



Laura Murphy  
c/o Airbnb  
888 Brannan Street  
San Francisco, CA 94103

*Co-Chairs*  
John M. Nonna  
James P. Joseph

*Secretary*  
Eleanor H. Smith

*Treasurer*  
Andrew W. Kentz

*General Counsel*  
Nicholas T. Christakos

*President and  
Executive Director*  
Kristen Clarke

July 11, 2016

Dear Ms. Murphy:

We are writing on behalf of the organizations we lead, the Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) and the Lawyers' Committee for Civil Rights and Economic Justice (Boston Lawyers' Committee), to follow up on our June 23, 2016 meeting with you and Chris Lehane regarding discrimination faced by consumers in the Airbnb marketplace. We believe that immediate reforms and actions to eliminate and root out discrimination can help promote broader reform across the sharing economy.

In this letter, we set forth a comprehensive set of recommendations that, if implemented, could eliminate discrimination and minimize opportunities for implicit bias to infect the Airbnb marketplace. These recommendations also seek to ensure that Airbnb can more effectively prevent and respond to intentional discrimination, and ensure that Airbnb's own practices are aligned with the expectations that it sets for its users. It is important to note that there is significant overlap between steps that would be effective in addressing implicit bias and those that would help overcome covert intentional discrimination.

## **I. Recommendations for Counteracting Implicit Bias**

A large body of social science research has confirmed the pivotal role that implicit racial bias plays in limiting access to opportunity across a wide range of dimensions, including housing<sup>1</sup>. One recent study demonstrated that Airbnb is no exception to this broader societal phenomenon and that guests with distinctively African-American names are 16% less likely to have their reservation requests accepted than are guests with distinctively white names<sup>2</sup>.

---

<sup>1</sup> Cheryl Staats et al., *State of the Science: Implicit Bias Review 2015*, KIRWANINSTITUTE (2015), <http://kirwaninstitute.osu.edu/wp-content/uploads/2015/05/2015-kirwan-implicit-bias.pdf>

<sup>2</sup> Ben Edelman et al., *Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment*, BENEDELMAN.ORG (Jan. 6, 2016), <http://www.benedelman.org/publications/airbnb-guest-discrimination-2016-01-06.pdf>.



This result is consistent with patterns of housing discrimination documented through matched-pair tests, in which individuals who contact housing providers about the availability of housing often encounter different treatment on the basis of racially distinctive names<sup>3</sup>. There are several steps that Airbnb can take to change this dynamic.

*Co-Chairs*

John M. Nonna  
James P. Joseph

*Secretary*

Eleanor H. Smith

*Treasurer*

Andrew W. Kentz

*General Counsel*

Nicholas T. Christakos

*President and*

*Executive Director*  
Kristen Clarke

- a. *Allow users to adopt pseudonyms or conceal their actual name until after a reservation is complete.*

The most direct way to reduce the influence of bias that stems from subconscious and conscious assumptions about prospective guests on the basis of their names is to remove that piece of irrelevant information from Airbnb hosts' decision-making processes. Currently, Airbnb requires users to have their real names as their user names. Airbnb should allow users to adopt pseudonyms and/or conceal their actual names until after a booking has been confirmed. Such a policy would strike an appropriate balance between the need to reduce implicit bias based on racially identifiable names and Airbnb hosts' interest in knowing the identity of their guests before they arrive for their stays.

- b. *Eliminate or refrain from actively encouraging the use of profile pictures or conceal profile pictures until after a reservation is complete.*

Some Airbnb hosts may also form assumptions, whether conscious or subconscious, about prospective guests on the basis of their profile pictures. Although Airbnb does not require the use of profile pictures, the site strongly encourages their use. However, profile pictures provide hosts with no relevant information about the suitability of prospective guests. To the extent that hosts have an interest in ensuring that the guest who arrives at their property is in fact the person who reserved the property, Airbnb can adequately serve that interest by disclosing guests' profile pictures after a reservation is complete. Engendering a community norm that profile pictures are expected puts Airbnb guests of color between a rock and a hard place. Either they risk being subject to conscious or subconscious bias on the basis of the color of their skin or they risk being perceived as less than forthright.

- c. *Expand the use of Instant Book with the goal of making its use mandatory over time.*

---

<sup>3</sup> *What's in a Name?*, HOPEFAIRHOUSINGCENTER (last visited June 28, 2016), <http://www.hopefair.org/News/Whats.in.a.name.pdf>.



Airbnb's Instant Book feature, which hosts must opt into at present, eliminates the possibility that hosts will not accept reservations based on biased assumptions by preventing hosts from screening guests before a reservation is complete. In addition to reducing the potential for discrimination, expanded use of the Instant Book feature has the potential to make the site more user-friendly for guests by reducing their search times. Airbnb should make Instant Book the default option for new hosts as they join the site and should work toward phasing out bookings that allow hosts to screen guests.

