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# CENTER FOR DIGITAL DEMOCRACY

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September 25, 2018

Chairman John Thune  
Ranking Member Bill Nelson  
U.S. Senate Committee on Commerce, Science and Transportation  
512 Dirksen Senate Building  
Washington DC, 20510

Dear Chairman Thune and Ranking Member Nelson:

This Wednesday's hearing on consumer privacy protections should help provide the American public with additional information and insights into how all of their information is now regularly gathered, analyzed, and used for continuous commercial surveillance and targeting. Unfortunately, by only having industry representatives as witnesses, it is unlikely that the public will learn about the actual practices conducted every day by the digital data industry, practices that threaten our privacy whenever we use mobile devices, personal computers, gaming platforms, or connected televisions. Americans have never been at a greater risk for the loss of their privacy, and their autonomy, as a consequence of the unconstrained data-gathering and -use practices of the industry.

For example, consumers are now tracked on all their devices, their "identities" analyzed and assigned a unique identifier so they can be targeted regardless of what device they may be on. So-called real-time ad targeting engines buy and sell the right to target individuals—all conducted in milliseconds. An ever-growing chain of data companies works with industry giants to provide personal information on our health concerns, financial status, race or ethnicity, political behaviors, presence of children in the home, or geolocation behaviors, and much more. This unaccountable "Big Data" apparatus must be governed through public policies that ensure it lives up to democratic principles of governance, and protects consumers. What the Cambridge Analytica scandal revealed was not an aberration; it was emblematic of how, in the absence of any federal regulations to protect the public, the digital data industry has mushroomed into an unaccountable "Wild West."

As an online consumer rights organization that regularly monitors the operations of the data-driven digital marketing industry, and that also led the campaign to enact the country's only Internet privacy law (the Children's Online Privacy Protection Act, 1998), we urge you to ask the industry witnesses the following questions.

**For Mr. Enright, Google:**

You promise your marketing clients that you can deliver consumers to them at all points during their “path to purchase.” That now includes using “machine learning” and AI to make more accurate predictions of a consumer’s behaviors. Please explain to us how the recently named “Google Marketing Platform” operates, including in what ways it delivers its promise to large marketers that they will be able to “integrate and access your data to gain a deeper understanding of your customers and identify your most valuable audiences.”<sup>1</sup>

Please explain all the elements Google uses to identify a person’s real-time geo-location and their location behaviors. What data are gathered on location, for example, when a person uses your search engine, including on mobile devices? What does Google mean when it promises its clients that it can help them access, understand and take advantage of a person’s “moments of intent”? Explain the data used for your “proximity targeting” products.<sup>2</sup>

What is the nature of the data-sharing relationship between Google and Mastercard?<sup>3</sup> Why does Google not make all of its third-party data-sharing relationships public?

**For Mr. DeVore, Amazon:**

Amazon has become a “Big Data” ad-targeting powerhouse, with its just-renamed “Amazon Advertising Group.” Please detail all the consumer information used in your “Amazon Advertising Platform” to enable “advertisers to efficiently reach Amazon shoppers on Amazon sites, across the web, and in mobile apps.” Who are the data partners you work with, and what information do they provide Amazon and its advertising customers? Describe how you enable your ad clients to “leverage Amazon first-party shopping insights with your existing audience sources to reach relevant audiences as they actively search, browse, and purchase products on or off Amazon.”<sup>4</sup>

Is Amazon gathering data from its Whole Food customers, such as via its App, and adding this information to their data profiles? Are you linking an individual’s “Prime” activity with any Whole Foods-related purchasing activity?<sup>5</sup>

**For Mr. Cali, AT&T:**

AT&T’s “AdWorks” division promises clients that it can deliver ads to a person on “every screen” they may use, including “TV, online and mobile.” Please tell us what data are collected from consumers as they engage with each screen, and how all that

cross-device information is used for tracking and targeting. Please include your cable TV (set-top, etc.) broadband, satellite, “Over-the-Top” and mobile services. How has AT&T integrated all the consumer data generated by its recent acquisition of Time Warner, especially assets operated by its Turner division? What data and consumer insights are shared with your new “programmatic” data consortium involving Viacom, Fox and Comcast/NBCU?<sup>6</sup>

