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17 IN THE UNITED STATES DISTRICT COURT
18 THE NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION
20

21 NETCHOICE, LLC d/b/a NetChoice,
22 Plaintiff,

23 v.

24 ROB BONTA, ATTORNEY GENERAL OF
25 THE STATE OF CALIFORNIA, in his official
capacity,
26 Defendant.
27

Case No. 5:22-cv-08861-BLF

**DECLARATION OF GIANCARLO
CAIRELLA IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

Date: June 22, 2023
Time: 9:00 A.M.
Dept.: Courtroom 3 – 5th Floor

Action Filed: December 14, 2022

1 I, Giancarlo Cairella, declare:

2 1. **Identity of Declarant.** I am Risk Manager for IMDb.com, Inc. (“IMDb”). I make
3 this declaration from personal knowledge and a review of IMDb’s records kept in the ordinary
4 course of business.

5 2. **IMDb’s Service.** IMDb is the world’s largest online database of information related
6 to films, television programs, streaming content, and video games. IMDb provides a breadth of
7 information on the entertainment industry that is unparalleled by any other source. IMDb contains
8 individual pages for both titles (e.g., a movie or television program) and people in the
9 entertainment industry (e.g., an actor, crew member, or industry executive). Pages for individual
10 people generally contain biographical information, trivia (such as personal quotes), and a list of
11 titles with which that individual was involved. Clicking on a title will take a user to the dedicated
12 page for that title, which can also be accessed directly through a search or the IMDb directory.
13 Title pages can include information on cast, production crew, plot summaries, trivia, soundtrack
14 information, box office numbers and user reviews, as well as multimedia content such as posters,
15 behind-the-scenes photos, and movie trailers. In addition, IMDb publishes original content, such
16 as video programs, podcasts, and news about movies and the entertainment industry. IMDb also
17 offers a subscription service known as IMDbPro that provides users with additional services and
18 features, such as the ability to claim their own pages, post resumes and photos, and access rank
19 and agent information for entertainment professionals. Through these services, IMDb serves as a
20 trusted “one-stop shop” for entertainment-related information that is relevant to both the general
21 public and the entertainment industry.

22 3. As of 2022, IMDb was estimated to be one of the most visited websites in the
23 world,¹ with more than 250 million unique visitors a month,² more than 12.1 million pages for
24 individual actors and crew members, and more than 12.6 million title pages for movie, television,
25 and entertainment programs.³

26 4. IMDb’s core service is free and publicly available. IMDb earns revenue

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28 ¹ <https://ahrefs.com/blog/most-visited-websites/>
² <https://www.imdb.com/pressroom/press-pull-quotes/>
³ <https://www.imdb.com/pressroom/stats/>

1 predominantly from advertisements displayed directly on the IMDb site. Advertising revenues
2 enable IMDb to keep the vast majority of the information on its site free and available to the public.
3 IMDb also earns revenue, to a lesser extent, from IMDbPro subscription fees and data licensing,
4 and to a much smaller extent from referral fees (collected when users click through to stream or
5 purchase movie tickets from other services linked from IMDb).

6 5. From its inception as a fan-operated movie database in 1990, IMDb has relied on
7 contributions and input from users around the world to maintain the accuracy of its database.
8 Among other things, users can add new titles to the database; contribute plot summaries, reviews,
9 and ratings; add iconic quotes from a film or television title; and edit filmmakers' biographies.
10 The majority of the information on IMDb is submitted by IMDb users.

11 6. IMDb's goal is to be as comprehensive as possible in providing information about
12 the broadest range of movies, television programs, and other content—from educational children's
13 television shows like *Sesame Street* to controversial, boundary pushing works, such as Martin
14 Scorsese's *The Last Temptation of Christ*, Stanley Kubrick's *A Clockwork Orange*, and John
15 Waters' *Pink Flamingos*. IMDb likewise includes information about certain morally abhorrent but
16 historically significant works, such as the Nazi propaganda film *Triumph of the Will* and the Ku
17 Klux Klan-glorifying *Birth of a Nation*.

18 7. ***Means of Accessing Service.*** The majority of the content on IMDb is available for
19 free to anyone who accesses the site or downloads the IMDb mobile app. Users have the option
20 of registering to create a personal account on the site, but they are not required to do so. Most
21 visitors to IMDb are unregistered, meaning that they do not have an IMDb account. Such users
22 can browse the site and look at most of the information on it but cannot take advantage of any
23 personalization features, such as creating a watchlist of titles, voting on movies, or contributing
24 information.

25 8. Registering for and logging into an account—which requires providing an email
26 address—enables users to access IMDb's personalization features and contribute to or interact with
27 content posted on IMDb.com, such as through title ratings and reviews, plot summaries, quotes,
28 and trivia for individual titles, and credits and biographies for individual cast and crew members.