*Co-Chairs*

John M. Nonna  
James P. Joseph

*Secretary*

Eleanor H. Smith

*Treasurer*

Andrew W. Kentz

*General Counsel*

Nicholas T. Christakos

*President and*

*Executive Director*

Kristen Clarke

*d. During any interval before the adoption of Recommendations I.a-I.c, show hosts pictures of prospective guests whom they have rejected.*

It is important that hosts, whose decisions are influenced by implicit bias but who want to think of themselves as treating people fairly, understand the consequences of their actions. By showing hosts images of the people they have rejected, Airbnb would help advance the goal of leading users to recognize and overcome their implicit biases. Airbnb should monitor rejection patterns and take action against users who clearly have demonstrated a pattern and practice of rejecting and declining African Americans or other minority consumers.

*e. Eliminate search features that facilitate biased decision-making on the basis of neighborhood demographics.*

Although discrimination against guests has received far more attention than bias that adversely affects hosts, there are also steps that Airbnb should take to reduce the role of biased perceptions of the desirability of rental properties on the basis of neighborhood demographics. Specifically, Airbnb should prohibit descriptions of neighborhoods in postings that fair housing advocates and the real estate industry have come to understand as being racially coded. Additionally, the Advanced Search tool should not allow users to filter results by fine-grained neighborhood designations, which often carry racially-identifiable associations. Through a combination of broader neighborhood designations and the ability to identify the location of properties on a map, guests could still ensure that their bookings are geographically convenient.

*f. Require implicit training for Airbnb hosts.*

To further advance the goal of increasing Airbnb users' awareness of their own subconscious biases, Airbnb should require that hosts complete an online form of implicit bias training before they are allowed to rent out their properties. Although this online training would not be as comprehensive as the in-person training for staff described in Recommendation III.c, it would still be valuable if well designed in consultation with experts in the field.



## II. Recommendations for Preventing and Addressing Intentional Discrimination

### Co-Chairs

John M. Nonna  
James P. Joseph

### Secretary

Eleanor H. Smith

### Treasurer

Andrew W. Kentz

### General Counsel

Nicholas T. Christakos

### President and

Executive Director

Kristen Clarke

The most high profile instances of discrimination against Airbnb guests have consisted of outrageous, explicitly racially-motivated behavior by hosts. Although no system for preventing such bias will be fool-proof, Airbnb can do a great deal to prevent and punish the occurrence of intentional discrimination by adopting the following recommendations.

*a. Increase the visibility and user-friendliness of the option to report discrimination.*

Discrimination is not mentioned anywhere in the contact form located on the "Contact Us" section of the Airbnb website, and there are no guided question that are designed to provide Airbnb with the robust information that it would need to conduct thorough investigations of alleged discrimination. Instead of relying on the "Contact Us" mechanism to field serious complaints regarding alleged discrimination, Airbnb should create a dedicated form for reporting suspected discrimination, include links to the form in prominent locations on multiple pages throughout the site, and include an article describing how to use the form to file a complaint in the "Suggested Articles" list on the Airbnb Help drop-down menu. Appropriate locations for posting a link to the complaint form include the front page of the website, the profile pages of individual rental properties, the message inbox, on all message threads, and in the proposed Airbnb Help article on how to file a complaint.

Currently, in order to report discrimination, users must click on "Contact Us," select "Issues with Host" as the reason for their inquiry, and then select "Trouble with Host" as the more detailed cause of their submission.

*b. Screen postings for discriminatory content and preferences.*

Airbnb should have filters in place that screen postings for discriminatory content, including overt and coded expressions of preferences for guests of particular races or ethnicities. Adopting this type of technological solution would be critical to implementing Recommendation I.d above, as well. Craigslist has successfully eliminated many of the most blatant advertisements from its service through a similar intervention.

*c. Enhance the placement and scope of the non-discrimination provision in Airbnb's Terms of Service.*



Airbnb's Terms of Service contain a non-discrimination provision, but that provision is nearly invisible within the whole of the Terms of Service, approximately two-thirds of the way down to the bottom of the page and subsumed within a larger paragraph bullet point. The provision should have its own standalone paragraph near the beginning of the Terms of Service. Substantively, the provision is currently states that users may not "post, upload, publish, submit or transmit any Content that... promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group." Airbnb should broaden that language to state that users may not "post, upload, publish, submit or transmit any Content that... discriminates or has the effect of discriminating or promotes bigotry, racism, hatred, harassment or harm against any individual or group."

