



# HonestReporting

Defending Israel From Media Bias

**Israel** 7 HaRav Kook Street, Suite 4, Jerusalem 9422607, Israel  
**Email** action@honestreporting.com

**U.S.** 165 East 56th Street, 2nd Fl. New York, NY 10022-2709 U.S.A.  
**Web** www.honestreporting.com

**Attn:**

U.S. Department of Commerce  
[BIS/Office of Antiboycott Compliance](#)  
Room 6098  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  
Phone: (202) 482-2381  
Fax: (202) 482-0913

**And:**  
Department of the Treasury  
Office of the General Counsel  
Room 2015  
Washington, D.C. 20220  
(202) 622-1945

November 25, 2018

Dear Sir or Madam,

We wish to call your attention to a violation of certain laws which your department enforces, and to request that you take formal action to remedy those violations.

**Airbnb, Inc.** (an online marketplace and hospitality service) [is in violation](#) of the Export Administration Act (EAA) and the Ribicoff Amendment to the 1976 Tax Reform Act (TRA).

## Jurisdiction

Jurisdiction under the EAA and TRA applies when a "US person" participates in a boycott at the [request of a foreign boycotting country](#). In this case, Airbnb, Inc. has chosen to comply with a [request by the Palestinian Authority](#) government to participate in its boycott of Israel. Thus, subject matter jurisdiction is satisfied if the Palestinian Authority is a "country" within the meaning of applicable laws, and personal jurisdiction is satisfied if Airbnb, Inc. is a "US person."

- **The Palestinian Authority, though not a sovereign "state" is nonetheless a government that bears the responsibilities of a "country" for the purposes of EAA and TRA compliance**

The United States does not recognize "Palestine" as a sovereign **state**, yet a long history of US case law holds that there is a difference between a sovereign **state** versus a "**country**."<sup>1</sup> In this case, the Palestinian Authority fits the US definition of a government that bears the responsibilities of a "country." Furthermore, a so-called "State of Palestine" is recognized by the United Nations and 136 of its 193 member states. Accordingly, it would undermine US policy if a technicality such as US statehood recognition were to allow an active foreign government to flout US laws with impunity.

- **Airbnb, Inc. is a US person**

[Airbnb, Inc.](#) is a Delaware corporation with headquarters in California, and is therefore a "U.S. person" within the meaning of the relevant Acts.

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<sup>1</sup> "Country" means the political entity known as a nation" 19 CFR 134.1. For the definition of a "nation" see e.g.: Montoya v. U. S., 180 U. S. 201, 21 Sup. Ct 358, 45 L. Ed. 521; Worcester v. Georgia, 6 Pet. 539, 8 L. Ed. 483; Republic of Honduras v. Soto, 112 N. Y. 310, 19 N. E. 845, 2 L. R. A. 042, 8 Am. St. Rep. 744.

### The violation

November 19, 2018, after multiple requests by the Palestinian Authority government, Airbnb, Inc. [announced](#), "...we concluded that we should **remove listings in Israeli settlements** in the occupied West Bank that are at the core of the dispute between Israelis and Palestinians."

The decision of Airbnb, Inc. directly violates the following prohibitions codified in the EAA and the TRA<sup>2</sup>:

- Agreements to refuse or actual refusal to do business **with or in Israel** or with blacklisted companies. (Emphasis added)
- Agreements to discriminate or **actual discrimination** against other persons based on **race, religion, sex, national origin or nationality**. (Emphasis added. Note that the Airbnb, Inc. boycott **applies only** to properties owned by Jews and/or Israelis, but **does not apply** to properties in the same region owned by Christians, Muslims or citizens of the Palestinian Authority government).

Depending on how Airbnb, Inc. implements their new corporate policy, it may also violate the following additional provisions:

- Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies.
- Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.

We respectfully request that you take formal action to enforce relevant US laws, which action may include (without limitation) a letter of warning to Airbnb, Inc., as well as civil, criminal or tax penalties, as appropriate.

Thank you for your attention to this matter.

Sincerely,

Daniel Pomerantz  
Executive Director

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<sup>2</sup> The laws violated are codified specifically in [15 CFR 760.2](#) under the authority of the [Export Administration Act](#) of 1979, as amended (50 U.S.C. app. §§2401-2420 (2000)) as well as the [Internal Revenue Act 26 USC §999](#). Authority for each stems from the exclusive power of Congress to regulate commerce with foreign nations, [United States Constitution](#), Article I, Section 8.