

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

Carl Szabo, Senior Policy Counsel
1401 K St NW, Suite 502
Washington, DC 20005
202-420-7485

www.netchoice.org



January 9, 2017

RE: **Opposition to 7C.Home-Sharing Program Amendments**

Dear Mayor Winterer and the Santa Monica City Council,

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 Amendments would require of internet websites.

The Amendments require hosting platforms like HomeAway and AirBnb to somehow determine whether a listing posted on their site by a city resident is also identified on the City's master list of registered hosts. If a non-compliant STR lists on a hosting platform, the Amendments 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 charge customers to post rental offers on their bulletin boards.

Your Amendments 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 Santa Monica 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 Amendments 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 Amendments.

Not only are these Amendments unconstitutional, they covertly seek to upend the STR economy in Santa Monica – a platform that enables city residents to use their homes to earn additional income.

It would be absurd to force the Santa Monica Daily Press to collect and remit taxes for rentals though its classified ads

A screenshot of the Santa Monica Daily Press website. At the top, there is a navigation bar with links for "Write Us", "About Us", "Advertise", and "Back Issues". Below the navigation bar is the "sm dp" logo with the text "Santa Monica Daily Press" underneath. The main content area is titled "Services" and "Business Services". There are two classified ads visible. The first is titled "MAKE MONEY FROM YOUR DRIVEWAY" and describes a community-driven platform for parking in LA. The second is titled "PHOTOGRAPHER FOR HIRE" and lists contact information for a photographer. Below the ads is a "Real Estate" section with a "For Rent" listing for a "COSY 1BD/1BA APT IN PALISADES".

We recognize the responsibility of STR hosts to remit the appropriate taxes to Santa Monica. However, we oppose mandates that force STR platforms to engage in such collection and remittance. While not only violating the federal protections described above, this mandate does not work when the platform is not a party to the actual transaction and merely operates as a listing agent. For example, when newspaper classified sections receive their revenue as part of a “listing fee” they are not able to collect the occupancy taxes. This overly broad requirement for tax collection is unworkable under many STR business models and should be reconsidered.

We ask that you not adopt these Amendments, which would violate existing federal law and impinge on free speech.

We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,



Carl Szabo

Senior Policy Counsel, NetChoice

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