*Co-Chairs*

John M. Nonna  
James P. Joseph

*Secretary*

Eleanor H. Smith

*Treasurer*

Andrew W. Kentz

*General Counsel*

Nicholas T. Christakos

*President and*

*Executive Director*  
Kristen Clarke

*d. Strengthen the response to occurrences of discrimination.*

Airbnb should clarify that there is one single sanction for users that, upon investigation, Airbnb has found to have engaged in discrimination in violation of the Terms of Service and/or applicable civil rights laws: permanent removal from the site. In light of the company's present difficulty in detecting and blocking discriminatory conduct and patterns, it is critical that penalties be severe in order for Airbnb's non-discrimination policy to have a sufficient deterrent effect. Additionally, Airbnb should have dedicated staff with training in applicable civil rights laws who are wholly responsible for investigating allegations of discrimination and removing users from the site. These staff should be insulated from Airbnb's sales and marketing staff in order to ensure that they have no conflicts of interest that would prevent them from undertaking thorough investigations.

*e. Facilitate audit testing of Airbnb hosts to proactively identify bias.*

Matched-pair testing is commonly used to identify housing discrimination and has the potential to serve as a valuable tool in the context of Airbnb. In matched-pair testing, two similarly situated individuals who are different with respect to one variable, a protected characteristic such as race, both contact a housing provider about an available unit and record their experiences. Differences in treatment between the individuals are strong evidence of intentional discrimination. Airbnb should facilitate testing of its hosts by either directly adopting its own internal testing program or by changing its Terms of Use and community standards to include an exception from



prohibitions on misrepresentations that could impede outside testers from using the Airbnb platform to investigate discrimination.<sup>4</sup>

*Co-Chairs*  
John M. Nonna  
James P. Joseph

*Secretary*  
Eleanor H. Smith

*Treasurer*  
Andrew W. Kentz

*General Counsel*  
Nicholas T. Christakos

*President and  
Executive Director*  
Kristen Clarke

### III. Improving Airbnb's Own Practices

Lastly, there are two key steps that Airbnb should take to ensure that its own policies are consistent with the high standards to which it must hold its users.

*a. Use actors and models from a diverse array of backgrounds in Airbnb advertisements.*

Advertisements can send a powerful message about who is welcome within a community, whether real or virtual. By using actors and models who reflect the real and increasing diversity of our society with respect to race, ethnicity, national origin, disability, familial status, religion, sex, sexual orientation, and gender identity, Airbnb will let people who have most frequently been the victims of discrimination know that the door is open to them. Such advertising will also reinforce a powerful community norm against discrimination in full view of potentially biased Airbnb hosts.

*b. Exempt discrimination claims from Airbnb's mandatory arbitration and class action waiver clauses in its Terms of Service.*

Provisions like Airbnb's mandatory arbitration and class action waiver clauses in its Terms of Service create a powerful disincentive for users to come forward with allegations of discrimination. In the context of short-term rentals, damages in individual cases may be insufficient to cause users to come forward with their stories, and users might lack confidence in the impartiality of arbitrators who are secured and paid by Airbnb. We urge the immediate elimination of these clauses and encourage Airbnb to take the actions necessary to eliminate discrimination across its site.

*c. Institute robust implicit bias training for Airbnb staff.*

Airbnb is a dynamic, changing marketplace, and much of that change comes from its staff's capacity for technological innovation. Because Airbnb is not static, it is important to recognize that some policy interventions to address

---

<sup>4</sup> Given the unique nature of Airbnb transactions, Airbnb may wish to compensate hosts who are not found to have discriminated in light of any bona fide opportunities that they may forgo as a result of testing.



bias today may not be fully responsive to the challenges and opportunities of tomorrow. By requiring that Airbnb staff undergo robust implicit bias training, Airbnb will position its staff to recognize the potential unintended consequences of future innovations and guide the development of the site in a manner that advances equity goals at every turn.

*Co-Chairs*  
John M. Nonna  
James P. Joseph

*Secretary*  
Eleanor H. Smith

*Treasurer*  
Andrew W. Kentz

*General Counsel*  
Nicholas T. Christakos

*President and  
Executive Director*  
Kristen Clarke

\*\*\*

In order to fully and effectively implement these recommendations, Airbnb should engage with civil rights organizations as partners on an ongoing basis. As experts in the field, our organizations are prepared to provide counsel and support as Airbnb takes steps to ensure that it is a true leader in ensuring equity in the sharing economy. We look forward to continuing this important dialogue on civil rights and racial justice in the sharing economy.

Sincerely,

Kristen Clarke, President & Executive Director  
Lawyers' Committee for Civil Rights Under Law  
Washington, D.C.

Ivan Espinoza-Madriz, Executive Director  
Lawyers' Committee for Civil Rights & Economic Justice  
Boston, MA

cc: Rob Chesnut, General Counsel  
Airbnb San Francisco  
888 Brannan Street  
San Francisco, CA 94103