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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

January 31, 2023

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

Dear Attorney General Garland:

I write to express my grave concern that Twitter is failing to prevent the selling and trading of child sexual abuse material (CSAM) on its platform and to urge the Department of Justice (DOJ) to take all appropriate actions to investigate, deter, and stop this activity, which has no protections under the First Amendment,<sup>1</sup> and violates federal criminal law.<sup>2</sup>

On December 16, 2022, I sent the attached letter to Twitter CEO Elon Musk about the deterioration of child safety on Twitter on his watch, including the dissolution of Twitter's Trust and Safety Council with no apparent plan to replace it,<sup>3</sup> and a reported 50 percent reduction in staff at Twitter's child safety team<sup>4</sup> that leaves Twitter understaffed to tackle its global legal obligations to address online child abuse.<sup>5</sup> Twitter has yet to respond to my letter.

Additionally, earlier this month, NBC News reported that an alarming number of Twitter accounts offering to trade or sell CSAM under thinly veiled terms and hashtags had remained online for months.<sup>6</sup> According to NBC News, some of the tweets were "brazen and their intention was clearly identifiable." Only after publication of the NBC News report did Twitter react by blocking certain hashtags and keywords.<sup>7</sup>

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<sup>1</sup> See *New York v. Ferber*, 458 U.S. 747 (1982) and *Osborne v. Ohio*, 495 U.S. 103 (1990).

<sup>2</sup> See 18 U.S.C. §§ 2251, 2252, and 2252A.

<sup>3</sup> See Cat Zakrzewski, Joseph Menn, and Naomi Mix, *Twitter Dissolves Trust and Safety Council*, WASH. POST (Dec. 12, 2022), <https://www.washingtonpost.com/technology/2022/12/12/musk-twitter-harass-voel-roth/>.

<sup>4</sup> See Olivia Solon and Jillian Deutsch, *Elon Musk's Job Cuts Decimated Twitter Team Tackling Child Sexual Abuse*, BLOOMBERG (Nov. 29, 2022), <https://www.bloomberg.com/news/articles/2022-11-29/musk-s-cuts-decimated-twitter-team-tackling-child-sexual-abuse?leadSource=uverify%20wall>.

<sup>5</sup> See Morgan Meaker, *Layoffs Have Gutted Twitter's Child Safety Team*, WIRED (Nov. 28, 2022), <https://www.wired.com/story/twitter-child-sexual-abuse-material/> (Twitter is reportedly down to one full-time employee for the Asia Pacific region, which is home to around 4.3 billion people, about 60 percent of the world's population).

<sup>6</sup> Ben Goggin, Lora Kolodny, and David Ingram, *On Musk's Twitter, users looking to sell and trade child sex abuse material are still easily found*, NBC NEWS (Jan. 6, 2023), <https://www.nbcnews.com/tech/tech-news/musk-twitter-elon-child-abuse-material-rcna63621>.

<sup>7</sup> Ben Goggin, *Twitter blocks hashtags used to promote child sex abuse material after NBC News review*, NBC NEWS (Jan. 10, 2023), <https://www.nbcnews.com/tech/social-media/twitter-blocks-hashtags-elon-musk-child-sex-abuse-material-nbc-news-rcna64965>.

Sadly, Twitter has provided little confidence that it is adequately policing its platform to prevent the online sexual exploitation of children. This puts children at serious risk. The Department of Justice can step up where Twitter is falling short, both by investigating and holding accountable the purveyors of CSAM, as well as by investigating and prosecuting any knowing facilitation or promotion of these heinous crimes. I urge the Department to begin by carefully reviewing the public reports on Twitter's handling of CSAM and giving due consideration to whether Twitter's conduct merits further investigation.

I further urge you to consider whether an online platform can be held liable under federal criminal law for failing to take reasonable steps to prevent the foreseeable proliferation of CSAM on its platform, and, if not, to inform the Senate Judiciary Committee whether the Department needs any additional legislative authority to address such criminally negligent behavior.

Twitter is on notice that its failure to address CSAM on its platform is unacceptable. The Department of Justice can protect children by helping ensure that these failures end. I urge the Department to take all appropriate steps to do so.

Thank you for your consideration of this important issue.

Sincerely,



Richard J. Durbin  
Chair

Encl.

cc: The Honorable Lindsey Graham, Incoming Ranking Member