



June 25, 2024

Chairman Dick Durbin  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Ranking Member Lindsey Graham  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Chairman Jim Jordan  
House Committee on Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Ranking Member Jerrold Nadler  
House Committee on Judiciary  
2142 Rayburn House Office Building  
Washington, D.C. 20515

**Re: Federal Legislation on Intimate Image Deepfakes**

Dear Chair Durbin, Chair Jordan, Ranking Member Graham, and Ranking Member Nadler:

The undersigned organizations, all of which represent or work with firms in the technology industry, believe it is essential for Congress to act now to address the gap in federal law and establish liability for individuals who knowingly creates or distributes deepfake intimate images and videos (“intimate image deepfakes”) without the consent of the individual depicted. This kind of AI deepfake content poses an acute risk of harm, particularly to young people who are increasingly exploited and harassed by its proliferation. This harm is not directly covered by current federal law, and we believe Congress should hold bad actors accountable.

While high-profile celebrity examples initially garnered media attention, the press has increasingly brought attention to the widespread nature of intimate image deepfakes affecting people from all walks of life. These stories demonstrate the ease with which intimate image deepfakes are created and the severe personal implications for its victims. At least ten states have enacted laws to create civil or criminal liability for producing or disclosing intimate image deepfakes. The White House recently issued [a](#)

[call to action](#) to combat image-based sexual abuse seeking voluntary commitments from industry leaders to address this problem. Yet no federal statute exists addressing this problem.

Congress should act, and it has viable vehicles before it. The Disrupt Explicit Forged Images and Non-Consensual Edits Act of 2024 (S. 3696, H.R. 7569) – known as the DEFIANCE Act – would create a federal civil remedy for victims against individuals who produced or possessed the forgery with intent to distribute it; or who produced, distributed, or received the forgery, if the individual knew or recklessly disregarded that the victim did not consent to the conduct. The DEFIANCE Act would amend a provision in the 2022 Violence Against Women Act (VAWA) reauthorization focused on revenge porn. A similar bill, the Preventing Deepfakes of Intimate Images Act (S. 4409, H.R. 3106) would amend the same provision of the VAWA reauthorization to subject those who disclose or threaten to disclose intimate deepfake images with intent to harm to both criminal and civil liability, although we would encourage drafters of that bill to provide clarity around the limitations of liability for interactive computer services.

Also before Congress is the Stopping Harmful Image Exploitation and Limiting Distribution Act (S. 412, H.R. 3686) – known as the SHIELD Act. The SHIELD Act would expand the 2022 VAWA provision beyond civil liability to make it a federal crime to knowingly intimate visual depictions of an individual without consent. While not focused on deepfakes, this is another measure that Congress should advance to close a related gap in the law.

We commend the drafters of these bills for focusing legislation on bad actors, and adopting a balanced approach that both takes into account intermediary liability and First Amendment concerns. More specifically, the bills recognize and redress the privacy injury that sex-based deepfakes can cause while at the same time maintaining the shield that Section 230 provides, enabling platforms to innovate and further invest in technology to combat deepfakes such as developing better AI tools for detection and verification. Maintaining that balance is essential.

We recognize Congress has many competing and complex priorities. In the case of intimate image deepfakes, however, it is a problem that requires urgent attention. Congress has both the power and a duty to act on behalf of its constituents by setting a standard that creates legal ramifications that will prompt those with nefarious intentions to think twice before proliferating nonconsensual pornographic deepfakes, while bringing the opportunity for victims to seek the justice they deserve.

We look forward to working with Congress on its efforts to pass this much-needed legislation.

Respectfully submitted,

Software & Information Industry Association (SIIA)  
ACT | The App Association  
INCOMPAS, The Internet and Competitive Networks Association