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6 HOLDING BIG TECH ACCOUNTABLE:

7 LEGISLATION TO BUILD A SAFER INTERNET

8 THURSDAY, DECEMBER 9, 2021

9 House of Representatives,

10 Subcommittee on Consumer Protection and Commerce,

11 Committee on Energy and Commerce,

12 Washington, D.C.

13

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15 The subcommittee met, pursuant to call, at 11:34 a.m. in
16 the John. D. Dingell Room, 2123 of the Rayburn House Office
17 Building, Hon. Jan Schakowsky, [chairwoman of the
18 subcommittee] presiding.

19 Present: Representatives Schakowsky, Rush, Castor,
20 Trahan, McNerney, Clarke, Cardenas, Dingell, Kelly, Soto,
21 Rice, Craig, Fletcher, Pallone (ex officio); Bilirakis,
22 Latta, Bucshon, Dunn, Pence, Lesko, Armstrong, and Rodgers
23 (ex officio).

24 Also present: Representatives Burgess, Carter, Doyle,
25 Duncan, Rochester, and Walberg.

26

27 Staff Present: Parul Desai, FCC Detailee; Katherine

28 Durkin, Policy Coordinator, Waverly Gordon, Deputy Staff
29 Director and General Counsel; Jessica Grandberry, Staff
30 Assistant; Tiffany Guarascio, Staff Director; Ed Kaczmariski,
31 Policy Analyst; Zach Kahan, Deputy Director Outreach and
32 Member Service; Hank Kilgore, Policy Coordinator; Mackenzie
33 Kuhl, Press Assistant; Jerry Leverich, Senior Counsel; David
34 Miller, Counsel; Kaitlyn Peel, Digital Director; Chloe
35 Rodriguez, Clerk; Andrew Souvall, Director of Communications,
36 Outreach, and Member Services; Michele Viterise, Counsel;
37 Michael Cameron, Minority Policy Analyst, CPC, Energy,
38 Environment; Emily King, Minority Member Services Director;
39 Bijan Koohmaraie, Minority Chief Counsel; Tim Kurth, Minority
40 Chief Counsel, CPC; Brannon Rains, Minority Professional
41 Staff Member, CPC; and Michael Taggart, Minority Policy
42 Director.

43

44 *Ms. Schakowsky. The Subcommittee on Consumer
45 Protection and Commerce will now come to order.

46 Today we will be holding a hearing entitled, "Holding
47 Big Tech Accountable: Legislation to Build a Safer
48 Internet.''

49 Due to the COVID-19 pandemic, this hearing will --
50 members can participate in today's hearing either in person
51 or remotely, via online conference.

52 Meanwhile -- excuse me, members are -- participating in
53 person must wear masks. Such members may remove their masks
54 when they are under recognition and speaking from a
55 microphone.

56 Staff and press who are present in the committee room
57 must wear a mask at all times.

58 And for members who are participating remotely, your
59 microphones will be set on mute for the purpose of
60 eliminating inadvertent background noise. Members
61 participating remotely will need to -- you will need to
62 unmute your microphones each time that you wish to speak.
63 Please note that, once you are unmuted, anything that you may
64 say in -- will be available in Webex, and it could be heard
65 over the loudspeaker. And the -- and also the -- in the
66 committee room, and subject to being heard by the
67 livestreaming and C-SPAN.

68 Since members are participating from different

69 locations, the way we are going to order the members will be
70 by seniority within the subcommittee.

71 Documents for the record can be sent to -- I usually get
72 that right, yes, there it is -- Kaczmariski, there we go,
73 sorry, Kaczmariski, at the email address that we have provided
74 to the staff. And all documents will be entered into the
75 record at the conclusion of the meeting.

76 We will begin at this point with opening statements of
77 five minutes by the members, and the chair now recognizes
78 herself for five minutes.

79 Bottom line, the Internet is not living up to its
80 promises.

81 At its birth in the previous century, the Internet
82 promised more social connection, new communities and
83 experiences, and more economic opportunity. But these
84 benefits have come with very steep consequences and costs.

85 Today's Internet is harming our children, our society,
86 and our democracy. Five years ago, at the age of thirteen,
87 Anastasia Vlasova joined Instagram, which quickly flooded her
88 accounts with images of perfect bodies and perfect lives.
89 She soon was spending three hours a day on the app, and
90 developed an eating disorder. Despite public outcry,
91 recently, as recently as -- reported as yesterday, it
92 confirmed that Instagram is still promoting pro-anorexia
93 accounts to teens. Ms. Vlasova actually did eventually quit

94 using Instagram, but millions of children and teens remain
95 powerless against the addictive and manipulative algorithms
96 and ads.

97 On January 6th, D.C. police officer Michael Fanone was
98 grabbed, beaten, and tased, all the while being called a
99 traitor to his country. The deadly insurrection was, at
100 least in part, coordinated on platforms like Facebook, and
101 exacerbated by elevating the -- and amplifying algorithms
102 that were about election disinformation.

103 For too long, Big Tech has acted without any real
104 accountability. Instead, they give us excuses and apologies.
105 The time for self-regulation is over. Today we will be
106 discussing a number of pieces of legislation that will build
107 a safer Internet.

108 Last week I introduced the FTC Whistleblower Act with my
109 colleague, Representative Trahan. This bill protects from
110 retaliation current and former employees who blow the whistle
111 to the Federal Trade Commission from retailer -- from
112 retaliation, and it incentivizes the disclosure of unlawful
113 activity. It is a critical step toward a more safe Internet.

114 The Algorithm's [sic] Justice and Online Platform
115 Transparency Act from Representative Matsui prohibits
116 algorithms from discriminating against certain consumers.

117 The KIDS Act, from Representatives Castor, Clarke,
118 Trahan, and Wexton ban online practices that exploit young

119 people.

120 The Social Media Data Act from Representative Trahan and
121 Castor prohibit -- provide transparency into how digital ads
122 target consumers.

123 The bipartisan DETOUR Act from Representatives Blunt
124 Rochester and Gonzalez prohibit large, online platforms from
125 using "dark patterns" to trick consumers.

126 So we can, this subcommittee can create an Internet that
127 is better, and safer, and makes sure that consumers are
128 protected, that we protect our children, that is transparent,
129 and holds bad actors accountable.

130 And with that I want to give a hearty welcome and a
131 thank you to this wonderful panel that is here, including
132 one, I guess, that is here remotely with us.

133 Thank you very much.

134 [The prepared statement of Ms. Schakowsky follows:]

135

136 *****COMMITTEE INSERT*****

137

138 *Ms. Schakowsky. And the chair now recognizes the
139 ranking member, my friend, Mr. Bilirakis, for -- ranking
140 member of the subcommittee, for his five minutes of an
141 opening statement.

142 *Mr. Bilirakis. Thank you, Madam Chair. I appreciate
143 it so very much. Good morning to everyone.

144 *Ms. Schakowsky. Are you on?

145 *Mr. Bilirakis. Yes, yes, I am.

146 *Ms. Schakowsky. Pull it close.

147 *Mr. Bilirakis. Yes, yes. I want to thank my
148 colleagues for their interest to improve transparency and
149 increase protection online.

150 There are a lot of initiatives under consideration
151 today, and all of them raise issues that deserve our
152 attention.

153 Legislation brought forth by my friend in the majority
154 would require the FTC to issue new rules and regulations, and
155 would grant the FTC with additional enforcement tools to
156 reduce dark patterns, discriminatory algorithms, as you said,
157 Madam Chair, harmful content directed at children. It would
158 also grant new rights for consumers to take control of their
159 data. I hope that means this is a precursor, and not a
160 substitute -- and we have discussed this with the chairperson
161 -- for passing a national privacy and data security law.
162 That is the best and most comprehensive way Congress can

163 protect our constituents through these means. That is my
164 opinion.

165 I think many of the issues we will be discussing today
166 can and should be a part of that larger privacy and data
167 security discussion, and I sincerely hope my colleagues will
168 join me in that effort. I will say to my fellow colleagues
169 that my door is always open, and we have a great relationship
170 with the chairperson. Please don't hesitate to come and talk
171 to me, and give us some input on this particular issue.

172 Earlier last month, Republican Leader Rodgers released
173 draft legislative language for the Control Our Data Act, or
174 CODA, which would create one national standard for privacy
175 and data security, establish clear rules of the road for
176 businesses to be able to comply, and give every American
177 equal data protections, regardless of the location of their
178 home. I, for one, certainly want to see rules that are clear
179 and easy to understand for my constituents, and I am sure you
180 do, too.

181 I also want to assure that the FTC Bureau of Privacy
182 that was included in our proposal has the appropriate staff
183 and resources to enforce the national law.

184 I hope the panel agrees today that there are elements of
185 all these bills that can be incorporated in some fashion in
186 this framework to ensure we leave behind a legacy that will
187 benefit every American. That is the goal.

188 We must also take seriously the threat from China, and
189 moving forward on these two bills today is an important step
190 towards holding them accountable.

191 The legislation before us will provide Americans with
192 greater transparency into the application and websites they
193 use online.

194 H.R. 3991, the TELL Act, led by Representative Duncan,
195 would inform users if their information is stored in China,
196 and whether the information is acceptable by the CCP or a
197 Chinese state-owned entity.

198 H.R. 4000, the Internet Application ID Act, led by
199 Representative Kinzinger, would require websites and online
200 users or distributors of mobile applications that are located
201 in China are owned by the CCP to disclose that location or
202 ownership to users.

203 Both bills are very reasonable, as far as I am
204 concerned.

205 For those asking why we didn't invite a witness today in
206 today's hearing that has ties to China to share their views,
207 you should know we absolutely did. We used one of our
208 witness slots to invite TikTok to testify. But
209 unfortunately, it declined. They declined the invitation.

210 Madam Chair, I hope we can work together to invite them
211 before the subcommittee in the near future, just as Senators
212 Blumenthal and Blackburn did in the Senate. There were many

213 questions left unanswered in that hearing in the Senate last
214 month on the stewardship of their platform. And I am
215 confident that the panel today could shed light on our shared
216 concerns.

217 Thank you so very much for being here. There are very
218 important matters our subcommittee is examining today, so I
219 thank the chair for holding this hearing again, and I thank
220 the ranking member, the full ranking member, and to the
221 witnesses again for being here today. We really appreciate
222 it.

223 I look forward to your testimony on these bills, and
224 other proposals we have publicly circulated for this
225 committee's review, and I yield back. Thank you.

226 [The prepared statement of Mr. Bilirakis follows:]

227

228 *****COMMITTEE INSERT*****

229

230 *Ms. Schakowsky. Thank you, Mr. Bilirakis. And before
231 I invite our -- the chairman and ranking member of the
232 committee for their opening statements, let me just say I am
233 very excited and optimistic. We have had a real good history
234 of working together in this subcommittee to get legislation
235 not only introduced and passed.

236 And I know last week we also sent you something on -- a
237 proffer on a privacy bill. I -- again, I am very confident
238 that we are going to be able to work together and get that
239 done.

240 And I agree with the urgency that you are projecting
241 today, and share it with you, and look forward to moving
242 ahead rapidly.

243 And now let me recognize the great chair of this full
244 committee, Frank Pallone, for his opening statement.

245 *The Chairman. Thank you, Chairwoman Schakowsky.
246 Today's hearing is the second of two hearings on legislative
247 reforms to hold social media companies accountable.

