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(Seattle) Today Backpage.com LLC brought suit in the United States District Court for the Western District of Washington against Attorney General Rob McKenna and the state's county prosecutors. The suit seeks a Declaratory Judgment that a new Washington law, Senate Bill 6251 ("SB 6251"), is invalid, and asks for a Permanent Injunction against enforcement of the law. Backpage.com also filed a motion that requests enforcement of SB 6251 be prevented pending a decision by the Court on the merits of the challenge to the law.

The suit we filed today addresses three basic issues.

First, SB 6251 violates the federal Communications Decency Act ("CDA") because it seeks to treat online service providers ("OSPs") as the "publisher or speaker" of third-party generated content. Congress decreed in the CDA that free and open communications on the Internet demand that OSPs not be liable for the misuse of the Internet by third parties, and federal courts across America have uniformly rejected governmental efforts to conscript OSPs into serving as online censors of third-party content. State laws that punish OSPs for oversight of third-party content, even if the oversight is imperfect, are specifically forbidden by federal law. This is precisely what SB 6251 seeks to do.

Second, the suit seeks a finding by the Court that SB 6251 violates the First and Fifth Amendments to the U.S. Constitution. The central Constitutional flaws are that OSPs could violate the law without knowing it and OSPs are required to guess at what the law prohibits. The law purports to apply to anyone who "causes directly or *indirectly*" prohibited content to be "published, disseminated or displayed," and so it would make online services like Backpage.com, NWSource.com and craigslist, social networking sites like Facebook, Twitter and YouTube, search engines like Google, Bing and Yahoo!, and hundreds of others OSPs, criminally liable for online content, whether they were aware of the content or not. The law defines the content it prohibits so broadly and so vaguely – as including any "implicit offer" of sex for "something of value" – that no one can fairly know what does or does not violate the law or might result in prosecution.

Finally, the suit alleges that SB 6251 violates the Commerce Clause of the US Constitution. SB 6251 attempts to regulate conduct that occurs wholly outside the state of Washington. Both Congress and the U.S. Constitution reject the notion of a "state-by-state Internet," one where Internet acts or omissions that impose no liability in Oregon or California, or the vast majority of other states, carry severe criminal penalties in Washington or Tennessee.

The trafficking of children for sex is an abomination. I believe aggressive improvements in technology and close collaboration between the online service community, law enforcement

and NGOs is the best approach to fighting human trafficking. Unlawful governmental intrusion into the fundamental foundation of a robust Internet that places liability for the criminal acts of third parties on OSPs, which will force criminal conduct back underground and OSPs off-shore outside the reach of law enforcement, is both unworkable and counter-productive in the fight.

Backpage.com is proud to be an online industry leader in working cooperatively with law enforcement to identify, arrest and prosecute human traffickers. And while we take no issue with the Washington legislature's stated intentions in enacting SB 6251, we must and do take issue with the statutory approach the legislature has chosen. We believe it violates federal law and the U.S. Constitution and that the Court will agree.