



FAIR HOUSING

YOUR MONTHLY UPDATE TO HOUSING NEWS, INFORMATION AND EVENTS

April 2019

HUD CHARGES FACEBOOK WITH HOUSING DISCRIMINATION OVER COMPANY'S TARGETED ADVERTISING PRACTICES

“Using a computer to limit a person’s housing choices can be just as discriminatory as slamming a door in someone’s face.” HUD Secretary Ben Carson

Adapted from a HUD Press Release dated March 28, 2019.

WASHINGTON – The U.S. Department of Housing and Urban Development (HUD) announced today that it is charging Facebook with violating the Fair Housing Act by encouraging, enabling, and causing housing discrimination through the company’s advertising platform.

[Read HUD’s Charge against Facebook.](#)

HUD’s action follows the investigation of a Secretary-initiated complaint filed on [August 13, 2018](#). That complaint was covered in a Special Edition of MHI’s Fair Housing Update.

In the current charge, HUD

alleges that Facebook unlawfully discriminates based on race, color, national origin, religion, familial status, sex, and disability by restricting who can view housing-related ads on Facebook’s platforms and across the internet.

Further, (and not detailed in MHI’s previous Special Report), HUD claims Facebook mines extensive data about its users and then uses that data to determine which of its users view housing-related ads based, in part, on these protected characteristics.

“Facebook is discriminating against people based upon who they are and where they live,” said HUD Secretary Ben Carson. “Using a computer to limit a person’s housing choices

can be just as discriminatory as slamming a door in someone’s face.”

HUD General Counsel Paul Compton added, “Even as we confront new technologies, the fair housing laws enacted over half a century ago remain clear—discrimination in housing-related advertising is against the law. Just because a process to deliver advertising is opaque and complex doesn’t mean that its exempts Facebook and others from our scrutiny and the law of the land. Fashioning appropriate remedies and the rules of the road for today’s technology as it impacts housing are a priority for HUD.”

(continued on back page)



HUD Charges Facebook (continued)

The Fair Housing Act prohibits discrimination in housing and in housing-related services, including online advertisements, based on race, color, national origin, religion, sex, disability, or familial status.

According to HUD's charge, Facebook enabled advertisers to exclude people whom Facebook classified as parents; non-American-born; non-Christian; interested in accessibility; interested in Hispanic culture; or, a wide variety of other interests that closely align with the Fair Housing Act's protected classes. HUD is also charging that Facebook enabled advertisers to exclude people based upon their neighborhood by drawing a red line around those neighborhoods on a map. Facebook also allegedly gave advertisers the option of showing ads only to men or only to women.

The charge further asserts that Facebook also uses the protected characteristics of people to determine who will view ads regardless of whether an advertiser wants to reach a broad or narrow audience. HUD claims Facebook combines data it collects about user attributes and behavior with data it obtains about user behavior on other websites and in the non-digital world. Facebook then allegedly uses machine learning and other prediction techniques to classify and group users to project each user's likely response to a given ad, and in doing so, may recreate groupings defined by their protected class. The charge concludes that, by grouping users who have similar attributes and

behaviors (unrelated to housing) and presuming a shared interest or disinterest in housing-related advertisements, Facebook's mechanisms function just like an advertiser who intentionally targets or excludes users based on their protected class.

Through its charge, HUD seeks to address unresolved fair housing issues regarding Facebook's advertising practices and to obtain appropriate relief for the harm Facebook caused and continues to cause.

In August 2018, the Department of Justice, joined by HUD, filed a statement of interest in the U.S. District Court for the Southern District of New York (SDNY) on behalf of a number of private litigants challenging Facebook's advertising platform. [Read SDNY's statement of interest.](#)

HUD's charge will be heard by a United States Administrative Law Judge unless any party to the charge elects to have the case heard in federal district court. If an administrative law judge finds after a hearing that discrimination has occurred, he may award damages for harm caused by the discrimination. The judge may also order injunctive relief and other equitable relief, as well as payment of attorney fees. In addition, the judge may impose fines to vindicate the public interest. If the matter is decided in federal court, the judge may also award punitive damages.

If you have any questions regarding Fair Housing or would like back issues, please contact MHI's Senior Vice President of State and Local Affairs and General Counsel, Rick Robinson at rrobinson@mfghome.org.

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