248 And following last week's hearing examining possible
249 reforms of Section 230 of the Communications Decency Act,
250 today's panel will discuss consumer protection-focused
251 legislation that aims to hold these companies accountable by
252 enhancing transparency and promoting online safety.

253 So these legislative hearings come after years of
254 repeated bipartisan calls for online platforms to change

255 their ways. Unfortunately, instead of meaningfully
256 addressing the serious harms that these platforms can inflict
257 on the American people and our children, social media
258 companies continue to make minor changes only after negative
259 press coverage, or in preparation for an executive testifying
260 before Congress, and they also refuse to become more
261 transparent.

262 In fact, we only actually learn what is really going on
263 inside these massive corporations when a whistleblower steps
264 forward, and those courageous actions are becoming
265 exceedingly difficult. And even more disturbing, we are now
266 seeing instances where these platforms are publicly shutting
267 down efforts at transparency.

268 So since these companies are clearly not going to change
269 on their own, Congress has to act. And today we will discuss
270 seven bills that target different parts of the social media
271 ecosystem to make platforms safer for users.

272 And one of the best ways to make these companies more
273 accountable is to make them more transparent. We will
274 discuss legislation that grants academic researchers and the
275 Federal Trade Commission access to ad libraries, which will
276 help to get us the data we need on how these companies are
277 targeting users.

278 Another bill will prohibit the use of algorithms that
279 discriminate based on race, age, gender, ability, and other

280 protected characteristics, or methods that manipulate users
281 into providing consent when they wouldn't, otherwise. And
282 this legislation will help prevent people using social media
283 from losing rights protected under the law.

284 We are considering a bill that will protect
285 whistleblowers like former Facebook employee Frances Haugen,
286 who testified at last week's legislative hearing.
287 Whistleblowers help bring truth to light, and are another way
288 of helping ensure that companies are held accountable.

289 And finally, we will examine how to better protect our
290 children online by banning certain design features directed
291 at children, and prohibiting the amplification of harmful
292 content that is targeted at them. Legislative measures that
293 protect our children are critically important, and have
294 bipartisan support on this committee.

295 Now, Republicans and Democrats also agree that we do not
296 want to see our data or our children's data surveilled or
297 used in a manner that could risk their safety. And that is
298 why we are also discussing bills that attempt to force
299 websites and apps to be transparent about their interactions
300 with China. We all understand the danger the Chinese
301 Government poses to the United States economy and national
302 security, and we must take meaningful steps to address that
303 danger from China.

304 After multiple hearings, letters, and discussions with

305 stakeholders, the members of this committee have developed
306 legislation to address the harms caused by Big Tech. There
307 is no silver bullet to fix the Internet. The proposals that
308 we are discussing today are important steps to improving the
309 online ecosystem.

310 Another part of tech accountability is protecting
311 people's privacy, and the chairwoman already mentioned that,
312 significantly, because she is so much involved with it. But
313 I think every member of this committee agrees that more must
314 be done on privacy. And that is why we have been working
315 since last Congress on a bipartisan staff discussion draft.
316 Updates to that draft were made last week to address
317 stakeholder feedback, and have been shared with the minority.

318 I continue to believe that there is a bipartisan path
319 forward on privacy, and our work continues to get there. But
320 today we are focused on proposals to make these platforms
321 more transparent and safer.

322 So I just thank the witnesses, and thank Chairwoman
323 Schakowsky for being out front on so many of these issues,
324 particularly the privacy issue, which I know is not an easy
325 one, but you are determined. And I yield back.

326 [The prepared statement of The Chairman follows:]

327

328 *****COMMITTEE INSERT*****

329

330 *Ms. Schakowsky. The gentleman yields back. And now
331 the chair recognizes Mrs. Rodgers, the ranking member of the
332 full committee, for five minutes for her opening statement.

333 *Mrs. Rodgers. Thank you, Madam Chair. And to our
334 witnesses, thank you for being here.

335 Last week we discussed many examples of Big Tech
336 companies failing to be good stewards of their platforms.
337 Big Tech has used its power to censor Americans, control what
338 we see, manipulate us through the use of harmful algorithms.
339 Big Tech must be held accountable, and that is why, from day
340 one of this Congress, Republicans have been exploring
341 legislative solutions through our Big Tech accountability
342 platform.

343 As a part of our platform, we released a number of
344 proposals to focus on content moderation, transparency, and
345 protecting our kids online, all issues that are relevant to
346 today's hearing.

347 My proposal, which I am leading alongside my good
348 friend, Congressman Jim Jordan, narrowly amends Section 230
349 to protect free speech. Under our proposal, Big Tech will be
350 held accountable for censoring constitutionally-protected
351 speech. Big Tech will no longer be able to exploit the
352 ambiguity and the discretion we see in the current law. Big
353 Tech will be more responsible for content they choose to
354 amplify, promote, or suggest. Big Tech will be forced to be

355 transparent about their content decisions, and conservatives
356 will be empowered to challenge Big Tech's censorship
357 decisions.

358 Republican policies would hold Big Tech accountable for
359 their content moderation practices, and encourage
360 transparency on enforcement decisions, especially when it
361 comes to illegal drugs, counterfeit, and stolen products,
362 terrorism, doxing, child pornography and trafficking,
363 cyberbullying, and revenge porn.

364 We are also looking for new ways to improve cooperation
365 with law enforcement, while upholding our civil liberties.

366 I am pleased to see some of these ideas presented today
367 in the package that the Democrats are leading on. It is
368 unfortunate that the majority decided not to use this hearing
369 to discuss privacy, given many of these bills include
370 provisions directly related to the collection and use of
371 data, and would best be addressed in the context of a
372 comprehensive privacy and data security framework.

373 The proposals also include language on protecting data
374 from wrongful purposes, other references to the Child Online
375 Privacy Protection Act, COPPA, and a data portability
376 provision.

377 Despite our interest in continuing our work from last
378 Congress on a bipartisan privacy framework, we have yet to
379 have a hearing, let alone a markup. And Americans are

380 desperate for our privacy and data security bill. It is
381 difficult to address the goals discussed today without that
382 national privacy framework and the data security bill. We
383 will continue to talk. We can continue to talk, but we need
384 a national privacy and data security bill.

385 Worse yet, the Democrats' tax-and-spending spree, the
386 reconciliation package before the Senate right now, includes
387 dramatic increases for funding and authority for the Federal
388 Trade Commission, the FTC, that never received a bipartisan
389 consensus. The majority suggested that this is a way to
390 protect America's personal data. It couldn't be further from
391 the truth. It includes no privacy and data security
392 framework to implement or enforce.

393 These bills will add to the confusion in the marketplace
394 by creating conflicting rules on how data is used, collected,
395 and shared. This confusion only allows Big Tech to become
396 more powerful, and it harms small businesses.

397 The question I have today is how do these bills fit into
398 a comprehensive privacy and data security framework, like
399 some of the proposals that the Republicans have released
400 publicly?

401 Let me also share another reason that I am concerned,
402 which I think we all agree on, and that is the need for a
403 national standard because of Big Tech's troubling
404 relationship that is being more exposed with the Chinese

405 Communist Party. Big Tech has not been responsible with the
406 data that they have collected, or who they share it with.

407 I am pleased and I am grateful that the majority
408 included two bills, related bills, in the hearing today to
409 help address that threat, one by Mr. Duncan and one by Mr.
410 Kinzinger.

411 Big Tech companies like TikTok have an incredible amount
412 of access and control over our data and information supply
413 chain. Americans deserve to know if their personal
414 information is safe, and to what extent it is being accessed
415 by the CCP. It is our duty to uphold American values like
416 free speech, and ensure that the United States of America
417 continues to lead the cutting-edge technology to beat China.
418 That starts by establishing a national privacy and data
419 security framework and holding Big Tech accountable.

420 I look forward to hearing from the witnesses today.

421 [The prepared statement of Mrs. Rodgers follows:]

422

423 *****COMMITTEE INSERT*****

424

425 *Mrs. Rodgers. I yield back, Madam Chair.

426 *Ms. Schakowsky. The gentlelady yields back.

427 And I want to remind all members of the subcommittee
428 that, pursuant to committee rules, all members' written
429 opening statements shall be included and made part of the
430 record.

431 And now I would like to introduce our witnesses for
432 today's hearing.

433 Jonathan Greenblatt is the CEO and national director for
434 the Anti-Defamation League.

435 Nathalie -- let's see, I am going to get it -- Marshall,
436 no, Marechal -- is the senior policy and partnership manager
437 at Ranking Digital Rights.

438 Rich Lane -- Rick Lane is the CEO of Iggy Ventures.

439 Josh Golin is the executive director of Fair Play.

440 And Jessica Richard [sic] of counsel at -- what is it,
441 Kelley Drye, got that right? Okay.

442 And Imran Ahmed is the CEO of the Center for Counter-
443 Digital -- Countering Digital Hate.

444 At the -- I just want to explain the -- I will recognize
445 each of you for five minutes, but I want to explain the
446 lights that are in front of you, just to make sure that you
447 know.

448 When the -- when your time begins, the light will be
449 green. When there is one minute left, there will be a yellow

450 light. And I hope at that point you will start wrapping up,
451 so that we can keep to, as close as we can, to five minutes.

452 And we will begin now with Mr. Greenblatt.

453 You are now recognized for five minutes.

454

455 STATEMENT OF JONATHAN GREENBLATT, CEO AND NATIONAL DIRECTOR,
456 ANTI-DEFAMATION LEAGUE; NATHALIE MARECHAL, PH.D., SENIOR
457 POLICY AND PARTNERSHIPS MANAGER, RANKING DIGITAL RIGHTS; RICK
458 LANE, CEO, IGGY VENTURES LLC; JOSH GOLIN, EXECUTIVE DIRECTOR,
459 FAIRPLAY; JESSICA RICH, OF COUNSEL, KELLEY DRYE, FORMER
460 DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE
461 COMMISSION; AND IMRAN AHMED, CEO, CENTER FOR COUNTERING
462 DIGITAL HATE

463

464 STATEMENT OF JONATHAN GREENBLATT

465

466 *Mr. Greenblatt. Thank you, Madam Chair Schakowsky,
467 Ranking Member Bilirakis, and members of the subcommittee.
468 Good morning. It is a privilege and an honor for me to be
469 here today.

470 ADL is the oldest anti-hate group in America. We have
471 been fighting anti-Semitism and all forms of bigotry for more
472 than 100 years, and we have been tracking online hate since
473 the days of dial-up. This work includes partnering with law
474 enforcement to help prevent online threats from mutating into
475 offline incidents. We work with authorities at all levels.
476 In the past 11 months, we have provided the FBI with more
477 than 1,000 actionable tips. Our 25 offices across the
478 country engage directly with individuals and institutions
479 affected by hate.

480 In 2017 ADL launched the Center for Technology and
481 Society to double down on our efforts to fight online hate.
482 We were the first civil rights group with an operation right
483 in the heart of Silicon Valley, and it is staffed not by
484 longtime non-profit professionals, but by software engineers,
485 product managers, data scientists, and computer experts, all
486 hired from industry. We conduct analysis, publish research,
487 build technology, and provide recommendations to policymakers
488 like yourselves and industry leaders.

489 Today there is no distinction between online and offline
490 lives. When we say that Facebook is the front line in
491 fighting hate, I mean that, literally. We have seen over and
492 over again the way that hateful content online leads to
493 violence in our communities offline. Poway, El Paso,
494 Pittsburgh, these targeted mass shootings were motivated by
495 extremist conspiracy theories that were spawned and spread on
496 social media.

