

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

COMPUTER & COMMUNICATIONS)	
INDUSTRY ASSOCIATION, and)	
)	
NETCHOICE, LLC,)	
)	
<i>Plaintiffs,</i>)	
)	Civil Action No. 1:24-cv-00849-RP
v.)	
)	
KEN PAXTON, in his official capacity as)	
Attorney General of Texas,)	
)	
<i>Defendant.</i>)	

**NOTICE REGARDING PLAINTIFFS’ PROPOSAL FOR
PRELIMINARY-INJUNCTION MOTION BRIEFING SCHEDULE AND PAGE LIMITS**

Plaintiffs submit this notice in response to this Court’s request (ECF 10) that the parties confer about the logistics of briefing Plaintiffs’ pending motion for preliminary injunction. *See* ECF 6. After multiple conferences, the parties could not agree on a preliminary-injunction motion briefing schedule or page limits. Plaintiffs therefore propose the following briefing schedule and page limits. This is designed to ensure both that Defendant has adequate time to respond and that this Court has time to rule before the Act’s September 1, 2024, effective date:

- Defendant’s time to respond to the preliminary-injunction motion (under this Court’s Rules currently due August 13) would be extended 7 days: **DUE Tuesday, August 20, 2024, limited to 20 pages** (*see* Loc. R. CV-7(d)(3)).
- Plaintiffs’ time to file a reply brief supporting the preliminary-injunction motion (currently due 7 days after Defendant’s opposition brief) would be shortened 4 days: **DUE Friday, August 23, 2024, limited to 10 pages** (*see* Loc. R. CV-7(e)(3)).
- Defendant’s time to respond to the complaint (currently due August 20) would be extended: **DUE 21 days** after the ruling on Plaintiffs’ motion for preliminary injunction.

Defendant’s counsel has also stated that Defendant will not stipulate to refrain from enforcing Texas House Bill 18 (“Act” or “HB18”) against Plaintiffs’ member companies while Plaintiffs’

preliminary-injunction motion is pending. Because of that, Plaintiffs' proposal is designed to allow this Court to rule on the motion for preliminary injunction (or to grant a temporary restraining order) by September 1, 2024.

1. Plaintiffs propose to extend Defendant's response deadline by 50%, from 14 days to 21. Plaintiffs' proposed briefing schedule therefore would provide Defendant more time than the period allowed under the local rules. *See* Loc. R. CV-7(d)(2) (providing parties opposing motions 14 days to respond). This easily satisfies Federal Rule of Civil Procedure 65: "a fair opportunity to oppose the application and to prepare for such opposition," *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 432 n.7 (1974); and a "meaningful opportunity to be heard in a meaningful manner," *Netsphere, Inc. v. Baron*, 2013 WL 12128675, at *2 (N.D. Tex. Apr. 22, 2013). Contrary to Defendant's assertion, Plaintiffs' proposal does not seek "emergency briefing," as it is *Defendant* who is requesting an extension of 21 days—150% more than the 14 days provided by this Court's local rules. ECF 12.

While giving Defendant this extra time, Plaintiffs are willing to take less than half the time to file their reply brief than this Court's local rules ordinarily allow (*i.e.*, 3 days, rather than 7 days) so as not to limit the time the Court has to consider the briefing. *See* Loc. R. CV-7(e)(2). By compressing Plaintiffs' reply-brief deadline, this Court will have additional time with briefing complete to consider and rule on the preliminary-injunction motion before the Act's September 1 effective date.

2. Plaintiffs respectfully submit that this Court's local rules for page limits on preliminary-injunction briefing should apply. Plaintiffs already complied with this rule by streamlining their preliminary-injunction motion to 20 pages, as required by the local rules. *See* Loc. R. CV-7(c)(2). Because Plaintiffs followed these established rules, Defendant's briefing likewise can

adhere to its 20-page limit, too. And if Defendant is limited to 20 pages, then Plaintiffs' reply brief would be limited to the 10 pages provided by local rule. *See* Loc. R. CV-7(e)(3). These page limits will also aid this Court in resolving the preliminary-injunction motion before HB18's September 1 effective date.

3. Plaintiffs agree with Defendant that no expedited discovery is needed now. Plaintiffs further maintain that no discovery is warranted while this Court resolves Plaintiffs' preliminary-injunction motion. First Amendment standards "must entail minimal if any discovery, to allow parties to resolve disputes quickly without chilling speech through the threat of burdensome litigation." *FEC v. Wisconsin Right To Life, Inc.*, 551 U.S. 449, 469 (2007) (controlling plurality op. of Roberts, C.J.) (citing *Virginia v. Hicks*, 539 U.S. 113, 119 (2003)); *see also* Fed. R. Civ. P. 26(d)(1) (parties generally must wait until after a Rule 26(f) conference to conduct discovery).

* * *

Plaintiffs respectfully request that the Court impose the briefing schedule and page limits proposed above, and resolve Plaintiffs' preliminary-injunction motion before September 1, 2024.

Dated: August 2, 2024

Respectfully submitted,

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*Motion for admission *pro hac vice*
forthcoming

**Admitted *pro hac vice*

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Certificate of Service

I certify that on August 2, 2024, the foregoing was filed electronically via the Court's CM/ECF system, causing electronic service upon all counsel of record.

/s/ Jeremy Evan Maltz
Jeremy Evan Maltz