A Review and Test of Explanations through Meta-Analysis," *Psychological Bulletin* 136, no. 4 (2010): 526–575; Michele L. Ybarra and Kimberly Mitchell, "Prevalence Rates of Male and Female Sexual Violence Perpetrators in a National Sample of Adolescents," *JAMA Pediatrics* 167 no. 12 (2013): 1125–1134, doi:10.1001/jamapediatrics.2013.2629; Ybarra et al., "X-Rated Material and Perpetration of Sexually Aggressive Behavior among Children and Adolescents: Is There a Link?" *Aggressive Behavior* 37, (2011): 1–18.
- <sup>7</sup> Michele L. Ybarra and Kimberly Mitchell, "Exposure to Internet Pornography among Children and Adolescents: A National Survey," *CyberPsychology & Behavior* 8, no. 5 (2005): 473–486 (physical abuse included being hit, beaten, kicked, physically abused by any grown-up taking care of them, and sexual abuse); Peter and Valkenburg, *ibid.*
- <sup>8</sup> Paul J. Wright and Ashley K. Randall, "Internet Pornography Exposure and Risky Sexual Behavior among Adult Males in the United States," *Computers in Human Behavior* 28 (2012): 1410–1416. Carl Göran Svedin, Ingrid Åkerman, and Gisela Priebe, "Frequent Users of Pornography. A Population Based Epidemiological Study of Swedish Male Adolescents," *Journal of Adolescence* 34, no. 4 (2011): 779–788; Steven Stack, Ira Wasserman, and Roger Kern, "Adult Social Bonds and Use of Internet Pornography," *Social Science Quarterly* 85 (2004): 75–88; Martin A. Monto and Nick McRee, "A Comparison of the Male Customers of Female Street Prostitutes With National Samples of Men," *International Journal of Offender Therapy and Comparative Criminology* 49, no. 5 (2005): 505–529; Martin A. Monto, "Summary Report for National Institute of Justice Grant #97-IJ-CX-0033 'Focusing on the Clients of Street Prostitutes: A Creative Approach to Reducing Violence Against Women'" (October 30, 1999). See also: Rachel Durchslag and Samir Goswami, *Deconstructing the Demand for Prostitution: Preliminary Insights from Interviews with Chicago Men Who Purchase Sex*, (Chicago, IL: Chicago Alliance Against Sexual Exploitation, 2008 and Farley et al., "Comparing Sex Buyers with Men Who Don't Buy Sex: 'You Can Have a Good Time with the Servitude' vs. 'You're Supporting a System of

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Degradation.” Paper presented at Psychologists for Social Responsibility Annual Meeting July 15, 2011, Boston, MA. San Francisco: Prostitution Research & Education (2011).

<sup>9</sup> Pornhub, “Pornhub’s 2015 Year in Review,” (2015).

<sup>10</sup> Chiara Sabina, Janis Wolak, and David Finkelhor, “The Nature and Dynamics of Internet Pornography Exposure for Youth,” *CyberPsychology & Behavior* 11, no. 6 (2008): 691–693.

<sup>11</sup> Chyng Sun, Ana Bridges, Jennifer Johnson, and Matt Ezzell, “Pornography and the Male Sexual Script: An Analysis of Consumption and Sexual Relations,” *Archives of Sexual Behavior* 45, no. 4 (May, 2016): 983–94.

<sup>12</sup> Lim, et al., *ibid.*

<sup>13</sup> Kathryn C. Seigfried-Spellar and Marcus K. Rogers, “Does Deviant Pornography Use Follow a Guttman-like Progression,” *Computers in Human Behavior* 29 (2013): 1997–2003.

<sup>14</sup> Laura J. Lederer, “Addressing Demand: Why and How Policymakers Should Utilize Law and Law Enforcement to Target Customers of Commercial Sexual Exploitation,” *Regent University Law Review* 23, no. 2 (2010): 297–310.

<sup>15</sup> *Ibid.*

<sup>16</sup> For instance, the Trafficking Victims Protection Act of 2005 contained provisions addressing demand for commercial sex acts in the U.S. and in connection to international sex tourism, as well as other demand-related provisions. Additionally, a few NGOs have emphasized combating demand (e.g. Global Centurion, Demand Abolition, the Coalition Against Trafficking in Women), but this is in stark contrast to the hundreds of groups that have emerged which are dedicated to providing victim services. See also Donna M. Hughes, “The Demand: Where Sex Trafficking Begins,” address at “A Call to Action: Joining the Fight against Trafficking in Persons, U.S. Embassy and the Holy See, Pontifical Gregorian University,” Rome, Italy (June 17, 2004).