497 In addition to these tragedies, online hate affects the
498 everyday lives of millions of Americans. Our research has
499 found that 41 percent of users report experiencing online
500 hate and harassment. According to ADL's most recent
501 analysis, 75 percent of those harassed report that it
502 happened to them on Facebook. That is nearly three times the
503 percentage on any other platform.

504 And make no mistake, all of them are highly profitable

505 companies. So this isn't a resource problem, it is a
506 responsibility problem.

507 Just today, ADL released new research demonstrating how
508 easy it is to find White supremacist, accelerationist content
509 on Instagram, less than 24 hours after the CEO sat at another
510 table just like this, and said they were cleaning up their
511 mess.

512 But these platforms lack and neglect safety because,
513 first and foremost, they are exempt from liability, due to
514 the loophole of Section 230. Now, I know that isn't the
515 topic of today's hearing, but make no mistake, Section 230
516 must be changed to force the companies to play by the same
517 rules that every other media company on the landscape
518 operates by today.

519 It is just not a matter of free speech. It is simply
520 being held accountable in courts of law, when the platforms
521 aid and abet unlawful, even lethal conduct in service of
522 their growth and revenue.

523 Tech companies are complicit in the hate and violence on
524 their platforms because, if it bleeds, it leads, and it feeds
525 their business model and their bottom line. Hate speech,
526 conspiracy theories, they are amplified by the algorithms,
527 nudged to the top of their news feeds, and they addict users
528 like a narcotic driving engagement, which, in turn, increases
529 their profits.

530 With no oversight and no incentives beyond increasing
531 revenue, tech companies will continue to do whatever they
532 can, whatever it takes to optimize engagement, regardless of
533 the consequences. This just can't continue.

534 If not for courageous whistleblowers like Frances
535 Haugen, we wouldn't have the hard evidence to prove that
536 Facebook knowingly -- knowingly -- is mainstreaming
537 extremism, inciting violence through its algorithms and
538 fracturing societies around the world.

539 What if other tech companies, tech employees felt
540 empowered and protected to expose wrongdoing when they saw
541 it? That is why the protections, Congresswoman Schakowsky,
542 in your FTC Whistleblower Act are so crucial.

543 If platforms have no meaningful motivation to fix the
544 harmful algorithms that amplify hate, they won't do it. That
545 is why the Algorithmic Justice and Online Transparency Act
546 that would protect consumers from harmful and discriminatory
547 AI systems are really long overdue, so we applaud that
548 legislation, as well.

549 Finally, to stay ahead of the curve, we have got to
550 prioritize research. In August, ADL Belfer fellow and NYU
551 Professor Laura Edelson was de-platformed on Facebook hours
552 after the company realized that she and her team were
553 studying the role that Facebook may have played in leading up
554 to the January 6th insurrection. Platforms should not be

555 able to thwart important third-party research at their whim.
556 Bills like the Social Media Data Act would ensure that
557 academics can study platforms to better inform the public.

558 Look, there are no silver bullets. There is no one-
559 size-fits-all solution to repairing our internet, but there
560 is a lot you can do right now to take action. I have
561 highlighted three bills, and I am happy to talk about them
562 and others in the Q and A.

563 But members of the committee, let me conclude by urging
564 you to remember that what happens online has a real impact on
565 our lives. The status quo directly threatens our kids, our
566 communities, and our country. Now is the time for you to
567 legislate and act.

568 Thank you. I look forward to your questions.

569 [The prepared statement of Mr. Greenblatt follows:]

570

571 *****COMMITTEE INSERT*****

572

573 *Ms. Schakowsky. I thank the gentleman. And now we
574 have, remotely with us today, Dr. Marechal.
575 And you are recognized now for five minutes.
576

577 STATEMENT OF NATHALIE MARECHAL

578

579 *Dr. Marechal. Thank you, Congresswoman. Good morning,
580 and thank you to all of you for inviting me to testify today.

581 I am Natalie Marechal, senior policy and partnerships
582 manager at Ranking Digital Rights.

583 As Congress crafts legislation to hold Big Tech
584 accountable for its negative impacts on society, I urge you
585 to focus on upstream structural reforms by regulating online
586 advertising, mandating transparency and research access to
587 data, and encouraging the Securities and Exchange Commission
588 to use its existing regulatory authority to do what its
589 shareholders are unable to: get Big Tech to comply with the
590 same laws as all other public companies, and to improve their
591 corporate governance.

592 The tenor and substance of congressional hearings on the
593 tech industry has come a long way in the past few years,
594 thanks to a growing recognition that the harms users
595 experience through social media platforms are connected to
596 business models centered on maximizing revenue from targeted
597 advertising. This business model incentivizes rapid growth;
598 anti-competitive behavior like predatory acquisitions of
599 would-be competitors and vertical integration across the ad
600 tech value chain; mass commercial surveillance; and data
601 collection without our knowledge or consent; reliance on

602 automation to perform tasks that actually require human
603 nuance and contextual judgment to be done correctly; and
604 consolidation of corporate power that thwarts any internal
605 attempt at reform.

606 The company now known as Meta is the most brazen example
607 of these dynamics. But the basic point that how a company
608 makes money plays a determinate role in its products and its
609 behavior is true across the tech sector and beyond. A
610 business model that relies on the violation of rights will
611 necessarily lead to products that create and amplify harms.

612 So what should Congress do about it? First, regulate
613 the tech -- the online advertising industry. Transpose the
614 basic principles that govern offline advertising to the
615 online world, and pursue antitrust enforcement in the ad tech
616 sector. These measures will directly address consumer and
617 civil rights harms related to privacy, discrimination, and
618 fraud in online advertising. They will also shift the
619 incentive structures that contribute to product design and
620 corporate decisions that harm consumers and destabilize
621 democracies around the world.

622 Further, increased competition in the ad tech market
623 will undercut the Alphabet and Meta duopoly, and enable
624 greater accountability for these two mega-corporations that
625 often behave as though they are above the law.

626 Second, create the conditions for evidence-based policy-

627 making by mandating specific types of transparency for
628 information that can safely be made public, and by creating
629 mechanisms for qualified, trustworthy, industry-independent
630 researchers to verify companies' claims about users'
631 experiences, and expand knowledge and understanding about how
632 these platforms impact societies and democracy around the
633 world.

634 The RDR methodology and the Santa Clara Principles on
635 Transparency and Accountability and Content Moderation both
636 provide granular recommendations for the data that companies
637 should disclose publicly.

638 And third, Congress should encourage the SEC to use its
639 authority to do what shareholders have been trying to do, and
640 have been unable to do for reasons I will explain: get Big
641 Tech to comply with the same laws as all other publicly-
642 traded companies. Numerous whistleblower disclosures to the
643 SEC indicate that several Big Tech companies are violating
644 securities laws. But because of their dual-class share
645 structure, shareholders are unable to hold corporate
646 management accountable. When the CEO is also the chair of
647 the board of directors, this means that person is accountable
648 to no one.

649 I am talking about Mark Zuckerberg. No one should have
650 this much power.

651 The SEC must address the private market exemptions that

652 have allowed Big Tech companies to become so large, and with
653 concentrated governance. Because Meta was able to obtain
654 significant private market funding before going public, the
655 company was able to impose this dual-class share structure,
656 and a governance structure that allows Mark Zuckerberg to
657 unilaterally make decisions that impact billions of people
658 without any accountability. This loophole must be closed so
659 that shareholder democracy of the future Facebooks can take
660 hold.

661 To address the excesses of today's Big Tech firms, the
662 SEC should ensue -- should issue an enforcement policy
663 declaring that it will not grant bad actor waivers to, and
664 will seek increase enforcement penalties for companies with
665 class B shares, or those in which a single person serves as
666 CEO and share of the company's board of directors.

667 The bills under consideration today all seek to shine a
668 light on Big Tech's secretive business practices, and hold
669 them accountable when they harm their users, their
670 competitors, or society more broadly, whether through
671 deliberate action or through their failure to proactively
672 identify and mitigate potential harms ahead of time.

673 The Republican Big Tech Accountability Platform also
674 contains many provisions that Ranking Digital Rights has long
675 called for: transparency into how Big Tech develops its
676 content policies and regular, periodic disclosures about

677 content policy enforcement, including the types of content
678 taken down, and why, and clearly understood appeals
679 processes.

680 Big Tech accountability is not a partisan issue.
681 Americans may disagree about how social media companies
682 should govern content on their platforms, but there is strong
683 bipartisan agreement that Big Tech is not above the law and
684 that, whatever companies do, they should be transparent about
685 it, and they should be accountable to their users, their
686 shareholders, and the American people. Legislation should
687 start there.

688 Thank you again for the opportunity to testify today,
689 and I look forward to your questions.

690 [The prepared statement of Dr. Marechal follows:]

691

692 *****COMMITTEE INSERT*****

693

694 *Ms. Schakowsky. Thank you so much. And now let me
695 recognize Mr. Lane.

696 You are recognized for five minutes.

697

698 STATEMENT OF RICK LANE

699

700 *Mr. Lane. Chair Schakowsky, Ranking Member Bilirakis,
701 Chairman Pallone, Ranking Member McMorris Rodgers, and
702 members of the subcommittee, thank you for inviting me to
703 testify. My name is Rick Lane, and I am the CEO of a
704 strategic advisory firm, Iggy Ventures. I also volunteer my
705 time to help child safety organizations combat sex
706 trafficking and other online threats to children.

707 Over the past 30 years I had the opportunity to work on
708 almost every major piece of technology-related, consumer
709 protection, privacy, and cybersecurity legislation that has
710 moved through Congress. I testify today in my personal
711 capacity.

712 Building a more safe, secure, and sustainable internet
713 will require Congress to focus on four main issues: one,
714 reforming Section 230; two, creating more transparency in the
715 way internet platforms operate, while protecting internet
716 users' privacy; three, restoring access to the WHOIS data;
717 and four, updating the Child Online Privacy Protection Act.
718 These issues do not necessarily need to be addressed in the
719 single comprehensive piece of legislation, but they should be
720 discussed in a comprehensive fashion. All the pieces must
721 fit together.

722 I recognize that Section 230 reform is the province of

723 another subcommittee, and was the focus of last week's
724 hearing. I would be remiss, however, if I didn't take this
725 opportunity to take a few -- to make a few observations on
726 the topic.

727 I believe we need to restore to platforms the ordinary
728 duty of care that would apply, but for courts' current and
729 overbroad application of Section 230. Social media companies
730 are rife with offers to sell illegal drugs, yet the former
731 CEO of TikTok stated at a 2020 technology event that he had
732 never been told of illicit drug transactions on the platform,
733 and doubted their very existence. That was a surprising
734 statement, since others knew, including the drug dealers that
735 were using TikTok's platform.

736 TikTok could also increase the threat of espionage and
737 cyber attacks, in light of the influence the Chinese
738 Government has over both it and ByteDance, the Chinese
739 company that owns TikTok. Indeed, we are confronted with a
740 social networking site that is, A, susceptible to
741 manipulation by a Communist regime with a record of human
742 rights abuses; B, growing more rapidly than any U.S.
743 competitor; and C, collecting massive amounts of data on our
744 youngest and most easily influenced demographic, in an arms
745 race to develop more sophisticated artificial intelligence.

