



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

EXECUTIVE OFFICE

August 5, 2008

Doug Carlen
Senior Vice President and General Counsel
Covad Communications
110 Rio Robles
San Jose, CA 95134-1813

Dear Mr. Carlen:

This letter serves as formal notice to Covad Communications ("Covad") that within five days the Office of the New York Attorney General intends to commence legal action against Covad related to an ongoing investigation of the proliferation of child pornography on the Internet. My Office is gravely concerned that Covad, one of the top 25 Internet Service Providers in the country, has continued to drag its heels when it comes to taking every necessary action to eliminate child porn from the Internet, especially when the nation's other leading Internet Service Providers have already signed a code of conduct to block child pornography newsgroups and websites from their servers.

As you know, my office has been investigating the proliferation of child pornography on the Internet and the role of Internet Services Providers in providing access to child pornography through websites and newsgroups. In an effort to have a wholesale effect on the availability of this illegal material, I have entered into agreements with the largest ISPs in the country, including AT&T, Version, Time Warner Cable, Sprint, AOL, Earthlink, Comcast, Charter, Cablevision, Hughes, Clearwire, Netzero, Bluelight Internet Services and Juno Online Services. Each company has stepped up to the plate and voluntarily agreed to block child pornography newsgroups and websites as well as make meaningful changes to their complaint reporting procedures to permit the swift identification and prosecution of distributors of this material. Because the possession or distribution of child pornography is both a federal and state felony, it is not protected by the First Amendment. I have crafted the Code of Conduct each of these companies has signed as narrowly as possible to ensure that the actions they volunteer to take are surgically directed at only that felonious material and not at any protected content.

Despite the groundswell of corporate concern and action to reduce the supply of child pornography and the narrowly tailored provisions of the Code of Conduct, Covad has remained on the sidelines. My office sent your company a subpoena related to this investigation on July 23, 2008 and commenced discussions to try to come to an agreement that would put Covad with the top companies in the country in this fight against child pornography.

Covad's unwillingness to sign the Code of Conduct and purge its system of child pornography puts the company at the back of the pack in the race to fight this scourge, and would likely be surprising to Covad's customers across the country. Time is of the essence here, as every day without these measures is another day that this illegal material is sluicing through the Internet. I am asking you to take another hard look at the agreement that the other top companies have signed and tell me within the next five days whether you will commit to this Code. In the event that you cannot or will not, my office will pursue the legal remedies open to it to stop child pornography.

Sincerely,


ANDREW M. CUOMO