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December 20, 2022

Via E-File

Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Netchoice, LLC v. Paxton*, No. 22-555

Dear Mr. Harris:

The Petition for Certiorari in the above-captioned matter was filed on December 15, 2022, and docketed yesterday. Respondent agrees with multiple members of this Court that the issues presented in the petition as well as in *Netchoice v. Moody,* Nos. 22-277, 22-393, "plainly merit this Court's review," *Netchoice, LLC v. Paxton*, 142 S. Ct. 1715, 1716 (2022) (Alito, J., dissenting). Respondent, however, disagrees with petitioners (at 2) that the best way to proceed would be to hold this petition pending resolution of *Moody*. Instead, because the laws at issue in these cases have certain material differences, respondent respectfully suggests that the Court should consider them at the same time. To facilitate that without jeopardizing the Court's ability to hear the case or cases this Term should it so choose, respondent is filing his response to the petition today—the day after it was docketed and well before the deadline to respond.

This case concerns the State of Texas's "House Bill 20." That legislation was enacted in 2021 to (a) prohibit the largest social-media platforms from discriminating against users in their provision of undifferentiated service based on the user's viewpoint, and (b) to require the platforms to disclose their content-moderation practices to the public. A district court preliminarily enjoined both aspects of the law under the First Amendment. A divided Fifth

Circuit reversed.

Respondent agrees with petitioners that the Florida legislation at issue in *Moody* is "similar" to House Bill 20. Pet.1. But, as the Fifth Circuit observed, the laws are also "dissimilar . . . in many legally relevant ways." Pet.App.99a. Most prominently, House Bill 20 protects *all* users against viewpoint discrimination, Tex. Civ. Prac. & Rem. Code § 143A.002(a)-(b), but Florida's law protects only journalists and political candidates against all service denial. *See* Fla. Stat. §§ 106.072(2), 501.2041(2)(h), (2)(j). Respondent's accompanying brief discusses (at 16-18) how this and other dissimilarities are potentially of constitutional significance under this Court's precedent. For that reason, considering *Moody* without considering this case invites wasteful duplication of efforts both by the parties and by the courts.

Respondent respectfully requests that the petition be circulated without allowing the ordinary time for petitioners to file a reply, or that *Moody* be held until that period has lapsed. This Court has discretion to conference a case and grant a petition before a reply in support of certiorari is filed. *See, e.g.*, *Whole Woman's Health v. Jackson* (No. 21-463). It should do so here: the *Moody* cross-petitions have been distributed for the conference of January 6, 2023. To be considered with *Moody*, this petition must be fully briefed by December 21, 2022. Respondent has made every effort to meet that deadline. The need for a reply here is minimal, as the parties agree that the writ should be granted; any disagreements petitioners have with respondent's arguments on the merits will no doubt be fully explored in merits briefing.

Sincerely,

/s/ Judd E. Stone II
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cc: Scott A. Keller (Counsel for petitioners)