746 It is for these reasons that both H.R. 3991 Telling
747 Everyone the Location of data Leaving the U.S. Act,

748 introduced by Rep. Duncan, and H.R. 4000, the Internet
749 Application ID Act, introduced by Rep. Kinzinger, are so
750 important. These two bills, together, will provide the
751 American people with the information they need to know
752 exactly where these types of companies are headquartered,
753 where their data is being stored, and to fully understand the
754 risks they and their children are taking when using these
755 apps, apps that can be used to undermine our democracy.

756 Another transparency issue that Congress needs to
757 address is access to accurate, WHOIS domain name
758 registration, which contains basic contact details for
759 holders of internet domains, and is fundamental to protecting
760 consumer privacy, promoting lawful commerce, ensuring public
761 safety, and protecting our national security. Indeed, a
762 Department of Justice report states that the first step in
763 online reconnaissance often involves use of ICANN's WHOIS
764 database.

765 In 2018, registries and registrars like GoDaddy,
766 VeriSign, Namecheap increasingly began restricting access to
767 WHOIS data, based on an overlap -- application of the
768 European Union GDPR. Yet almost after five years of "trying
769 to fix the WHOIS GDPR problem," ICANN has failed. The time
770 has, therefore, come for this committee and Congress to pass
771 legislation requiring domain name registries and registrars
772 to once again make WHOIS information available, and that will

773 be zero cost to consumers.

774 No other area of consumer protection is more important
775 than establishing reasonable policies to protect children in
776 the marketplace. This is especially true in the area of
777 online privacy and market-dominant digital payment apps and
778 debit cards that target children, and collect and exploit a
779 shocking amount of their data. COPPA, enacted in 1998,
780 creates an opt-in parental consent privacy regime for
781 websites directed at children under 13.

782 By contrast, Gramm-Leach-Bliley, enacted in 1999,
783 created an opt-out privacy regime for financial institutions.
784 That privacy space between COPPA and GLBA creates a FinTech
785 child privacy protecting -- protection gap in existing law.
786 This gap is especially harmful as we move toward a cashless
787 society, a trend accelerated by the pandemic.

788 The good news is that one company, FinTech digital
789 company which I am involved with, Rego Payment, is the only
790 COPPA-compliant digital wallet.

791 Thank you again for giving me this opportunity to
792 participate today. I look forward to your questions, and
793 continue to work with you and your staff. We must all work
794 together to fix these important problems because, at the end
795 of the day, it is the right thing to do.

796 Thank you.

797

798 [The prepared statement of Mr. Lane follows:]

799

800 *****COMMITTEE INSERT*****

801

802 *Ms. Schakowsky. Thank you.

803 And now, Mr. Golin, the floor is yours for five minutes.

804

805 STATEMENT OF JOSH GOLIN

806

807 *Mr. Golin. Thank you, Chair Schakowsky, Ranking Member
808 Bilirakis, and distinguished members of the subcommittee for
809 holding this important hearing. My name is Josh Golin, and I
810 am executive director of Fairplay, the leading independent
811 watchdog of the children's media and marketing industries.

812 Through corporate campaign and strategic regulatory
813 filings, we have changed the marketing and data collection
814 practices of some of the world's biggest companies.
815 Currently, we are leading a campaign to stop Facebook from
816 launching a children's version of Instagram. And last week,
817 with other leading advocates, we launched Design with Kids in
818 Mind, a campaign to demand regulations that require online
819 operators put kids' interests first when designing their
820 platforms.

821 Frances Haugen has shone a critical spotlight on
822 Instagram's harmful impacts on teens, and Facebook's callous
823 disregard for children's well-being. But it would be a
824 mistake to view her revelations as problems limited to
825 Facebook and Instagram. Compulsive overuse, exposure to
826 harmful content, cyberbullying, harms to mental health, and
827 the sexual exploitation of children are industry-wide issues
828 that demand systemic solutions from Congress.

829 To put it plainly, the unregulated business model for

830 digital media is fundamentally at odds with children's well-
831 being.

832 Digital platforms are designed to maximize revenue and,
833 therefore, engagement because the longer they can capture a
834 user's attention, the more money they make by collecting data
835 and serving ads. As a result, children are subject to
836 relentless pressure and manipulative design that pushes them
837 to use and check platforms as often as possible. The harms
838 young people -- this harms young people in several ways,
839 including encouraging the overuse of social media and
840 displacing critical online activities like sleep, exercise,
841 and face-to-face interactions. Overuse can also lead to
842 isolation from secure family relationships, and reduced
843 interest in academic achievement and extracurricular
844 activities, allowing for-profit tech companies to shape
845 children's character, habits, and future.

846 Design choices used to maximize engagement are also
847 harmful, because they exploit young people's desire for
848 social approval, and their natural tendency towards risk-
849 taking. Displays of likes and follower counts provide an
850 instant snapshot of whose profiles and posts are popular.
851 Children quickly learn that the way to improve these metrics
852 is to post risqué and provocative content, creating a
853 permanent record of their youthful indiscretions, and
854 increasing their risk of cyberbullying and sexual

855 exploitation.

856 Platforms also harm young people by personalizing and
857 recommending content most likely to keep them engaged. One
858 former YouTube engineer observed recommendation algorithms
859 are designed to optimize watch time, not to show content that
860 is actually good for kids. This means that, on platforms
861 like Instagram and TikTok, teens interested in dieting will
862 be barraged with content promoting eating disorders, and a
863 depressed user will be shown content promoting self-harm.

864 Nearly every concern that parents, public health
865 professionals, and children themselves have about digital
866 media platforms can be traced to deliberate design choices.
867 It doesn't have to be this way. Apps and online platforms
868 could be built, instead, to reduce risk and increase
869 safeguards for children. But that won't happen without
870 significant action from Congress.

871 The only Federal law that protects children online was
872 passed 23 years ago, long before smartphones, Instagram, and
873 YouTube even existed. Congress's continued inaction,
874 combined with a lack of enforcement at the FTC, has
875 emboldened Big Tech to develop an exploitative business model
876 without considering or mitigating its harmful effects on
877 children and teens. It is no wonder that polls consistently
878 show that parents want Congress to do more to protect
879 children online.

880 We know the key legislative solutions. The KIDS Act,
881 which we will discuss today, would prohibit companies from
882 deploying design techniques like autoplay, displays of
883 quantified popularity, and algorithmic recommendations that
884 put children and teens at risk. The Privacy Act would expand
885 privacy protections to teens, ban harmful uses of data, like
886 surveillance advertising, and require platforms to make the
887 best interests of children a primary design consideration.
888 Together, these bills would create the safeguards children
889 need, and transform the online experience for young people.

890 Over the last year I have watched several hearings like
891 this one, and was heartened to hear Members of Congress
892 speak, first and foremost, not as Republicans and Democrats,
893 but as parents and grandparents with firsthand knowledge of
894 what is at stake.

895 But the American people need more than your
896 understanding and justified anger at companies like Facebook.
897 Big Tech is banking on the fact that partisan divisions will
898 keep you from taking action. I hope you will prove them
899 wrong, and advance legislative solutions that better protect
900 children while they are online, and make it easier for them
901 to disconnect and engage in the offline activities they need
902 to thrive.

903 There is simply too much at stake for children and their
904 futures to allow the status quo to continue.

905 Thank you for having me here today, and I look forward
906 to your questions.

907 [The prepared statement of Mr. Golin follows:]

908

909 *****COMMITTEE INSERT*****

910

911 *Ms. Schakowsky. Well, thank you.

912 And now, Ms. Rich, you are recognized for five minutes.

913

914 STATEMENT OF JESSICA RICH

915

916 *Ms. Rich. Chair Schakowsky, Ranking Member Bilirakis,
917 and members of this subcommittee, I am Jessica Rich, of
918 counsel at Kelley Drye, and a distinguished fellow at
919 Georgetown University. I am pleased to be here today
920 testifying on holding Big Tech accountable, and building a
921 safer internet. My remarks today are my own, based on my
922 years of government service.

923 My background is as a law enforcement attorney and
924 official. I worked for over 26 years at the Federal Trade
925 Commission, the last 4 as director of its Bureau of Consumer
926 Protection. Before becoming director, I was the first and
927 longtime manager of the FTC's privacy program. I have
928 supported stronger data privacy and security laws for over 20
929 years. The focus of my testimony today is on that very
930 issue: privacy.

931 While I understand that privacy is not the chief focus
932 of this hearing, I am highlighting it today because the need
933 for privacy legislation, Federal privacy legislation, has
934 never been stronger. This hearing is addressing many
935 important issues, some of which are closely related to
936 privacy. But passing a strong and comprehensive private --
937 Federal privacy law is one of the most important things
938 Congress can do to hold Big Tech accountable, and build a

939 safer internet.

940 Consumers, businesses, regulators, and the marketplace
941 as a whole, we all need a Federal privacy law.

942 First, survey upon survey shows that consumers are
943 concerned about their privacy, and believe they have little
944 control about how companies collect, use, and share their
945 personal information. They continue to be the victims of
946 massive data breaches. Data collection and abuses are
947 everywhere. And companies make decisions affecting them
948 every day using algorithms and profiles with built-in
949 assumption and biases.

950 You can't educate consumers about their rights, because
951 it depends on the market sector, the state they are in, and
952 the type of company and the data involved. Often, consumers
953 have no rights at all. And consumers can't be expected to
954 read hundreds of privacy policies a day from companies they
955 have never heard of. Consumers need a clear and consistent
956 privacy law that they can understand and rely on every day,
957 no matter where they are or what they are doing.

958 Businesses are similarly confused about privacy laws in
959 this country. At the Federal level, we have the FTC Act, as
960 well as dozens of sector-specific laws like COPPA, HIPAA, and
961 the Fair Credit Reporting Act. We also now have three
962 comprehensive state laws, with more on the way.

963 Honest companies spent enormous time and money to

964 navigate all these laws, while the unscrupulous exploit the
965 gaps and the loopholes. Meanwhile, large companies have
966 benefited. That includes the platforms, because they can
967 afford the cost of compliance, and because many existing laws
968 favor large entities that can keep their operations in house,
969 and not share data with third parties.

970 In sum, businesses too need a clear and consistent
971 Federal privacy law to help them navigate a difficult
972 regulatory environment, and create a more level playing
973 field.

974 But there is more. For over 20 years, the FTC, my
975 former agency, has overseen privacy using a law that is just
976 not up to the task: the FTC Act. While the FTC has
977 accomplished a lot, this law does not establish clear
978 standards for everyone to follow before problems occur, and
979 there are big gaps in its protections, creating uncertainty
980 for the marketplace.

981 Many in Congress on both sides of the aisle have
982 criticized the FTC for these problems: too strong, too weak,
983 too much, too little. But, with respect, it is Congress that
984 needs to fix the problems by passing a law with clear
985 standards for the FTC and the public.

986 Finally, we now, all of us, understand that concerns
987 surrounding the use of personal data reach well beyond
988 traditional notions of privacy to issues like discrimination,

989 algorithmic fairness, accountability, whistleblower
990 protections, dark patterns, protecting our kids, data
991 portability, and even, with respect to data security, our
992 critical infrastructure. A privacy law could address many of
993 these issues, at least in part, achieving far more than could
994 be achieved by adding yet more sectoral requirements to the
995 confusing mix of laws we now have in the United States.

996 Thank you so much for inviting me here today. I stand
997 ready to assist the subcommittee and its members and staff
998 with ongoing work related to consumer protection and privacy.