AT&T has identified its relationship with third-party data companies, including Acxiom, Neustar, Crossix, Experian, MasterCard, Equifax, Placed, Nielsen Catalina, Kanter Shopcom, and others. Please provide the committee with precise details concerning the types of information your data partners provide, such as consumer health-related information, geolocation behavioral data, grocery store or other retail shopping information, spending patterns, data onboarding for cross-device identity resolution, etc. How is all of this information used in your tracking and targeting of consumers and viewers?<sup>7</sup>

**For Mr. Kieran, Twitter:**

Please provide all the data Twitter uses for its “Tailored Audiences” targeting product, such as the types and kinds of “email lists” used, Twitter “Tag” data used to collect information on other websites, and via mobile apps. Describe the data and insights you obtain on Twitter users via your partnerships with “mobile conversion tracking” companies, such as Kochava and Localytics. Provide evidence that your users have been allowed to meaningfully review and understand the company’s data practices related to marketing.<sup>8</sup>

Describe the data and their uses available via Twitter’s “Audience Insights Dashboard,” in which it provides “user demographics, interests, lifestyle, and purchasing behaviors—all sourced from user-supplied data, app-supplied data, Twitter internal models, and partner-generated data.” What information do your “internal models” and partners provide, including from apps and users?<sup>9</sup>

**For Ms. Welch, Charter Communications:**

Last May, your CEO Tom Rutledge called on Congress “to pass a uniform law that provides greater privacy and data security protections and applies the same standard to everybody in the Internet ecosystem, including us.... Internet users should have ‘opt-in’ protections, meaning all entities must receive opt-in consent to collect and share their data for purposes other than the actual service they engaged in.” Please explain why it’s important for legislation to include an “opt-in” baseline. Would Charter consider advertising and marketing services on its own systems to be covered by an opt-in requirement in such a law? Does Charter also support the role of a strong regulator, one that would have the statutory authority to enact rules and engage in effective oversight and enforcement?<sup>10</sup>

Please describe your company's uses of data for digital ad targeting, such as its "Spectrum Audience App," its alliance with the "Oracle Data Cloud," and other data and digital content providers.<sup>11</sup>

**For Mr. Tribble, Apple:**

As one of the very few leading digital companies that doesn't rely on the "monetization" of consumer data as its primary revenue model, Apple has been able to place privacy-enhancing applications throughout its products. Your CEO Tim Cook has said that "privacy is a human right." Apple has been publicly critical of how other companies implement their own data practices that further harm our privacy. Can you tell the committee whether Apple believes companies like Google and Facebook can continue to generate significant data and ad-related revenues while also affirmatively ensuring that the public has meaningful privacy online? What public policies are required to help ensure the public is protected?<sup>12</sup>

**For all the Witnesses:**

What public policies are required to ensure "algorithmic transparency" in today's "Big Data" era. Can you describe how your company ensures that automatic data processing and target-marketing applications do not engage in or promote discriminatory, unfair, or other harmful outcomes?

We appreciate the Committee's focus on this important issue and look forward to a hearing soon that will include an equal number of consumer groups to testify.

Jeffrey Chester  
Executive Director

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<https://www.blog.google/products/marketingplatform/360/introducing-measurement-partners/>;  
<https://www.blog.google/technology/ads/machine-learning-hands-advertisers/>;  
<https://www.thinkwithgoogle.com/marketing-resources/data-measurement/audience-data-solutions/>;  
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<sup>2</sup> <https://developers.google.com/maps/documentation/geolocation/intro>;  
<https://support.google.com/richmedia/answer/3399866?hl=en>;  
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<https://support.google.com/richmedia/answer/7279179>;

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- <sup>9</sup> <https://marketing.twitter.com/na/en/solutions/measure-results/audience-insights.html>
- <sup>10</sup> <https://policy.charter.com/blog/charter-urges-congress-pass-legislation-protecting-privacy-everywhere-internet/>
- <sup>11</sup> <https://www.spectrumreach.com/articles/audienceapp-forefront-tv-advertising-innovation>; <https://www.multichannel.com/news/charter-introduces-advance-ad-products-newfronts-412657>; <https://www.multichannel.com/news/oracle-helps-charter-put-tv-ads-target-report-412343>; <https://newsroom.charter.com/press-releases/605-establishes-strategic-data-partnership-with-charter-communications/>
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