# Senate Judiciary
# *Platform Accountability: Gonzalez and Reform*

Hany Farid, Ph.D.

## Questions

**Q1. In your testimony, you described five years of "asking, begging, pleading with the tech companies" to do something about child sexual abuse material on their platforms. You also said that "they came kicking and screaming to do that absolute bare minimum and they have been dragging their feet for the last ten years as well. Please elaborate on your view of the commitment of tech companies, including social media and app stores, to address online child sexual exploitation. What more could they be doing?**

Even in the early days of the web, it was clear that services provided by technology companies were being used to spread child sexual abuse material (CSAM). As early as 1995, the chatrooms of AOL – an early incarnation of today's social media – were allegedly used to share CSAM. In response, AOL executives at the time claimed that they were doing their best to rein in abuses on their system but that their system was too large to manage. This is precisely the same excuse that we hear nearly three decades later from the titans of tech.

By early 2000, there was an explosion of CSAM online. Between 2003 and 2008, despite repeated promises to act, major tech companies failed to develop or deploy technology that could find and remove CSAM. Then in 2009, I partnered with Microsoft to develop the technology photoDNA which quickly and accurately finds and removes known instances of CSAM as it is uploaded. PhotoDNA is provided at no cost to technology companies. Despite being free and easy to deploy, it took years of pressure, begging, and pleading, for photoDNA to be adopted by many (but not all) web services and networks.

In under a year, a small team of us developed, tested, and deployed photoDNA. How could it possibly be that over a five-year period the top technology

companies could not do this? The issue was never one of technological limitations. It was a matter of will and moral bankruptcy – the technology companies simply did not want a solution and so they did not find one.

Since the release of photoDNA in 2009, technology companies have individually and collectively failed to further innovate to respond to an increasingly sophisticated criminal underworld. For example, despite foreseeing the rise in child-abuse videos, tech firms have not yet deployed industry-wide systems that can identify offending footage like photoDNA can do for images. Despite the use of live-streaming services to broadcast the sexual abuse of children, the industry has done nothing to prevent this abuse. Despite knowing that their services connect children with predators, the industry has done virtually nothing to prevent this abuse, and have in fact continued to design their services to enable and even encourage these dangerous interactions. And, even when notified of CSAM on their services, some like Twitter and Google are maddeningly slow at responding.

Developing technology to address these harms is possible. The technology sector as a whole simply does not prioritize protecting children online. Instead, they seem only interested in harvesting the data of children and – like the tobacco industry – addicting increasingly younger children to their services.

**Q2. From your perspective, why is child safety not taken more seriously by the tech industry, including social media and app stores?**

Unlike the music and movie industry that lobbied to pass the DMCA to protect their financial interests, victims of child sexual abuse do not have a powerful lobby. As a side note, what does it say about a society that protects the interests of a billion-dollar industry before it protects their children?

The longer – less flippant – answer is that social media profits from user-generated content. Moderating content and taking down content is simply bad for business. In addition, if platforms developed and deployed effective content to remove CSAM, then they would have no excuse to not remove other harmful, illegal, or violative content. That is, an effective response to removing CSAM opens the door to reining in other forms of problematic (and profitable) content. Without the proper external pressure, the industry will simply not choose to act against their financial interests.

**Q3. In response to comments about differences in resources across companies in the tech industry to respond to legal challenges, you said that "small companies have small problems." In your view, why**

**should differences in legal resources across companies not be a barrier to Section 230 reform?**

When the DMCA was passed, the large technology companies made the same claim that managing DMCA take-down requests would cripple small platforms. It did not.

In 2018 the German NetzDG law went into effect requiring online platforms to quickly respond to reports of hate speech and illegal content. Large tech companies claimed that this would hurt smaller platforms and force all platforms to over-moderate – the same claims being made today around discussions of 230 reform. Neither prediction came true. Since its adoption, there has been no evidence of over-moderation or burdensome compliance costs[1].

Despite the lack of evidence to support claims that regulation will cripple innovation and smaller services, safeguards can be put in place. The European DSA, for example, distinguishes between "very large online platforms" (defined as platforms reaching 45 million average monthly users or more) and mid- and small-size platforms. The law places different rules and penalties based on platform size and reach with the very larger platforms being held to a higher standard.

The titans of tech are simply using scare tactics to avoid responsibility. We should, of course, be thoughtful on how any regulation will impact innovation, but as we saw with the automotive industry, safety need not be pitted against innovation and profits – safer products are good for everyone.

[1] https://www.counterextremism.com/blog/tech-relies-fallacious-arguments-obstruct-regulatory-efforts-germany's-netzdg