999 [The prepared statement of Ms. Rich follows:]

1000

1001 *****COMMITTEE INSERT*****

1002

1003 *Ms. Schakowsky. Thank you very much.

1004 And last, but certainly not least, Mr. Ahmed, you are
1005 recognized now for five minutes.

1006

1007 STATEMENT OF IMRAN AHMED

1008

1009 *Mr. Ahmed. Chairs Schakowsky and Pallone, Ranking
1010 Members Bilirakis and McMorris Rodgers, members of the
1011 committee, thank you for this opportunity to appear before
1012 you today.

1013 The Center for Countering Digital Hate, CCDH, is a
1014 nonprofit research in the dynamics of misinformation and hate
1015 on social media, how it undermines democracy, the rule of
1016 law, child safety, and our ability to deal with life-
1017 threatening crises such as COVID.

1018 So why is this happening? Why are we here? The ugly
1019 truth is social media companies discovered prioritizing hate,
1020 misinformation, conflict, and anger is highly profitable. It
1021 keeps users addicted, so they can serve them ads.

1022 CCDH's research has documented bad actors causing harm,
1023 but also bad platforms encouraging, amplifying, and profiting
1024 from that harm. The platforms have managed to successfully
1025 stop any credible action by deploying a well-worn playbook:
1026 one, initially deny there is a problem; two, admit there is a
1027 problem, but deflect responsibility; three, finally,
1028 acknowledge responsibility, but delay any action. Deny,
1029 deflect, delay. I can show you how that works in practice.

1030 On March the 24th we released a report showing that up
1031 to 65 percent of anti-vax content circulating on Facebook and

1032 Twitter, 65 percent, originates with sites and accounts
1033 operated by just 12 anti-vaxxers, the Disinformation Dozen.
1034 Now, this committee asked Mark Zuckerberg about the report in
1035 a hearing the next day, on March the 25th. He promised to do
1036 something about it. He did not.

1037 Six months later, after the surgeon general and the
1038 President weighed in -- again, citing our report -- Facebook
1039 responded, claiming our report had a faulty narrative.
1040 However, Facebook whistleblower Frances Haugen revealed that,
1041 on the very same day we released our report, March the 24th,
1042 Facebook produced an internal study confirming that a tiny
1043 number of accounts were responsible for more than half of
1044 anti-vaccine content on their platform. So they were lying,
1045 while the American public were suffering under COVID, and
1046 people were dying.

1047 The members of this committee have seen the same tactics
1048 from social media executives time and time again. You have
1049 correctly determined, as have legislators in the UK,
1050 Australia, Germany, and other allied nations, that social
1051 media companies cannot self-regulate, and that we need new
1052 legislation.

1053 There is no silver bullet. That is right. Section 230
1054 shows the limitations to a single solution based on one core
1055 principle. It did not predict nor deal with the harms we are
1056 now seeing emanating from social media. There will need to

1057 be a range of approaches to transparency and accountability
1058 to nudge social media into a place that balances dialogue,
1059 privacy, safety, and prosperity.

1060 The bills being considered today would collectively
1061 represent a big step forward to protecting children,
1062 families, society, and our democracies. The KIDS Act would
1063 put real protections in place for our children.

1064 Transparency is an essential tool in countering online
1065 hate and lies. The Social Media Data Act, therefore, would
1066 give independent researchers the access needed to detect
1067 dangerous trends.

1068 Whistle blowers have leaked internal documents
1069 illuminating wrongdoing by Big Tech, providing new urgency to
1070 the reform debate. But whistleblowing is still profoundly
1071 risky for the whistleblower, which is why the incentives and
1072 protections provided by the FTC Whistleblower Act are
1073 critical.

1074 Social media apps trick users very often into giving up
1075 their personal data, their thoughts, their fears, their
1076 likes, their dislikes, which they then sell to advertisers.
1077 Big Tech's big data is designed to exploit people, not to
1078 serve them better. The DETOUR Act puts a stop to that
1079 destructive spiral.

1080 There are also two much-needed bills to address the
1081 growing threat of hostile foreign actors who revel in the

1082 divisions that social media creates and exacerbates in
1083 democratic societies. In approving these bills, the
1084 committee would take a huge step forwards towards better
1085 regulation, and give us hope that an internet that brings out
1086 the best in people is possible.

1087 Thank you very much.

1088 [The prepared statement of Mr. Ahmed follows:]

1089

1090 *****COMMITTEE INSERT*****

1091

1092 *Ms. Schakowsky. Thank you very much. We have now
1093 concluded the incredible -- and I am so grateful for the
1094 witness testimony, and their opening statements are finished.

1095 And at this time we will move to member questions. Each
1096 member will have five minutes to question our witnesses. I
1097 will start by recognizing myself for five minutes.

1098 Let me begin by saying the Federal Trade Commission is
1099 the top regulatory agency tasked with keeping Americans safe
1100 online by preventing unfair and deceptive practices. But the
1101 FTC stands out from many other regulatory agencies because
1102 whistleblowers are not protected by Federal law.

1103 Recent events, as we have seen with Frances Haugen, have
1104 made it clear how important whistleblower protection really
1105 is, and that is why I introduced the FTC Whistleblower Act
1106 and -- along with Lori Trahan, my colleague. This
1107 legislation protects whistleblowers from retaliation for
1108 coming -- that is, coming forward.

1109 And I wanted to get the opinion of some of our
1110 witnesses.

1111 It also incentivizes -- and Mr. Ahmed, you mentioned
1112 incentivization -- to make sure that these harms are not
1113 present there. And I wondered if you could comment on -- a
1114 little bit more on, you know, whether or not and why you
1115 believe that the FTC Whistleblower Act would actually help
1116 deter social media companies from making business decisions

1117 that could be harmful for consumers.

1118 *Mr. Ahmed. Well, thank you. Yes, I mean, Frances
1119 Haugen turned on the floodlights, so to speak, within
1120 Facebook. But what she did can't easily be replicated.

1121 For one thing, it is incredibly expensive. She had
1122 lawyers. You know, there is government affairs, there is the
1123 loss of income. And her real value, the reason it is so
1124 important, is that she really exposed deception, active
1125 deception by social media companies, something that can't
1126 easily be replicated with any other mechanism beyond
1127 whistleblowing. So, you know, the only way to cast a light
1128 on that deception is for moral people to shed light on
1129 immorality from within.

1130 But the window of a whistleblower like Frances Haugen is
1131 limited. Think that, since she took all these documents,
1132 they have evolved into Meta, they have moved into the
1133 metaverse. Most of the anti-vax crisis has happened since
1134 then. And we need disclosure of deceit not every decade, but
1135 every time that there is active deceit on something of great
1136 public interest.

1137 So this bill is incredibly important in bringing forward
1138 more moral characters when we need them.

1139 *Ms. Schakowsky. Thank you.

1140 Mr. Greenblatt, in your view, would this legislation, do
1141 you think, work in favor of protecting consumers and ending

1142 some of the spreading of the harms that are done?

1143 *Mr. Greenblatt. Yes, Madam Chairman. I think there is
1144 no question that the Whistleblower Act is necessary.

1145 I mean, to build upon what Mr. Ahmed just said, what we
1146 know is -- I mean, I have had direct conversations with Mark
1147 Zuckerberg and other Facebook executives, and they have lied
1148 to my face. They have lied to you, they have lied to their
1149 advertisers, they have lied to the public.

1150 But let's be clear. Silicon Valley is a clicky place.
1151 It is not easy. And so we need to give these people the
1152 protections that they need, so they don't risk being in
1153 violation of their NDAs, they don't risk future opportunities
1154 for employment.

1155 But I think, again, if we are playing the long game
1156 here, we need to realize the moral leadership and the courage
1157 displayed by people like, again, Frances Haugen -- but think
1158 about it. We learned, because of her bravery, that Facebook
1159 is only tackling three to five percent of the hate speech on
1160 their platform, despite their protestations. We learned that
1161 they -- their AI gets less than -- wait for it -- one percent
1162 of the incitements to violence on their platform. The reason
1163 why this has prevailed for so long is they are exempt from
1164 liability, and lack the incentives.

1165 So, Madam Chairman, unless we have the means to protect
1166 the people who have access to this information, it is clear

1167 the companies will not volunteer it to us. So I think it is
1168 vital that your Act, the whistleblower -- FTC Whistleblower
1169 Act is passed.

1170 *Ms. Schakowsky. Thank you. I wanted to ask Mr. -- Dr.
1171 Marechal how this legislation would actually help regulators
1172 and law enforcement to better understand the economic
1173 incentive behind decisions by internet platforms and the ones
1174 that they make.

1175 *Dr. Marechal. I agree wholeheartedly with the points
1176 that my esteemed colleagues on the panel have made.

1177 You know, I think, to --

1178 [Audio malfunction.]

1179 *Dr. Marechal. Again, Federal whistleblower protections
1180 make it easier for Big Tech workers who want to do the right
1181 thing to do that.

1182 Again, Ms. Haugen benefited from the SEC whistleblower
1183 statute, which is why so many of her disclosures directly
1184 relate to matters within the SEC's jurisdiction. I would --
1185 I am confident that, if there were an equivalent for the FTC,
1186 we would have seen additional disclosures from her,
1187 additional whistleblower complaints related to matters under
1188 the FTC's jurisdiction, which includes economic decision-
1189 making and the economic factors that go into companies'
1190 decision-making.

1191 *Ms. Schakowsky. Okay, thank you so much, and my time

1192 has expired, and now I welcome the questioning by my ranking
1193 member, Mr. Bilirakis, five minutes.

1194 *Mr. Bilirakis. Thank you, Madam Chair. I appreciate
1195 it very much.

1196 And I want to thank all of you for your testimony today.
1197 Very informative.

1198 There are reasonable proposals on and off the bills --
1199 again, off the list of bills being considered today and in
1200 the future. However, I am concerned by the unintended
1201 consequence that will arise if Congress decided to legislate
1202 -- in other words, decides to legislate on privacy and data
1203 security in multiple bills, without establishing a
1204 comprehensive framework.

1205 Ms. Rich, a question for you. Can you elaborate on any
1206 potential consequences that businesses and our constituents
1207 may face as a result of enacting several individual one-off
1208 bills on privacy, as opposed to one comprehensive bill?

1209 I know you touched on it. If you could elaborate, I
1210 would really appreciate it very much.

1211 *Ms. Rich. Right now, it is a confusing -- a highly
1212 confusing environment for both businesses and consumers.
1213 There are so many sectoral laws that pertain to privacy, to
1214 technology, to, you know, many related issues, and no one
1215 really knows what the rules are.

1216 So one of the chief benefits of enacting a comprehensive

1217 privacy law, which could include many of the issues we have
1218 talked about today, is to bring it all together, even if
1219 certain laws -- it is not going to repeal all the sectoral
1220 laws, it is not going to roll back, you know, everything that
1221 people are dealing with now, but it could bring it together
1222 and create a comprehensive enforcement scheme.

1223 And so that is one of the reasons getting rid of that
1224 confusion, make -- bringing greater clarity to the
1225 marketplace, that it is so vital that we pass that kind of
1226 law.

1227 *Mr. Bilirakis. Thank you so much. Next question, it
1228 ultimately will be for Mr. Lane, but I want to -- I have -- I
1229 do have some comments first.

1230 In addition to privacy and data security, one central
1231 theme to today's conversations, a Big Tech accountability
1232 platform, that particular Act is sponsored by Leader Rodgers,
1233 and we released it earlier this year.

