

PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street NW • Washington DC 20009
202/588-1000 • www.citizen.org

July 26, 2019

John Whittle
General Counsel
Philip Quade
Chief Information Security Officer
Fortinet, Inc.
899 Kifer Road
Sunnyvale, CA 94086

Re: FortiNet's Web Filtering Practices

Dear Messrs. Whittle and Quade:

On behalf of Public Citizen, I am writing to request that Fortinet, Inc. modify its web-filtering service to remove the category "Advocacy Organizations" from the "Adult/Mature Content" group. Based on Fortinet's description of the type of websites that fall into the Advocacy Organizations category, we see no basis for Fortinet's decision to treat the websites of Advocacy Organizations as Adult/Mature Content by default.

Although we understand that Fortinet allows customers to choose to allow access to categories within the Adult/Mature Content group, by classifying Advocacy Organizations as Adult/Mature Content, Fortinet has put the burden on its customers to take affirmative steps to allow the Advocacy Organization category on their networks if they choose to block Adult/Mature Content.

Public Citizen is a national non-profit public-interest organization founded in 1971, with members and supporters nationwide. Public Citizen represents consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues, including consumer rights in the marketplace, financial regulation, and corporate accountability. Public Citizen also works to promote openness in government and disseminates on its website (www.citizen.org) information to advance government accountability.

Earlier this year, Public Citizen learned that its website was not accessible to users of the internal and guest-WiFi networks of the Department of Education. Public Citizen filed suit against the Department to remove the block. In the course of that still-pending litigation, the Department explained that the reason citizen.org was blocked is due to Fortinet's FortiGuard Web Filtering system, which the Department uses for its web-filtering and cyber-security requirements. Because the Department chose to block the overall category Adult/Mature Content, access to the websites of all organizations classified by Fortinet as Advocacy Organizations—including Public Citizen—were blocked.

According to Fortinet's website, the Advocacy Organizations category "caters to organizations that campaign or lobby for a cause by building public awareness, raising support, influencing public

policy, etc.”¹ We do not take issue with Fortinet’s decision to classify Public Citizen’s website under Advocacy Organizations in accordance with that description. We, however, have not found any explanation for Fortinet’s decision to treat websites fitting that description as Adult/Mature Content. In fact, the Advocacy Organizations category strikes us as wholly out of place with the other categories that Fortinet treats as Adult/Mature Content: Abortion, Alcohol, Alternative Beliefs, Dating, Gambling, Lingerie and Swimsuit, Marijuana, Nudity and Risque, Other Adult Materials, Pornography, Sex Education, Sports Hunting and War Games, Tobacco, and Weapons (Sales). These other categories (as defined by Fortinet) appear to have at least a minimal apparent connection to activities that some might regard as adult or mature in nature. Fortinet’s description of Advocacy Organizations, by contrast, embodies traditional civic activities that have never been regarded as inappropriate for children or otherwise objectionable in a workplace environment.

The Advocacy Organizations category fits more appropriately among the categories in the General Interest – Business or General Interest – Personal groups. General Interest – Business, for example, includes sites categorized as “Business,” defined as “Sites sponsored by or devoted to business firms, business associations, industry groups, or business in general,” and “General Organizations,” which are “Sites that cater to groups, clubs or organisations of individuals with similar interests, either professional, social, humanitarian or recreational in nature.” General Interest – Personal contains the categories “News and Media” and “Political Organizations,” both of which are defined in accordance with the common meaning of those terms. The Advocacy Organizations category is more akin to these categories than it is to the categories that fall under Adult/Mature Content.

Moreover, Fortinet’s current classification system favors some advocacy organizations over others, by categorizing numerous organizations that “advocate” in ways similar to Public Citizen in General Interest categories that are far less likely to be blocked by your customers. For example, Fortinet has not placed the ACLU, the Center for Responsible Lending, the U.S. Chamber of Commerce, or Washington Legal Foundation in the Advocacy Organizations category or other Adult/Mature Content category. By putting only some advocacy organizations in the Advocacy Organizations category and then placing Advocacy Organizations under Adult/Mature Content, the FortiGuard system has the effect of treating similar websites very differently for customers who, often understandably, conclude that access to websites labeled Adult/Mature Content should be restricted.

In the case of Fortinet’s governmental customers (such as the Department of Education), this arbitrary blocking raises significant First Amendment issues. Fortinet’s website states that the company serves “all 15 cabinet-level agencies and numerous independent agencies,”² raising concerns that multiple agencies may be unconstitutionally blocking the websites of Advocacy Organizations by using Fortinet’s web-filtering service.

We appreciate that attempting to classify Internet webpages into discrete categories for web-filtering purposes requires judgment calls and is prone to choices or errors that cause similar websites to be classified differently. That point does not explain, however, why Fortinet has chosen to place Advocacy Organizations as a category under Adult/Mature Content.

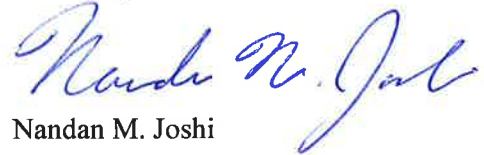
¹ <https://fortiguard.com/webfilter/categories>.

² <https://www.fortinet.com/solutions/industries/government/federal.html>.

Accordingly, we request that Fortinet reassign the Advocacy Organizations category to either General Information – Business or to General Information – Personal. Doing so would minimize the likelihood that Public Citizen’s website and the websites of other organizations classified as Advocacy Organizations will be unnecessarily blocked by Fortinet’s customers.

I would appreciate Fortinet’s prompt response to this letter.

Sincerely,

A handwritten signature in blue ink that reads "Nandan M. Joshi". The signature is fluid and cursive, with the first name being the most prominent.

Nandan M. Joshi