

**COMBATING CHILD PORNOGRAPHY BY ELIMINATING PORNOGRAPHERS'
ACCESS TO THE FINANCIAL PAYMENT SYSTEM**

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**Before the
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE**

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Good morning, Chairman Shelby, Ranking Member Sarbanes, and Members of the Committee. My name is Jodi Golinsky, and I am Vice President, Regulatory and Public Policy Counsel at MasterCard Worldwide¹ in Purchase, New York. It is my pleasure to appear before you today to discuss our efforts to combat the sale of child pornography.

MasterCard deplores the use of our system for any illegal purposes, and we prohibit our system from being used for the sale of child pornography. We take this matter very seriously, and we are committed to combating the sale of child pornography. Our efforts in this area include: (i) working to prevent offending web sites from accepting MasterCard-branded payment cards; (ii) investigating and testing to detect web sites attempting to circumvent our prohibition; and (iii) assisting law enforcement to detect, apprehend, and prosecute purveyors of child pornography.

¹ MasterCard is a driving force at the heart of commerce, enabling global transactions and striving to make commerce faster, more secure, and more valuable to everyone involved. MasterCard seamlessly processes close to 14 billion transactions each year. With more than 1 billion cards issued through its family of brands, including MasterCard®, Maestro® and Cirrus®, MasterCard serves consumers and businesses in more than 210 countries and territories, and is a partner to more than 25,000 of the world's leading financial institutions. With more than 24 million acceptance locations worldwide, no payment card is more widely accepted than MasterCard. MasterCard, through its industry-leading payment analysis and consulting services, maintains a competitive infrastructure that drives business growth for merchants and banking customers alike.

These efforts have succeeded in significantly disrupting child pornography sales. We recognize, however, that we see only part of the problem and that criminals who are denied access to our system are quick to look for other payment alternatives, including new and evolving payment methods designed for Internet-based transactions. We also recognize that private sector efforts alone are not enough—collaboration with law enforcement is critical. Law enforcement must be given the tools and resources to apprehend and prosecute these criminals, and there must be an effective mechanism for the private sector to assist law enforcement in achieving those objectives.

To address these issues, MasterCard has partnered with the National Center for Missing and Exploited Children (“NCMEC”) to form the Financial Coalition Against Child Pornography (“Coalition”). We strongly commend you, Mr. Chairman, for taking a leadership role in the formation of the Coalition. I believe it is fair to say that, without your involvement, the Coalition would not be where it is today. As you know, the Coalition represents a partnership of companies and governmental entities that have come together to combat child pornography. It includes a broad range of financial institutions, Internet service providers, and technology companies committed to working with NCMEC and governmental agencies to develop a coordinated approach to detecting and combating child pornography and provide a critical mechanism for assisting law enforcement in developing the information needed to apprehend and prosecute these criminals.

Coordinated by the NCMEC and the International Center for Missing and Exploited Children, the Coalition has embarked, in conjunction with government leaders and law enforcement agencies worldwide, on a first of its kind, globally focused effort to identify and eliminate commercial sources of child pornography. The Coalition has defined an initial four-

point strategy to combat child pornography that stresses the sharing of information about illegal activities among Coalition companies and has created a centralized system that proactively seeks, reports, and tracks the dissemination of child pornography. This information sharing is designed to provide law enforcement the essential information they need to apprehend and prosecute the criminals that purvey child pornography. It also provides an efficient mechanism for the Coalition's private sector participants to obtain the information needed to shut down the services being utilized by the criminals.

In addition, the Coalition is mobilizing world leaders to become a part of this global effort to eradicate child pornography. Through collaboration with this broad range of partners, we are mounting an aggressive effort against child pornography. Indeed, as discussed below, the Coalition has developed a mechanism to allow law enforcement and private sector parties to share valuable information to reduce the viability of child pornography web sites.

Background

MasterCard is a global organization with 25,000 financial institution customers that are licensed to use the MasterCard service marks in connection with a variety of payments systems. It is important to note that MasterCard itself does not issue payment cards nor does it contract with merchants to accept those cards. Instead, those functions are performed by our customer financial institutions. The financial institutions that issue payment cards bearing the MasterCard brands are referred to as "card issuers." The financial institutions that enter into contracts with merchants to accept MasterCard-branded cards are referred to as "acquirers." MasterCard provides the networks through which the customer financial institutions interact to complete payment transactions and sets the rules regarding those interactions.