1234 One issue that is very near to my constituents is the
1235 growing rise of illegal activity, like the scale of deadly
1236 fentanyl products that are plaguing social media platforms.
1237 In fact, I was able to question the DEA about this issue just
1238 last week, and I am holding a roundtable in my particular
1239 district in Florida, the 12th congressional district of
1240 Florida, in the Tampa Bay Area, to discuss the fentanyl
1241 crisis with local leaders and law enforcement. We are doing

1242 that on Monday at noon.

1243 To curb the tide of this activity, I also authored draft
1244 legislation that would direct the GAO to conduct a study on
1245 how online platforms can better work with law enforcement to
1246 address illegal content and crimes on their platforms.

1247 So the question is for Mr. Lane.

1248 What do you believe, Mr. Lane, is important for us to
1249 consider as part of this particular discussion?

1250 *Mr. Lane. Well, as you know, I have been working with
1251 families who have had children die from fentanyl poisoning,
1252 and it is a very sad situation that we are facing.

1253 I do believe that, working with the FDA and others, they
1254 are taking some important steps. There is a lot of groups
1255 out there that are focusing on this. But there are two
1256 things that have to occur.

1257 One, I know that groups have asked expressly to have an
1258 open and accessible and accurate WHOIS database, because that
1259 is how they are finding websites that are engaged in selling
1260 these drugs. And right now it is dark, and the FDA itself
1261 has asked for an open, accessible, and accurate WHOIS
1262 database. So that is a very important step in moving
1263 forward.

1264 The other important step is that everyone talks about
1265 how these social networking sites are rabbit holes. Rabbit
1266 holes were 1996, when you had bulletin board services, and

1267 you had to find the rabbit hole. These social networking
1268 sites are more like black holes. They have a gravitational
1269 force of sucking people in to the darkness, and it is very
1270 hard for them to see the light again.

1271 And those are the issues that we have to address: what
1272 are the algorithms? How are these black hole social
1273 networking sites that are sucking these young people in, and
1274 exposing them to drugs that maybe they would not have ever
1275 had access to, and how do we stop that?

1276 *Mr. Bilirakis. All right, thank you very much. I
1277 appreciate it. And I want to discuss that even further with
1278 you, but I appreciate your response.

1279 One last question. During the Senate Commerce Committee
1280 nomination of Gigi Sohn and Alan Davidson, both nominees
1281 discussed the harms that are occurring regarding the misuse
1282 of consumer personal information, and ultimately expressed
1283 support for passing a comprehensive privacy bill. I think
1284 this highlights how important it is for Congress to pass a
1285 national law on privacy and data security.

1286 To the entire panel, a yes or no answer would be fine.
1287 Would you support this committee passing a comprehensive,
1288 national privacy and data security bill that sets one
1289 national standard, provides new rights to consumers, and sets
1290 clear guidelines for businesses to comply?

1291 Again, a yes or no. Ms. Rich, please. I know what your

1292 answer is going to be.

1293 *Ms. Rich. Yes.

1294 *Mr. Bilirakis. Yes. Mr. Golin, please.

1295 *Mr. Golin. Yes.

1296 *Mr. Bilirakis. Thank you.

1297 Mr. Lane, please.

1298 *Mr. Lane. Yes.

1299 *Mr. Bilirakis. Thank you.

1300 Ms. Marechal -- Dr. Marechal, excuse me.

1301 *Dr. Marechal. Yes, but it must be a strong standard,

1302 and it must --

1303 *Mr. Bilirakis. Okay.

1304 *Dr. Marechal. -- with appropriate enforcement

1305 mechanisms.

1306 *Mr. Bilirakis. Thank you.

1307 Mr. Ahmed?

1308 *Mr. Ahmed. Yes.

1309 *Mr. Bilirakis. Okay. And Mr. Greenblatt?

1310 *Mr. Greenblatt. Yes, but I would want more

1311 information.

1312 *Mr. Bilirakis. Thank you. Thank you so very much.

1313 And I yield back, Madam Chair. Thanks for the extra

1314 time.

1315 *Ms. Schakowsky. Absolutely. I would say yes also.

1316 *Mr. Bilirakis. Yes, I was going to ask you, but I knew

1317 your answer, as well.

1318 *Ms. Schakowsky. Yes, absolutely. And now I recognize
1319 the chairman of the full committee for five minutes for
1320 questions, Mr. Pallone.

1321 *The Chairman. Okay. Thank you, Chairman Schakowsky.

1322 As -- I mentioned in my opening statement that we have
1323 held several hearings in the committee examining the real
1324 harms some social media companies have caused. And
1325 obviously, we are here today to discuss meaningful solutions.
1326 But I wanted to start out with Mr. Greenblatt.

1327 The Anti-Defamation League has done important work
1328 showing the role social media companies play in amplifying
1329 racist, extreme, and divisive content. And you have also
1330 shown how those actions disproportionately affect
1331 marginalized communities. So can you talk about the real
1332 harms you have seen social media companies cause through the
1333 use of their algorithms in that respect?

1334 *Mr. Greenblatt. Sure. Thank you for the question, Mr.
1335 Chairman.

1336 Yes, and I would say right off the bat, you know, the
1337 companies often use the smokescreen of freedom of speech to
1338 explain why this shouldn't be regulated. But the founding
1339 fathers wrote the Constitution for Americans, not algorithms,
1340 right? Products aren't people, and they don't deserve to be
1341 protected. But citizens do.

1342 And we, indeed, have a situation where hate crimes are
1343 on the rise in this country. You know, the FBI reported a 13
1344 percent increase in 2020, and the largest total since 2001.
1345 And ADL indeed has been studying online hate and harassment,
1346 and we find that one out of three users who report being
1347 harassed online relate it back to a characteristic like race,
1348 religion, gender, sexual orientation. And we have seen real
1349 examples.

1350 I think about Taylor Dumpson, who is the young woman --
1351 she was the first African American female president of the
1352 student government at American University. I think she may
1353 have testified before you a year or two ago. And she was --
1354 after she was elected president, she was mercilessly attacked
1355 with a campaign that was conducted all online. It originated
1356 on a disgusting blog, neo-Nazi blog, and was perpetrated
1357 through Facebook and other platforms. And it ended up --
1358 started with the hate online, Mr. Chairman, and then you had
1359 nooses being placed all over campus. ADL worked very closely
1360 with Ms. Dumpson, and she is in a much better place today.

1361 I think about a woman named Tanya Gersh, a Jewish woman
1362 from Whitefish, Montana, who had the misfortune of being from
1363 the same town that Richard Spencer, the notorious leader of
1364 the alt-right, was from. And when Ms. Gersh was identified
1365 and then doxed by the alt-right and neo-Nazis, she indeed, as
1366 well, was so mercilessly attacked, her and her family, they

1367 had to not only change all of their information, like their
1368 phone numbers, they had to move to a different home. They
1369 had to get 24/7 protection. Literally, again, death threats
1370 happened offline because of what started online.

1371 So algorithms, we need much more transparency around
1372 them to ensure that they don't discriminate against
1373 marginalized communities. We need to realize that, as we
1374 were saying earlier, Facebook's AI, their vaunted machine
1375 learning, literally misses 95 to 97 percent of the hate
1376 speech.

1377 You know, I used to be an executive at Starbucks, Mr.
1378 Pallone. I didn't get to say to my customers, "Well, three
1379 to five percent of our coffees don't have poison, so we think
1380 they are pretty good.'"

1381 *The Chairman. That --

1382 *Mr. Greenblatt. You have to have a success rate of 100
1383 percent, and I don't think it is too much to ask of,
1384 literally, one of the most well-capitalized and profitable
1385 companies in America to ensure that their products simply
1386 work, and don't harm their customers or the public.

1387 *Ms. Schakowsky. Thank you. I wanted to ask you
1388 another question, though, about transparency, because, in the
1389 case of holding Big Tech accountable, increased transparency,
1390 I think, would go a long way to making it a safer place.

1391 So how would the bills before us today bring greater

1392 transparency and, with it, greater accountability to the Big
1393 Tech platforms, if you --

1394 *Mr. Greenblatt. Well, first and foremost, making the
1395 companies simply share their data about how the algorithms
1396 perform for the benefit of researchers and watchdogs. Think
1397 about it. These are public companies who have the privilege
1398 of getting resources from the public, right? Selling shares.
1399 But they don't disclose their information. Forget the risk
1400 to the companies, it is a risk to the general public.

1401 The right analogy here is really Big Tobacco or Big Oil.
1402 We learned later that Big Tobacco knew the damage that their
1403 products were doing to their consumers, but suppressed the
1404 research. And we didn't have insight until it became
1405 revealed. And we learned that Big Oil knew the damage that
1406 fossil fuels were doing to the environment, but they denied
1407 it, and lied, until it was revealed. Well, now we know the
1408 damage that Big Tech is doing to our children, and to our
1409 communities. So asking them to simply be transparent, to
1410 simply make the information available.

1411 The last thing I will just say to keep in mind is --
1412 what is the information we are asking for? It is user data.
1413 You know, there is this -- there is an expression: If the
1414 product is free, you are the product. The information that
1415 we want is information about us. That shouldn't be too much
1416 to ask.

1417 *The Chairman. Thank you. Thank you, Madam Chair.

1418 *Ms. Schakowsky. Mr. Latta, you are recognized for five
1419 minutes.

1420 *Mr. Latta. Well, I think the chair, my good friend for
1421 yielding, and thanks for the hearing today, very, very
1422 informational. And I want to thank our witnesses for all
1423 being with us today.

1424 Ms. Rich, if I can start my questions with you, and my
1425 good friend, the ranking member of the subcommittee, was
1426 getting into some privacy questions, and that is one of the
1427 issues that, you know, that is being struggled with today
1428 because, you know, looking at the testimony that you
1429 submitted, you know, you say for consumer survey -- one of
1430 the surveys shows that consumers are concerned or confused
1431 about their privacy. Then it says consumers need a clear and
1432 consistent privacy law. Businesses, they are confused. Then
1433 we look at the enforcers.

1434 And this was kind of also interesting. It says the lack
1435 of clear privacy standards are undermined -- has undermined
1436 the FTC, too. And you state that, among other things, that
1437 the law does not establish clear standards for everyone to
1438 follow before problems occur. And what are some of these --
1439 because it says it is largely reactive.

1440 So what is out there that the FTC has been doing, even
1441 though they have been trying to do what they are supposed to

1442 be doing in enforcement, but what are some of the standards
1443 that they need to have right now, to go forward and be
1444 clearer for the public?

1445 *Ms. Rich. Well, some of the basic building blocks that
1446 we see in every privacy law aren't required by the FTC Act:
1447 basic transparency, choices, accountability. There aren't --
1448 there isn't a data security law that applies across the
1449 country.

1450 So -- and, you know, you may not want this in a law,
1451 but, you know, access, correction, deletion, all of those
1452 types of rights that you see in law after law, anti-
1453 discrimination provisions, all of that -- the FTC has to
1454 examine a specific company and decide after the fact, using
1455 its authority to police unfair or deceptive practices,
1456 whether a practice was unfair or deceptive. But there aren't
1457 clear requirements. All those elements aren't clearly
1458 required in any nationwide law that applies across different
1459 situations.

1460 And so, as I think I said in my testimony, the FTC has
1461 been able to do a lot with its authority under the FTC Act.
1462 But it would be so much better for the public, for consumers,
1463 for businesses, for everybody, for the marketplace to have
1464 rules that everyone knows what they are, and they know what
1465 the consequences are if they violate them.