1 Registered users may also interact with the content that other users have contributed by, for
2 example, flagging content as “helpful” or “interesting.” Logging into an account also enables
3 users to customize their experience by tracking which titles they have seen and creating a
4 “Watchlist” for titles they wish to see, which enables users to receive personalized
5 recommendations for content in which they may be interested. IMDbPro subscribers also must
6 have an account.

7 9. As stated explicitly in IMDb’s Privacy Notice, IMDb is not intended for use by
8 children under the age of 13, and users may not sign up for an account, submit information about
9 themselves, or contribute information about films and shows if they are under the age of 13. Only
10 users age 18 and above are eligible for IMDbPro accounts.

11 10. IMDb does, however, permit users between the ages of 13 and 18 to access its
12 services. To assist parents to help guide or oversee IMDb’s use by these younger users, if they so
13 choose, many title pages contain a “Parents Guide” section that provides the age ratings for the
14 title in different countries and descriptions of elements within the title that may be of concern, such
15 as the use or depiction of violence, sex, nudity, or profanity. IMDb also restricts the display of
16 pages related to adult titles (including individual pages for adult performers) in search results
17 unless a registered user expressly opts-in to have titles of that genre displayed.

18 11. Many filmmakers, writers, and other users have talked about how they used IMDb
19 in their youth to learn about film and television and to develop their tastes, as they first read
20 information about works they already loved and then clicked through to find other works involving
21 the same actors or filmmakers.

22 12. *Age Verification.* I understand that AB 2273 will require IMDb to verify the ages
23 of its users with reasonable certainty relative to the risks that IMDb services and content might
24 pose. I find this standard vague and confusing as to what type of age verification is required.

25 13. Currently, IMDb does not have technology in place to verify the age of every visitor
26 to the site. Users who register for an account may choose to provide a birthdate, but account
27 holders are not required to provide their birthdates, nor does IMDb verify that birthdates entered
28 by account holders are accurate.

1 14. Altering IMDb's user interface to accommodate the submission, collection, and
2 secure storage of individual birthdates and identity information would take time and consume
3 significant resources. More broadly, doing so would require IMDb to fundamentally reconfigure
4 its service from a generally accessible website to one that requires all users to sign up and submit
5 sensitive personal information and/or identification documentation. This would undermine
6 IMDb's core mission to be the default "go to" online resource for anyone seeking information
7 about movies and television. And since the majority (more than 80 percent during the period from
8 January 1-February 7, 2023) of IMDb page views come from unregistered users, a requirement
9 that users submit extensive personal information in order to access the site is likely to reduce
10 IMDb's audience.

11 15. ***Conditions of Use and Review Guidelines.*** I also understand that AB 2273 requires
12 businesses to "[e]nforce published terms, policies, and community standards established by the
13 business." IMDb currently has in place a number of policies governing how users may interact
14 with the site, including Conditions of Use ("Conditions") and user review and image guidelines
15 ("Guidelines") that address the type of content that users may and may not upload to the site. True
16 and correct copies of these policies are attached as **Exhibit 1** and **Exhibit 2** to this declaration.
17 Under the Conditions, users may not post content that is "illegal, obscene, threatening, defamatory,
18 invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third
19 parties." The Guidelines also preclude posting certain types of content such as full or partial nudity
20 and excessive gore, but users are permitted to upload images that are relevant to a title, even if
21 they include violence, horror-themed content, or sexually suggestive non-nude images. Users may
22 also upload quotes from movies containing profanity or other content that some may find
23 offensive. And users may upload information, such as detailed plot summaries, imagery or quotes,
24 from works that contain adult or controversial subject matter.

25 16. IMDb's Guidelines and Conditions are central to the online community and
26 knowledge base that IMDb seeks to foster. IMDb acts expeditiously to assess reports of content
27 that violates these standards and removes content where the complaints are found to be valid. But
28 IMDb users contribute more than one million items of content every week, and actively reviewing

1 every item to ensure in advance that it does not violate these provisions would be impossible. In
2 general, IMDb's primary concern about title and person contributions is accuracy. IMDb does not
3 routinely screen these contributions based on whether or not they might be offensive or otherwise
4 objectionable. If someone submitted a quote from a film that is accurate (i.e. faithfully reproduces
5 the dialogue of the film), IMDb would almost certainly allow it, even if it could be offensive. For
6 example, the Quotes section for Pulp Fiction (1994) features quotes that some would consider to
7 contain racist, sexist, or otherwise offensive language.⁴

8 17. IMDb does exercise more editorial discretion over user-submitted reviews, and (for
9 example) does not tolerate profanity, racist, or otherwise discriminatory reviews. But assessing
10 whether reviews actually violate the Conditions or the Guidelines can be a nuanced and subjective
11 task, which requires careful thought and judgment and counsels against a rigid and inflexible
12 application. In one recent example, moderating user-submitted reviews of a gay-themed film
13 presented judgment calls as to when critical commentary crossed the line into discrimination. For
14 these reasons, IMDb's Conditions expressly provide that "IMDb reserves the right to refuse
15 service, terminate accounts, or remove or edit content in its sole discretion."

