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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 NETCHOICE, LLC d/b/a NetChoice,
17 Plaintiff,

18 v.
19

20 ROB BONTA, ATTORNEY GENERAL OF THE
21 STATE OF CALIFORNIA, in his official capacity,
22 Defendant.
23

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

**THE CHAMBER OF COMMERCE
OF THE UNITED STATES OF
AMERICA’S UNOPPOSED MOTION
FOR LEAVE TO APPEAR AS
AMICUS CURIAE AND TO FILE AN
AMICUS CURIAE BRIEF IN
SUPPORT OF PLAINTIFF’S
MOTION FOR PRELIMINARY
INJUNCTION**

Judge: Honorable Beth Labson Freeman

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28 The Chamber of Commerce of the United States of America’s Unopposed Motion for Leave to
Appear As Amicus Curiae and to File an Amicus Curiae Brief In Support of Plaintiff’s Motion for
Preliminary Injunction, Case No. 5:22-cv-08861-BLF

1 The Chamber of Commerce of the United States moves for leave to appear as amicus curiae
2 and to file the attached brief in support of Plaintiff NetChoice LLC’s motion for preliminary
3 injunction, Dkt. No. 29. Plaintiff consents to this Motion. Defendant takes no position on this
4 Motion.

5 “The district court has broad discretion to appoint amici curiae.” *Hoptowit v. Ray*, 682 F.2d
6 1237, 1260 (9th Cir. 1982). “There are no strict prerequisites that must be established prior to
7 qualifying for amicus status; an individual seeking to appear as amicus must merely make a showing
8 that his participation is useful or otherwise desirable to the court.” *California by & through Becerra*
9 *v. United States Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019) (Armstrong, J.).
10 Amici “fulfill[] the[ir] classic role” by “assisting in a case of general public interest, supplementing
11 the efforts of counsel, and drawing the court’s attention to law that escaped consideration.” *Miller-*
12 *Wohl Co. v. Comm’r of Lab. & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982).

13 Allowing the Chamber to participate as amicus curiae would assist the Court. The Chamber
14 of Commerce of the United States is the world’s largest business federation. It represents
15 approximately 300,000 direct members and indirectly represents the interests of more than three
16 million companies and professional organizations of every size, in every industry sector, and from
17 every region of the country. Many of the Chamber’s members participate in marketing and
18 advertising products and services over the Internet to the public at large, a group that inherently
19 includes children. As a result, the Chamber is well-positioned to discuss how businesses across the
20 state and country are affected by the California statute at issue in this case.

21 The Chamber’s proposed brief will assist the Court in resolving the important Children’s
22 Online Privacy Protection Act (“COPPA”) preemption issue raised by Plaintiff. The Chamber
23 regularly litigates issues of federal preemption. *See, e.g., Chamber of Com. of the United States of*
24 *Am. v. Bonta*, No. 20-15291, 2023 WL 2013326 (9th Cir. Feb. 15, 2023). The Chamber is currently
25 participating as an amicus curiae in the Ninth Circuit’s consideration of the scope of COPPA
26 preemption. *See Amicus Br. of Chamber In Support of Rehearing En Banc, Jones v. Google*, No.
27 21-16281 (9th Cir. Feb. 2, 2023). Finally, the proposed brief’s analysis and application of COPPA’s

1 text, structure, and legislative history will “provide[] insight” “helpful to deciding” the preemption
2 issue before this Court. *See Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d
3 761, 764 (7th Cir. 2020).

4 For the foregoing reasons, the Chamber respectfully requests that the Court grant this Motion
5 and accept for filing the accompanying amicus curiae brief.

6 Dated: February 24, 2023

Respectfully Submitted,

7 /s/ Robert E. Dunn

8 Robert E. Dunn (Bar No. 275600)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 24, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Robert E. Dunn
Robert E. Dunn