1466 *Mr. Latta. Well, thank you very much.

1467 Mr. Lane, you know, I am very glad we are holding
1468 today's hearing today, where we can consider legislative
1469 proposals like the Big Tech discussion draft that I authored
1470 that would require companies to disclose their content
1471 enforcement decisions. This is intended to cover illegal
1472 activity and harms that are happening online, such as fraud,
1473 illegal drug sales, and human trafficking.

1474 I think complementary to this goal is the ability to
1475 have access to accurate WHOIS data. This would go a long way
1476 in helping to solve these problems.

1477 As you mentioned in your testimony, WHOIS information
1478 can play a vital role in combating fraud and facilitating
1479 better cybersecurity. In 2020 I sent letters to several
1480 executive branch agencies to ask them about the importance of
1481 WHOIS in conducting their investigative and prosecutorial
1482 obligations. In responses from the FDA, FTC, and DHS, they
1483 emphasized the importance of this information in identifying
1484 bad actors, and connecting criminal networks, and protecting
1485 consumers about our cyber assets (sic).

1486 You know, would restored access to WHOIS complement my
1487 discussion draft to make the internet safer?

1488 *Mr. Lane. Yes, absolutely. First of all, I want to
1489 thank you, Mr. Latta, and your staff for taking a leading
1490 role in the WHOIS issue. Your letters have been critically
1491 important to show and highlight the real concerns and

1492 cybersecurity threats that our nation is facing because of a
1493 dark WHOIS, based on the decision from the European Union and
1494 the GDPR, and a very broad interpretation of having it go
1495 dark.

1496 I just also wanted to add one thing, and it is not just
1497 me saying it. In 2021, a survey by the two leading
1498 cybersecurity working groups found that restricted access to
1499 WHOIS data impeded investigations of cyber attacks. Two-
1500 thirds of the two hundred and seventy-seven respondents said
1501 their ability to detect malicious domains has decreased, and
1502 seventy percent indicated they can no longer address threats
1503 in a timely manner. And more than 80 percent reported that
1504 the time it takes to address abuse has increased, which means
1505 that cyber attacks harms the victims, lasts longer.

1506 The group basically said this: Changes to WHOIS access
1507 following ICANN's implementation of the EU GDPR continued to
1508 significantly impede cyber applications and forensic
1509 investigation, and thus cause harm to victims of phishing,
1510 malware, and other cyber attacks.

1511 The Federal Trade Commission, as well as ICANN, is
1512 trying to fix this problem. And it is -- what you are
1513 pushing in your legislation, and your letters -- and,
1514 hopefully, this Congress will enact legislation -- is
1515 critical. We can no longer put the multi-stakeholder process
1516 of ICANN ahead of the American people and the safety and

1517 security -- and our national security needs to be protected
1518 by this Congress. And we should not be kowtowing to a law
1519 and a regulation that is from another country.

1520 And I just want to end on this. ICANN itself, this
1521 chairman, the CEO of ICANN, has said that they are limited in
1522 their actions because of the GDPR, not because of U.S. law,
1523 not because of the California privacy laws, but by the GDPR.
1524 So we are at risk of having our own security put at risk
1525 because of a foreign entity's legislation and regulation.

1526 And thank you so much for everything you are doing in
1527 this space.

1528 *Mr. Latta. Well, thank you very much.

1529 Madam Chair, before I yield back, I would like to ask
1530 unanimous consent to ask for the -- entering the documents
1531 from the DHS, the FTC, and the FDA, and a report from the
1532 ICANN, GDPR, and a WHOIS user survey into the record.

1533 *Ms. Schakowsky. Without objection.

1534 [The information follows:]

1535

1536 *****COMMITTEE INSERT*****

1537

1538 *Mr. Latta. Thank you very much for your indulgence. I
1539 yield back.

1540 *Ms. Schakowsky. Now I recognize Mr. Rush for five
1541 minutes for his questions.

1542 *Mr. Rush. I want to thank you, Madam Chair, for
1543 convening this important hearing.

1544 Like my colleagues, I am also a strong advocate for a
1545 comprehensive Federal policy legislation. In fact, when I
1546 served as chair of this subcommittee, we passed a strong,
1547 bipartisan bill that, ultimately and unfortunately, died in
1548 the Senate.

1549 While I continue to advocate for policy legislation,
1550 Madam Chair, I am also cognizant of the fact that privacy is
1551 not a panacea that would solve all of the internet-connected
1552 problems that our nation currently faces.

1553 Today, in addition to privacy issues, we also face very
1554 real and very pressing threats from issues like
1555 misinformation, disinformation, and algorithmic biases. With
1556 that in mind, and while I look forward to working on
1557 comprehensive privacy legislation, I am pleased that we are
1558 addressing these other equally important issues, as well.

1559 That said, Mr. Golin, in your testimony you state that
1560 -- and I quote -- "children in lower-income households spent
1561 nearly two hours more on screens than children from higher-
1562 income households, and Black and Hispanic children spend

1563 significantly more time on screens than their White peers.''

1564 You also described how increased exposure to screen time
1565 is linked to increases in mental health issues, such as
1566 depression. It is too often the case that when -- catches
1567 pneumonia. And while I feel that -- this is true when it
1568 comes to screen time, also.

1569 To that point, what type of impact is this increased
1570 screen time having in lower-income households, and
1571 particularly for Black and Hispanic children?

1572 Has there been any data that shows how these outcomes
1573 compare to White or children in higher-income households?

1574 *Mr. Golin. Thank you so much for that question. Yes,
1575 so, as you referenced, the data shows that low-income and
1576 Black and Hispanic children have more screen time and spend
1577 more time playing games online than their higher-income and
1578 their White peers. And you know, the data also shows that
1579 screen time-linked problems, like childhood obesity, there
1580 are much higher rates in -- for low-income children and Black
1581 and Hispanic children.

1582 So I think that, you know, given what we know about the
1583 severity of the problems linked to excessive screen time, and
1584 that these children from these communities are having even
1585 higher rates, it is absolutely essential that we pass
1586 policies to protect to protect them.

1587 Like all issues, you know, this is -- affects all

1588 children. But like every issue, children from marginalized
1589 communities, children from more vulnerable communities are
1590 getting the worst of it. And so that is why it is so
1591 important that we create a new set of rules, and build a
1592 better internet for children, because we need to protect the
1593 most vulnerable among us.

1594 *Mr. Rush. Does this create problems in the public
1595 education system?

1596 Also, do you -- is there any data that supports other
1597 ramifications of this particular phenomena?

1598 [No response.]

1599 *Mr. Rush. Hello.

1600 *Mr. Golin. I am sorry, I don't think I heard the
1601 question. Was that a question for me? I am not sure if I
1602 heard it correctly.

1603 *Mr. Rush. Yes, this is you, this is the second
1604 question.

1605 Is there any data that says that this particular
1606 phenomena affects the public education system, students in
1607 the public education system?

1608 Is there an effect on -- the increase in screen time --
1609 on children in school?

1610 *Mr. Golin. Yes. Well, there is data that shows the
1611 more time that kids are spending online for entertainment,
1612 the -- it is correlated with lower academic achievement.

1613 There has also been a rush to use EdTech in our schools,
1614 and to see EdTech as a panacea for fixing educational
1615 inequality when, in fact, what the data is showing is that,
1616 the more hands-on learning that kids get, it is actually
1617 better for their academic achievement.

1618 So I think one of the things that is really worrisome is
1619 this, you know, this idea that, if schools invest heavily in
1620 EdTech platforms, that that is going to fix educational
1621 inequality. And, in fact, I think there is a real danger
1622 that is going to worsen it, because what kids need is quality
1623 teachers. They need smaller class sizes. They need to
1624 interact with each other. And the more time that kids are
1625 spending on screens for their learning, it is taking away
1626 from those things.

1627 *Mr. Rush. Thank you.

1628 I yield back, Madam Chair. Thank you for your
1629 indulgence.

1630 *Ms. Schakowsky. The gentleman yields back, and now
1631 Mrs. Rodgers is recognized for five minutes.

1632 *Mrs. Rodgers. Thank you, Madam Chair.

1633 Ms. Rich, thank you for your decades of service. Your
1634 experience at the FTC was under a democratic chair, yet I
1635 appreciate your dedication to bipartisan consensus when
1636 possible, which had been the Commission's tradition.

1637 Yesterday, Mr. Bilirakis and I sent a letter to FTC

1638 Chairwoman Khan regarding the FTC's current direction. It
1639 expresses concern with the Commission's use of zombie voting
1640 to pass rules, and the recent decision to delete legitimate
1641 business activity from the FTC mission statement.

1642 Given the number of bills before us, I think it is
1643 essential that we find a realistic enforcement balance. We
1644 need to know how the Commission would manage all these
1645 competing priorities, without hurting legitimate business
1646 activity.

1647 This alarming mission statement change happened while
1648 the Build Back Better Act was pending in the Senate. That
1649 legislation includes an amendment to the FTC Act, which would
1650 give the Commission broad, first-offense penalty authority.

1651 How expansive is this proposed authority?

1652 Is there any commercial activity or sector of the
1653 economy that it wouldn't apply to?

1654 *Ms. Rich. The civil penalty provision in the Build
1655 Back Better Act, as I read it, would apply to anything
1656 covered by the FTC Act: unfair or deceptive practices under
1657 the FTC Act.

1658 So the FTC does lack jurisdiction over certain sectors
1659 of the marketplace: banks, non-profits, certain functions of
1660 common carriers. But otherwise, as I understand the
1661 provision, if it were to pass, it would apply across wide
1662 swaths of the marketplace.

1663 *Mrs. Rodgers. Thank you. Regarding the proposed new
1664 authorities, am I correct this only deals with civil
1665 penalties, and not remedies, like judgment or restitution?

1666 *Ms. Rich. That is right. Civil penalties only.

1667 *Mrs. Rodgers. During your FTC service, was the
1668 Commission able to predict how many violations would occur
1669 each year?

1670 *Ms. Rich. No.

1671 *Mrs. Rodgers. That is in line with our experience.
1672 The FTC cannot predict who is going to break the law.

1673 I would note we supported and enacted such civil penalty
1674 authority targeting COVID-19 scams, and the Congressional
1675 Budget Office reported back that such revenues were
1676 insignificant over the 2021 to 2030 period.

1677 This might be a basic question, but if all companies are
1678 following the law, there is no violation of the FTC Act. And
1679 thus, revenue is not generated via enforcement actions.
1680 Correct?

1681 *Ms. Rich. Yes, although I have never seen a situation
1682 where all companies are --

1683 [Audio malfunction.]

1684 *Mrs. Rodgers. -- see changes in actions. I worry
1685 about the lack of regulatory certainty for small businesses.
1686 They, after all, are not experts, like you, on what
1687 protections they may have under the FTC Act.

1688 Is it fair to say that they may not have the resources
1689 or the sophistication to manage a review by the FTC of their
1690 operations?

1691 *Ms. Rich. Yes, but I am -- not to be a broken record,
1692 but I think Congress can fix this problem by passing a
1693 privacy law that does provide standards.

1694 *Mrs. Rodgers. Okay, well, I appreciate you answering
1695 those questions and providing the insight. And I do thank
1696 all the witnesses for being here.

1697 I want to note that we have incorporated first-offense
1698 penalty authority in our comprehensive privacy and data
1699 security legislation, the Comptroller Data Act, as a means of
1700 policy enforcement, and I urge this committee to take action.