16 18. *Content Requirements of AB 2273.* I understand that AB 2273 will require
17 businesses like IMDb to evaluate and mitigate the risk that "potentially harmful content" or
18 "contacts" will reach users under 18 and to self-report those hypothetical risks to the California
19 Attorney General. I understand that AB 2273 further requires IMDb to either ensure that each
20 individual user is over 18 or else to remove any service, feature, or product that could expose a
21 user under age 18 to "material detriment" or that might be considered a "dark pattern" that
22 encourages minors to provide information.

23 19. I do not understand how to comply with these requirements because AB 2273
24 provides no concrete definitions for key terms, such as "material detriment" and "potentially
25 harmful." Therefore, to be absolutely certain that the Attorney General will not conclude that
26 IMDb has violated the law, IMDb would have to assess whether information or commentary in
27 IMDb's podcasts, newsfeeds, or profile and title pages could, in some way or another expose a
28

⁴ https://www.imdb.com/title/tt0110912/quotes/?ref_=tt_trv_qu

1 minor to any type of harm, even if that harm is unlikely to occur. This would be an immense and
2 unrealistic undertaking because there are millions of titles and pages for actors and crew members
3 within IMDb, which—as noted—are user-generated. IMDb also would need to review its news
4 features, which aggregate headlines, stories, and content from a variety of entertainment news
5 sources and cover a wide range of topics that someone might argue could be harmful to children,
6 such as celebrity weight loss, plastic surgery, substance abuse, infidelity, and mental health issues.
7 In addition, IMDb would need to review its podcasts to attempt to ensure that their content and
8 topics could not be deemed potentially harmful to minors. Such compliance efforts would be a
9 highly subjective, burdensome and infeasible exercise. They would also conflict with IMDb’s
10 core goal of offering truly comprehensive information and commentary about movies, shows, and
11 the entertainment industry, and not just those that are universally agreed as being appropriate for
12 children. And they would force IMDb to err on the side of caution where there is any doubt about
13 how the State might react to particular content.

14 20. ***Use of Data.*** IMDb collects and uses certain data from its users. That data includes
15 the information provided by users when they register, the content users contribute about individual
16 titles and filmmakers, and the ratings and viewing activity that users record, as well as IP addresses
17 and website visitation information. This information enables IMDb to provide a range of services,
18 deliver content, process payments, communicate with users, generate revenue from advertising,
19 make recommendations, personalize the user experience, identify and fix errors on the website,
20 remove and minimize “bot” activity, and improve IMDb services.

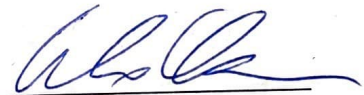
21 21. I understand that AB 2273 generally restricts websites from collecting, using, and
22 sharing information from users unless the website verifies that those users are over 18 or the
23 information is “necessary.” IMDb does not specifically collect data from its users aged 13-17, nor
24 does it target content to such users. But the across-the-board nature of the restrictions imposed by
25 AB 2273 would degrade the user experience and potentially hamper IMDb’s ability to generate
26 revenue through advertising, which is how IMDb is able to offer such a wide array of information
27 to the public free of charge.

28 22. ***Preparing for AB 2273.*** To prepare for compliance with AB 2273, IMDb must

1 determine whether to either (a) restrict its services to individuals over 18, or (b) modify IMDb's
2 services to comply with AB 2273's numerous requirements and prohibitions. Both options will
3 require IMDb to redesign its services; develop and implement the software necessary to verify
4 users' ages; revise and rewrite significant portions of software; review and amend contracts with
5 third parties; and review and likely revise its revenue model. If IMDb chooses to continue to
6 permit 13-17 year old users to access its services, I anticipate that IMDb will need to further review
7 and potentially modify IMDb's personalization services; review and revise IMDb's Guidelines
8 and Conditions; develop new protocols around enforcement of those Guidelines and Conditions;
9 consider whether to comprehensively review and remove content that could be considered
10 "potentially harmful" to those under 18; and complete DPIAs for its many services and features.
11 I anticipate that these processes will take six to nine months, at a minimum, and require the
12 expenditure of considerable resources.

13 I declare under penalty of perjury that the foregoing is true and correct to the best of my
14 knowledge.

15 Executed at SEATTLE, WA this 16 day of February 2023.

16
17 

18 Giancarlo Cairella