ONE HUNDRED FIFTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 15, 2017

Dr. Omri Ben-Shahar
Leo and Eileen Professor of Law
Kearney Director, Coase-Sandor Institute for Law and Economics
University of Chicago Law School
1111 East 60th Street
Chicago, IL 60615

Dear Dr. Ben-Shahar:

Thank you for appearing before the Subcommittee on Communications and Technology and the Subcommittee on Digital Commerce and Consumer Protection on Wednesday, November 29, 2017, to testify at the joint hearing entitled "Algorithms: How Companies' Decisions About Data and Content Impact Consumers."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Tuesday, January 9, 2018. Your responses should be mailed to Evan Viau, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed to Evan.Viau@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

Sincerely,

Marsha Blackburn
Chairman
Subcommittee on Communications
and Technology

Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: The Honorable Michael F. Doyle, Ranking Member, Subcommittee on Communications and Technology

The Honorable Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment

Additional Questions for the Record

The Honorable Robert E. Latta

1. Do algorithmic technologies and processes pose unique challenges for a disclosure and consent model of data collection?

The Honorable Gregg Harper

1. What limits does the First Amendment place on the government requiring or preventing disclosure of certain information?

2. In your testimony, you make it clear that you believe disclosure regimes are ineffectual. What are the alternatives?

The Honorable Michael C. Burgess

1. In your testimony, you state that mandatory disclosure requirements don't work because people will agree to terms without reading them in order to access the content or application. Does access to content or applications have to be all or nothing?

   a. Is it possible for a consumer to agree to limited or no collection of their information and still gain access to their desired content?

2. Algorithms have vast positive potential and capacity from self-driving cars to medicine and public health, including helping to find cures for diseases. Is there a way to help consumers understand algorithms as they apply to all sectors that may affect our daily lives?

The Honorable Adam Kinzinger

1. Moving from the hypothetical to reality, there has been some controversy over video content depicting terrorists committing violence, thereby giving their message of tyranny and hatred a platform to be broadcasted to the world. The debate then ensues: "Do content providers and the media have a duty to display this content? Or does the content need to be removed to take away the voice of these terrorists? Is this content an exploitation of the death and injury of the innocent? What is in our national security interest?" It seems that conflict with the First Amendment is already occurring, and that it may worsen.

   a. How can government and the content providers work together to balance free speech and our national interest?

   b. Can data be considered speech? Can data collection be covered by the First Amendment?