

HUD is reviewing Twitter's and Google's ad practices as part of housing discrimination probe

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The Trump administration delivered its first sanction of a tech giant Thursday, [charging Facebook with housing discrimination](#) in a move that could threaten the way the industry makes its profits.

The Department of Housing and Urban Development alleged that Facebook's targeted advertising platform violates the Fair Housing Act, "encouraging, enabling, and causing" unlawful discrimination by restricting who can view housing ads.

In a sign that more technology companies could be ensnared in the probe, HUD alerted Twitter and Google last year that it is scrutinizing their practices for similar violations, according to three people with direct knowledge of the agency's actions.

Thursday's charge against Facebook marked the Trump administration's most significant action against housing discrimination, and comes at a moment when tech giants are facing growing scrutiny in the U.S. and Europe on data privacy and other issues.

It was a surprise move from an administration seen by advocates as [hostile to civil rights](#).

The case is likely to have ripple effects throughout the tech industry, which considers targeting advertising to be standard practice and has historically enjoyed immunity from prosecution when third parties commit abuses on their platforms.

HUD claimed that Facebook mines users' extensive personal data and uses characteristics protected by law — race, color, national origin, religion, familial status, sex and disability — to determine who can view housing ads, even when it's not the advertiser's intent.

That could allow a landlord, for example, to exclude certain categories of renters including parents, foreigners, non-Christians, or people interested in service animals, Hispanic culture or Hijab fashion.

“Facebook is discriminating against people based upon who they are and where they live,” HUD Secretary Ben Carson said in a statement Thursday. “Using a computer to limit a person’s housing choices can be just as discriminatory as slamming a door in someone’s face.”

Thursday’s charges come one week after Facebook agreed in a sweeping settlement with civil rights groups to overhaul its microtargeting ad system for job, housing and loan advertisements after discrimination complaints.

“We’re surprised by HUD’s decision, as we’ve been working with them to address their concerns and have taken significant steps to prevent ads discrimination,” said Joe Osborne, a Facebook spokesman.

He said a breakdown occurred when the government asked for total and unfettered access to the company’s user base, a request the social media giant denied because it would have set a dangerous precedent.

“While we were eager to find a solution, HUD insisted on access to sensitive information — like user data — without adequate safeguards,” Osborne said. “We’re disappointed by today’s developments, but we’ll continue working with civil rights experts on these issues.”

Dealing with government data requests is complex for Facebook and other technology companies. Complying with such requests, the companies fear, may cause them to violate data privacy laws and could also damage their reputations with the public.

But HUD officials say the settlement with the National Fair Housing Alliance, the American Civil Liberties Union, the Communications Workers of America and others does not go far enough in remedying housing discrimination.

“Unresolved fair housing issues remain with Facebook’s advertising platform,” said HUD spokesman Raffi Williams. “Until HUD can verify that Facebook’s practices are in full compliance with the law, we will continue to use all resources at our disposal to protect Americans from the harmful effects of discrimination.”

Though Facebook offers the most extensive targeting categories to advertisers, Google, Twitter, Amazon, and others all offer the ability to target by zip code -- which is commonly used to indicate race -- interest and demographics, including ethnic categories such as Spanish speakers.

One of the people with direct knowledge of the agency’s actions said the reviews of Twitter and Google practices are ongoing.

"They want to make sure that other companies aren't getting away with something that one company is investigated for," said another person with direct knowledge of HUD's outreach to the tech companies who is not authorized to discuss the communications.

Currently the companies ask advertisers to abide by non-discrimination policies and fair housing laws when selecting their ads, but there is little oversight.

A Twitter spokesman said company policies prohibit targeted advertising when it comes to racial or ethnic origin, religion, negative financial condition and commission of a crime, and declined further comment on HUD's interest in the company.

A Google spokeswoman said the company prohibits targeting ads based on "sensitive" categories like race, ethnicity, religious beliefs and disability status but would not comment on HUD's inquiries. The company said last year it removed 2.3 billion problematic ads that violated company policies.

HUD officials on Thursday said the agency seeks to "address unresolved fair housing issues regarding Facebook's advertising practices and to obtain appropriate relief for the harm Facebook caused and continues to cause."

If a U.S. administrative law judge finds that discrimination has occurred, the judge may award damages or impose fines, according to HUD officials. If the matter is decided in federal court, the judge may also award additional punitive damages.

HUD would also like a judge to require Facebook employees to attend training on the Fair Housing Act's prohibitions against discrimination in advertising.

The agency accuses Facebook of enabling advertisers to exclude people based on where they live, drawing a red line around certain neighborhoods on a map and conjuring decades-old practices when minority neighborhoods were marked "hazardous" in red ink on maps drawn by the federal Home Owners' Loan Corp.

According to the government's charges, Facebook combines data it collects with information it obtains on other websites and in the non-digital world. The agency alleges that Facebook then uses machine learning and other techniques to group users who have similar interests and predict their likely response to an ad.

"By grouping users who 'like' similar pages (unrelated to housing) and presuming a shared interest or disinterest in housing-related advertisements, [Facebook's] mechanisms function just like an advertiser who intentionally targets or excludes users based on their protected class," the HUD complaint said.

Facebook, in its settlement with fair housing and other civil rights groups last week, said it would withhold a wide array of detailed demographic information — including gender, age and Zip codes — from advertisers when they market housing, credit and job opportunities. The company plans to create a separate ad portal by the end of the year to limit how much these advertisers can microtarget their audience.

Facebook is also building a tool for users to search and view all housing ads across the country, regardless of whether they received the ads in their individual news feeds.

Historically, technology companies have broad immunity from being held liable for illegal activities hosted on their platforms – with exceptions for child pornography and sex trafficking. The immunity stems from a more than two decade old law that has allowed Internet firms to thrive with little oversight.

Thursday’s charges suggest that the Trump administration may be taking a different tack.

The Justice Department last year threw its support behind civil rights groups when it allowing a lawsuit to proceed over Facebook’s objections, arguing that the company can be held liable for ad-targeting tools that deprive people of housing offers.

“Even as we confront new technologies, the fair housing laws enacted over half a century ago remain clear — discrimination in housing-related advertising is against the law,” said HUD General Counsel Paul Compton in a statement. “Just because a process to deliver advertising is opaque and complex doesn’t mean that it exempts Facebook and others from our scrutiny and the law of the land. Fashioning appropriate remedies and the rules of the road for today’s technology as it impacts housing are a priority for HUD.”

Thursday’s charge is also a departure for Carson, who temporarily suspended a preliminary investigation into Facebook that began in late 2016 under the Obama administration. After public pressure, Carson filed his sole secretary-initiated complaint against the platform last August.

“This is a case where career folks were successful in persuading people to move forward on something,” said one HUD staffer. “It’s been unusual to be able to get to this end point because the administration isn’t inclined to do anything all that strong.”

The government in 1973 had filed a civil rights case accusing Trump and his father of discriminating against African Americans and Puerto Ricans seeking housing at Trump properties across Brooklyn and Queens. Trump has repeatedly denied the allegations.

The lawsuits over Facebook’s ad practices followed a 2016 [ProPublica investigation](#) that found that the company allowed advertisers to exclude African Americans, Latinos and Asian Americans.
