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ATTORNEY GENERAL
KARL A. RACINE

December 08, 2021

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

I write to transmit the "Stop Discrimination by Algorithms Act of 2021" ("Bill") for consideration and enactment by the Council of the District of Columbia. The Bill would protect against algorithmic discrimination and promote transparency about the use of algorithms that limit important life opportunities. Algorithms are tools that use machine learning and personal data to make predictions about individuals. Increasingly, algorithms are used to determine eligibility for opportunities in employment, housing, education, and public accommodations like healthcare, insurance, and credit.

But all too often, algorithms reflect and replicate historical bias, exacerbating existing inequalities and harming marginalized communities. For instance:

- Employment algorithms can filter job applicants by how closely they match a business's current workers and screen out applicants with disabilities;[1]

- Housing advertisers on Facebook have used algorithms to target ads to renters or buyers based on race, religion, sex, and familial status;[2]

- A healthcare algorithm has suggested that healthier white patients should receive more services to manage their health than sicker Black patients;[3] and

- Lending algorithms have calculated higher interest rates for borrowers who attended Historically Black Colleges and Universities.[4]

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[1] Drew Harwell, "A face-scanning algorithm increasingly decides whether you deserve the job," WASH. POST, Nov. 9, 2019, https://www.washingtonpost.com/technology/2019/10/22/ai-hiring-face-scanning-algorithm-increasingly-decides-whether-you-deserve-job/

[2] Marrian Zhou, "Facebook takes heat from HUD over allegedly discriminatory housing ads," CNET, Aug. 17, 2018, https://www.cnet.com/news/facebook-takes-heat-from-hud-over-allegedly-discriminatory-housing-ads/

[3] Ziad Obermeyer et al., *Dissecting racial bias in an algorithm used to manage the health of populations*, 366 SCIENCE 6464, 447-453 (2019), https://science.sciencemag.org/content/sci/366/6464/447.full.pdf.

[4] Student Borrower Protection Center, *Educational Redlining* (2020) 4, https://protectborrowers.org/wp-content/uploads/2020/02/Education-Redlining-Report.pdf.

Additionally, it can be impossible to tell how and why algorithms make these decisions because they operate under the radar and unregulated—without any transparency as to how they function.

This Bill would combat these problems and set baseline standards of fairness by requiring entities that make algorithmic decisions about important life opportunities to:

- stop the discriminatory use of traits like race, sex, and disability in automated decisions about employment, housing, education, and public accommodations;

- audit algorithms for discriminatory patterns and report the results and any corrective actions to the Office of the Attorney General; and

- disclose and explain when algorithms negatively affect a consumer's opportunities.

It would also empower the Office of the Attorney General and private individuals to bring suit for violations of these provisions, with remedies to include injunctive relief, damages, restitution, and penalties.

The District has been a leader in passing and enforcing civil rights laws that help prevent discrimination. I look forward to working with the Council and other stakeholders to strengthen our laws so that all individuals in the District can live, learn, and work without facing discrimination or hate. If you have any questions, please contact me or Deputy Attorney General Emily Gunston at (202) 805-7638.

Sincerely,

Karl A. Racine
Attorney General for the District of Columbia