

NetChoice *Promoting Convenience, Choice, and Commerce on the net*

NetChoice

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NetChoice Concerns with Civil Rights Modernization Act

While this law is well-intended, and NetChoice commends its authors for trying to do something to combat racism and intolerance in the modern age, the Civil Rights Modernization Act will unintentionally hurt the ability of nonprofits and marginalized communities.

Today, any advertiser who violates civil rights law regardless of if they advertise in print, radio, television, or online can be brought to justice. On cable, we rightly hold the advertiser responsible for lawbreaking ads rather than the cable network as the advertiser is the one who knows their local laws and whether the claims are truthful. We also currently hold digital advertisers responsible, not the online service they choose to use. The ultimate goal of the Civil Rights Modernization Act is already achievable under existing law.

Unfortunately, while this legislation was crafted with the best of intentions, it makes interest-based advertising harder, resulting in costlier and less effective advertisements – two things that harm underfunded groups and marginalized communities as it makes it harder to ensure that the ads purchased reach the intended audience.

Take, for example, a scholarship offered by the NAACP. An advertisement that might be shown to and seen disproportionately by African Americans. This may simply be the result of the advertiser using online tools to make sure ads are seen by the relevant audience. This makes the NAACP's advertising budget more efficient, meaning they can reach more students who would benefit from scholarships. If online tools make it harder to reach minority audiences for valid causes, fewer minority Americans gain access to the programs and services they need. Likewise, it would make harder and more costly for nonprofit organizations when they run their fundraising campaigns.

As the advertiser is the least cost avoider, this bill would ultimately punish the service not a bad actor using the service. And much most tools, these services are not nefarious and having ads seen by those they are relevant to is actually socially beneficial. Yet under the act, digital platforms and websites could face civil liability for the bad actions of someone using these tools.

We welcome the opportunity to work with your office on legislation to address disparities in our society and on legislation to better enforce civil rights law.

We thank you for your consideration.

Sincerely,

Carl Szabo
Vice President and General Counsel, NetChoice