

22-555 NETCHOICE, LLC V. PAXTON

DECISION BELOW: 49 F.4th 439

LOWER COURT CASE NUMBER: 21-51178

QUESTION PRESENTED:

Throughout our Nation's history, the First Amendment's freedoms of speech and press have protected private entities' rights to choose whether and how to publish and disseminate speech generated by others. E.g., *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921, 1930 (2019); *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 570, 575 (1995); *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241,258 (1974). Over two decades ago, this Court held there is "no basis for qualifying the level of First Amendment scrutiny that should be applied to" speech disseminated on "the Internet." *Reno v. ACLU*, 521 U.S. 844, 870 (1997). Today, many Internet websites publish and disseminate curated collections of expression generated by themselves and others.

Nevertheless, the State of Texas—much like Florida before it—has enacted a viewpoint-, content-, and speaker-based law (House Bill 20 or "HB20") targeting certain disfavored "social media" websites. HB20 Section 7 prohibits these websites from making editorial choices based on "viewpoint." And HB20 Section 2 imposes on these websites burdensome operational and disclosure requirements, chilling their editorial choices. This Court has already ensured once that Respondent cannot enforce this law against Petitioners' members. *NetChoice, LLC v. Paxton*, 142 S. Ct. 1715, 1715-16 (2022).

The question presented is whether the First Amendment prohibits viewpoint-, content-, or speaker-based laws restricting select websites from engaging in editorial choices about whether, and how, to publish and disseminate speech—or otherwise burdening those editorial choices through onerous operational and disclosure requirements.

The petitions for writs of certiorari are granted limited to Questions 1 and 2 presented by the Solicitor General in her brief for the United States as amicus curie.

1. Whether the laws' content-moderation restrictions comply with the First Amendment.
2. Whether the laws' individualized-explanation requirements comply with the First Amendment.

CERT. GRANTED 9/29/2023