



CALinnovates

June 6, 2016

City Planning Commission
200 N. Spring Street, Suite 550
Los Angeles, CA 90012

Re: CF #14-1635-S2
CPC-2016-1243-CA

Dear Esteemed Commissioners,

We write today to draw your attention to some of the severe weaknesses in the proposed ordinance in front of the City Planning Commission regarding oversight of online home sharing platforms.

The draft proposal violates key tenants of the federal Communications Decency Act (CDA) that have paved the way for some of the most consumer-friendly online platforms including Amazon, Facebook and PayPal. It also violates the privacy of people who put their homes up for rent on home sharing platforms by requiring those platforms to collect, and keep, onerous amounts of information on each host.

The proposal seems designed not to protect consumers or to encourage a new marketplace that is giving millions of people new ways to make ends meet, but to destroy this emerging sector of the new economy and protect the incumbent hotel industry.

The most distressing aspect of the proposal is its clear violation of Section 230 of the CDA. Passed into law in 1996, the section has been one of the most important tools for freedom of expression and innovation taking place on the internet. It protects websites from being sued for the actions or speech of people on those sites. This kind of protection was necessary for the rise of the kind of platforms we all use today. Ebay, for example, would have died on the vine if it risked being held responsible for every good sold on its site.

Part of setting up a vibrant marketplace has always meant risking letting a few bad actors in but markets have dealt with those situations internally. Rip someone off on Ebay and don't expect to get much more business once that negative review goes up.

Home sharing platforms are the same kind of websites as Google and Ebay. Homeowners and renters find each other through sites like Airbnb and HomeAway. They talk together to agree on a price for a few nights stay and conduct business solely with one another.

To hold the platform responsible for their actions clearly violates Section 230. Yet that's exactly what the ordinance proposes. Platforms would be liable for any host who is not in compliance with rules laid out by the city. The platforms can be fined \$500 a day if they allow a listing from a non-compliant host to remain on the site. If the sites don't provide the city with addresses for non-complying hosts, they can be fined \$1,000 a day.

Airbnb, for example, hosts millions of transactions per day across thousands of jurisdictions around the world. To expect a platform of that size (or any size) to police every single user to the degree described here by the city would be almost impossible and simply seeks to shift police power from the municipality to the private business. At the very least it would require Airbnb to hire a fleet of employees and legal counsel to monitor each listing and interaction.

This local act does not take priority over a federal act and on a federal level, the proposed ordinance's imposition of burdens for policing their own sites for the actions of their users is utterly preempted by Section 230 and will be challenged and struck down if they are enacted. These provisions should be struck from the ordinance or the entire ordinance should be withdrawn.

The ordinance asks platforms to violate the privacy of the people who are looking to rent out rooms or their homes in order to earn extra income.

Platforms will be required to collect registration numbers, addresses of all rental sites, the total number of nights each site was rented and the amount paid for each stay. There is no reason for home sharing sites to collect this information. They simply act as a matchmaker for homeowners and renters to meet and make deals.

The people who are using these platforms do not expect (and should not expect) that this kind of information is going to be collected and shared with the city. These documents will contain personal information that should remain private rather than open to anyone with the ability to hack the city's system or the willingness to file a public records request. It's been shown time and time again that government offices are


particularly insecure and easily hacked. Forcing the home sharing platforms to collect this information and share it with the city puts these users at risk and will discourage them from continuing to use home sharing platforms.

And at the end of the day, that seems to be the real purpose here — to make it as difficult as possible for home sharing platforms to thrive. Consumers have showed overwhelmingly that personal enterprise economy platforms like Airbnb and HomeAway add value to their lives. Travelers want to use these platforms for vacations, business travel and even to stay in different

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parts of their own city. The proposed ordinance would have a chilling effect on this new marketplace and only end up hurting the Los Angeles economy, its residents and its visitors.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Montgomery". The signature is stylized with a large loop and a trailing flourish.

Mike Montgomery
Executive Director

cc: Mayor Eric Garcetti
Council President Herb Wesson
Councilmember Mike Bonin
Sharon Dickinson
Etta Armstrong
Matthew Glesne
Tricia Keane
Justin Wesson