Efforts to Address Child Pornography

A fundamental rule of our system is that each customer financial institution must conduct its MasterCard programs and activities in accordance with all applicable laws. This includes, for example, ensuring that any transaction a customer submits into the MasterCard system pertains to only legal activity. In connection with this rule, MasterCard expressly prohibits the use of its brand or system in connection with child pornography transactions, regardless of any legal ambiguity that may exist in a given jurisdiction.

MasterCard also has a series of rules that require acquirers to ensure that the merchants with whom they contract to accept MasterCard-branded cards are legitimate and engage in solely legal activities. These rules mandate, among other things, that acquirers perform due diligence on a merchant before authorizing the merchant to accept MasterCard payment cards and that acquirers monitor merchants for compliance with the rules. Acquirers that fail to comply with the rules may be required to absorb the cost of any illegal transactions, and may be assessed fines, suspended or terminated, in MasterCard's sole discretion.

It is important to note that we have been proactive in educating our customer financial institutions about our rules and their obligations with respect to illegal transactions, such as child pornography. For example, MasterCard has provided acquiring banks with guidance based on intelligence we have gained from previous investigations so acquirers are better prepared to avoid criminal or fraudulent schemes. In fact, we have also stressed the importance and utility of the Coalition to our customer financial institutions which has resulted in the recruitment of several Coalition participants.

MasterCard also works extensively with law enforcement officials to address situations where the legality of activities related to MasterCard payment card transactions is in question. A major objective of these efforts is to ensure that MasterCard provides appropriate support to law enforcement in their efforts to address illegal activity. We are sensitive to the fact that our efforts to enforce the MasterCard rules have the potential to hinder ongoing law enforcement investigations and the like. For example, when a merchant is shut off from accepting MasterCard-branded cards because the merchant violated our rules, law enforcement's ability to gather evidence can be impeded and shutting off a merchant might alert that merchant to an ongoing investigation.

In addition, MasterCard undertakes significant efforts to detect child pornographers seeking to circumvent our controls. These efforts include searching the Internet to identify sites that appear to be selling child pornography and purporting to accept our cards as payment. Once such sites have been identified, a painstaking, and largely manual, investigation is conducted to determine whether those sites actually accept our cards. In the overwhelming majority of cases where our brand appears on the site, we find that the site does not actually accept our cards but impermissibly displays our logo. Unfortunately, our success in impeding these criminals from using our system does not end the problem. We have seen a clear trend in which child pornographers denied access to our system are moving rapidly toward alternative payment methods to avoid detection and prosecution.

Consequently, we are not content to simply drive these criminals from our system and are deeply committed to a more comprehensive approach to dealing with the problem. We believe that our partnership with NCMEC and the Coalition provides such an approach, and we are in the process of conducting a program with the Coalition and law enforcement which is designed

to make it more difficult for criminals driven from our system to find safe haven. Under the program, MasterCard is providing to NCMEC the fruits of our investigative efforts. NCMEC, in return, refers this information to the appropriate law enforcement officials who are given the opportunity to conduct their own investigation. If law enforcement decides to proceed with an investigation, we work with law enforcement to support their efforts. If law enforcement decides not to proceed, a notice is provided to any payment service provided on that site and those services work to terminate payment acceptance at that site. This approach gives priority to any law enforcement efforts to investigate and prosecute the offending criminals but also helps to ensure that the criminals are thwarted from their efforts to receive payment when law enforcement is unable to pursue prosecution.

In addition to our active participation in the Coalition, MasterCard is also a corporate sponsor of NCMEC. MasterCard views its sponsorship of NCMEC as an extension of our commitment to helping fight the exploitation of children and dissemination of child pornography on the Internet, and we are proud to contribute to NCMEC's efforts.

Conclusion

Chairman Shelby and Ranking Member Sarbanes, thank you again for the opportunity to discuss these important issues with you today. MasterCard is deeply committed to doing its part to eliminate the commercial viability of child pornography on the Internet. It has also been our pleasure to work with your staff, NCMEC, law enforcement, and others to develop solutions to combat child pornography. We look forward to continuing these efforts. I would be glad to answer any questions you may have.