

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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May 24, 2016

The Honorable David Campos
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

RE: *NetChoice Opposition to Proposed Resolution on Short-Term Rentals to be Considered at the San Francisco DCCC Meeting on May 25, 2016*

Dear Supervisor Campos:

We ask you to reconsider the proposed Resolutions regarding hosting platforms and short-term rentals (STRs) in San Francisco as they threaten to undermine a key component of the internet and would likely be found unconstitutional.

We are sure that the Council would think it absurd to hold *newspapers* responsible for what customers write in their classified listings. But that is precisely what these Resolutions would require of internet websites.

The Resolutions require hosting platforms like HomeAway and Airbnb to somehow determine whether a listing posted on their site by a city resident is in full compliance with applicable ordinances. If a non-compliant STR lists on a hosting platform, the Resolutions would impose stiff fines on the platform.

The city has never imposed these responsibilities and penalties on newspapers for their classified ads or for coffee shops that allow customers to post rental offers on their bulletin boards.

This Resolution would close-down the open nature of online hosting sites – an openness that is a core feature of the internet.

The internet is an open platform that enables people from all parts of San Francisco to participate and say whatever they want. While some nations discourage user-generated content, the United States created fertile ground for business models that have transformed the world.

Moreover, this innovation is protected by Section 230 of the federal Communications Decency Act. Section 230 operates as the backbone for our favorite e-Commerce sites. Without Section 230 we might not have platforms like eBay, Kickstarter, Stubhub, HomeAway, or YouTube. Put simply, Section 230 says platforms can't be held strictly liable for content posted by others.

However, these proposed Resolutions ignore Section 230. This not only threatens a core tenet of the internet, but is at odds with federal law – resulting in the likely injunction of the Resolutions.

Not only are these Resolutions unconstitutional, but they covertly seek to upend the STR economy in San Francisco. STRs have enabled city residents to use their homes to earn additional income. While some oppose this, the citizens of San Francisco recently voted to enable this sharing revolution. We ask that you respect the choices of your citizens and not move forward with these unconstitutional Resolutions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Carl Szabo'.

Carl Szabo
Policy Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org