1701 I yield back. Thank you.

1702 *Ms. Schakowsky. The gentlewoman yields back, and now I
1703 recognize Congresswoman Castor for her five minutes of
1704 questions.

1705 *Ms. Castor. Well, thank you very much, Chair
1706 Schakowsky, for holding this very important hearing, and for
1707 including my Kids Internet Design and Safety Act that I am
1708 leading with Representatives Clarke, Trahan, and Wexton, and,
1709 of course, Senator Markey and Blumenthal, and including the
1710 Social Media Data Act that Rep. Trahan and I are leading, as
1711 well.

1712 We really do come to this hearing more than -- more so

1713 than other hearings, as parents and as grandparents. We
1714 know, as Mr. Greenblatt said, these Big Tech companies are
1715 complicit in the harm that is being caused by online
1716 operations and, as Mr. Ahmed pointed out, profiting from the
1717 harm. So we clearly have to take action now on 230, on
1718 children's privacy, everyone's privacy, and especially the
1719 design of these platforms.

1720 So I want to focus in on the KIDS Act. Mr. Golin, thank
1721 you very much for your years of work on this. So your
1722 testimony is that they -- these Big Tech platforms like
1723 Instagram and YouTube and others, they intentionally design
1724 the way children interact online to kind of keep them
1725 addicted. Will you go into a little more detail on that?

1726 *Mr. Golin. Sure. And, first of all, Representative
1727 Castor, thank you for your tireless work to see that children
1728 get the online protections that they deserve.

1729 So the business model for all of this media is to
1730 maximize engagement, because the more time a kid is on a
1731 platform, the more money they are worth to the platform. And
1732 so they design their platforms intentionally in ways to keep
1733 kids on those platforms, and to keep them checking those
1734 platforms as often as possible.

1735 Just a few examples of that, they use things like
1736 rewards, and nudges, and push notifications. So things like
1737 Snap streaks. So on Snapchat, kids are incentivized to

1738 communicate through Snapchat every day with a friend, and
1739 then keep a streak going, and that becomes a very powerful
1740 motivation. It gamifies the relationship, and kids really
1741 want to keep that going.

1742 They use things like autoplay and infinite scrolls on
1743 TikTok to make it really, really, really easy to keep using a
1744 platform, and really, really hard to disconnect.

1745 They use things like likes and the follower counts, and
1746 so there is -- everybody can see who is popular, and whose
1747 posts are popular at any given moment. And this is a really
1748 powerful incentive for kids to create content. And not only
1749 just create content, but to create provocative content, and
1750 risque content, because they know that is what is most likely
1751 to get them attention.

1752 And then, of course, there is the algorithmic
1753 recommendations, which personalize everything to kids to show
1754 them the content that is most likely to keep them engaged and
1755 keep going on a platform, regardless of whether that content
1756 is good for them. And in fact, as we have been talking a lot
1757 about lately, very often that content is terrible for them.

1758 *Ms. Castor. And, you know, I have been out when I am
1759 out and about, and I see very young children now on tablets
1760 and iPhones. I mean, we are talking toddlers. And what does
1761 the latest research tell us about how young children are when
1762 they are first interacting with online platforms?

1763 *Mr. Golin. Well, I mean, I think one of the things
1764 that is really disturbing is we all know that the age for
1765 social media, when you are supposed to go on social media, is
1766 13. Forty percent of nine to twelve-year-olds report using
1767 TikTok every day. And the numbers are just about identical
1768 for Instagram and Snapchat.

1769 *Ms. Castor. And do they have the ability to kind of
1770 self-regulate at that age?

1771 *Mr. Golin. No, absolutely not. Executive functioning
1772 is still developing. It is very -- you know, I mean, these
1773 are platforms that adults get lost in. These are platforms
1774 that, you know, we are all struggling with, as adults. And
1775 to think that developing children, who are still developing
1776 their executive function, and whose habits are being formed
1777 are using these platforms --

1778 *Ms. Castor. So how will the KIDS Act then help
1779 parents, and help address these harms that these online
1780 platforms are peddling and profiting off of?

1781 *Mr. Golin. So I think the KIDS Act does a number of
1782 really important things.

1783 So, first of all, it prohibits those design choices that
1784 are there to maximize engagement, things like -- to children
1785 -- things like autoplay, things like rewards, things like
1786 quantified popularity.

1787 It prohibits algorithmic -- platforms from using

1788 algorithms to amplify harmful content to children, something
1789 that we have all been talking about a lot lately.

1790 It also bans influencer marketing to children, which is
1791 one of the most manipulative forms of advertising there is.

1792 So it really would do a huge amount to start creating
1793 that online environment that kids --

1794 *Ms. Castor. And then we have to pair it with privacy
1795 protections, right? And I have worked with you on the Kids
1796 Online Privacy Act. Do you agree that we need -- those need
1797 to work together, and be passed together?

1798 *Mr. Golin. If we could pass both of those bills, we
1799 would really go so far towards creating the internet kids
1800 deserve.

1801 *Ms. Castor. Thank you very much. I yield back.

1802 *Ms. Schakowsky. The gentlelady yields back.

1803 Mr. Dunn, you are recognized for five minutes.

1804 *Mr. Dunn. Thank you very much, Madam Chair. I
1805 appreciate the opportunity to discuss these important issues.

1806 You know, the Chinese Communist Party is probably the
1807 single greatest threat to the free world since the Cold War,
1808 and they seek to sabotage freedom, democracy everywhere it
1809 exists. And malign influence permeates all of their
1810 corporations, including those that operate in the United
1811 States. They have CCP members in key board positions, and
1812 many of those organizations, they have direct control over

1813 decision-making.

1814 Despite that, American tech companies still continue to
1815 operate within China, and we allow them -- or companies with
1816 those ties -- to operate quite freely here, in the United
1817 States, as well. Just this year, Microsoft was the victim of
1818 a Chinese state-sponsored cyber attack. Yet, if you look at
1819 the number of job postings for Microsoft in China, you get
1820 the feeling they are expanding rapidly in China.

1821 So I think it is the concern of this committee what
1822 these U.S. tech companies are doing within China, and what
1823 those Chinese companies are doing here. For purposes of this
1824 hearing, I want to focus on what the CCP-affiliated companies
1825 might be doing here, in the United States.

1826 The CCP doesn't respect the rights of their own
1827 citizens. Why should they respect ours?

1828 Congress has a responsibility to ensure that American
1829 consumers are protected from these evolving threats. And I
1830 think this can be accomplished, and a number of you have said
1831 that today, as we -- if we can get a comprehensive data
1832 security bill through that protects our citizens, without
1833 sacrificing innovation and competitiveness in our nation's
1834 technological fronts.

1835 Mr. Lane, I, like many of my constituents, am very
1836 concerned about the amount of personal information that is
1837 currently collected without any basic level of protection. A

1838 specific example is BGI -- that is the Chinese genomics giant
1839 -- and the activities that they instituted during the COVID
1840 pandemic. They sold millions of tests kits to U.S. labs, and
1841 offered their own sequencing services to the government and
1842 individual states.

1843 The lack of privacy standards attached to that does pose
1844 a national security risk, and I would like to know what
1845 concerns you most when it comes to protecting Americans'
1846 consumer data from foreign adversaries. What keeps you awake
1847 at night?

1848 *Mr. Lane. Thank you for the question, Congressman.
1849 What keeps me awake at night is that most people don't
1850 realize that the driver in this artificial intelligence race
1851 and machine learning is human interaction and data. And
1852 those who collect it the most will win in that fight.

1853 And I do have strong concerns that we don't know how
1854 data is being collected and used. There is some great
1855 legislation. The Duncan bill and the Kinzinger bill are
1856 great examples of how we can try to know that.

1857 But we also have to be concerned, because the head of
1858 government affairs for TikTok, over in the Senate, basically
1859 he talked about how the data is stored in Singapore. Well,
1860 my pictures are stored I don't know where, somewhere in the
1861 cloud. But I can manipulate them, I can access them, I can
1862 even print them. So we need to make sure that we know, not

1863 just where the data is stored, but how they are getting
1864 access to it.

1865 And one of the things that has always bothered me about
1866 one of the TikTok statements is that they will never hand
1867 over U.S. American citizen information to China. And maybe
1868 they believe that. But if someone gets a knock on their
1869 door, and a family member who is still living in China --
1870 from the Chinese Communist Party, and says, "We would like
1871 your relative to hand over the data," I don't -- I know what
1872 I would do. Just as a person, if it was my family being
1873 threatened, would I hand that data over? Probably. And so
1874 those assurances cannot be taken seriously with that.

1875 *Mr. Dunn. So physical location of the data, which is
1876 real, even in the cloud, right, is something that is
1877 important. And of course, the jurisdiction over that data is
1878 important.

1879 Ms. Rich, in the remaining seconds we have, I would like
1880 you to address what help you would like from Congress to give
1881 to the FTC to improve the security of our data.

1882 *Ms. Rich. Specific data security requirements, which
1883 do not apply across the market right now, there is no general
1884 data security law that applies to the U.S. marketplace. That
1885 would include process requirements, such as doing a risk
1886 assessment, accountability among officers in the company,
1887 oversight of service providers, contracts with service

1888 providers. There is many elements.

1889 *Mr. Dunn. A reliable audit on these companies,
1890 perhaps, as well.

1891 *Ms. Rich. Yes.

1892 *Mr. Dunn. Thank you very much for your time. All of
1893 you have been excellent witnesses.

1894 Madam Chair, I yield back.

1895 *Ms. Schakowsky. Thank you, Mr. Dunn. Now I recognize
1896 Congresswoman Trahan for five minutes.

1897 *Mrs. Trahan. Thank you. Chairwoman Schakowsky and
1898 Ranking Member Bilirakis, thank you for convening this
1899 important hearing, and thank you to the witnesses. Many of
1900 you have offered invaluable expertise to my team and me when
1901 we introduced the Social Media Data Act in May, and now, as
1902 we draft text to create a new bureau at the FTC focused on
1903 platform transparency and safety.

1904 Mr. Golin, Fairplay, formerly the Campaign for
1905 Commercial-Free Childhood, has been studying the impact of
1906 advertising on child -- on children for decades. Can you
1907 explain why surveillance advertising, the method used by
1908 Instagram and YouTube, is particularly harmful for our teens?

1909 *Mr. Golin. Sure. There is a couple of reasons it is
1910 so harmful.

1911 And first of all, thank you so much for all of your work
1912 to protect children online.

1913 There is -- so it is harmful because it allows companies
1914 to target teens' vulnerabilities. In fact, Facebook, a
1915 couple of years ago, they bragged to their advertisers that
1916 they were able to target a teen at the exact moment that they
1917 were feeling bad about themselves, and including when they
1918 feel bad about their bodies. So this leads to things like,
1919 you know, girls who express interest in dieting getting
1920 targeted with ads for flat tummy tees and dangerous exercise
1921 routines.

1922 So again, being able to target those things that people
1923 are very vulnerable to, and try and encourage consumption of
1924 products that will make those things worse.

1925 The other thing is that there is a complete asymmetry of
1926 information. It is just completely unfair. The only thing
1927 that teens may know about surveillance advertising is that
1928 there is some creepy ad that keeps following them around, and
1929 they do use the word "creepy" to describe the advertising.
1930 But the advertisers know everything about that child. They
1931 know every website they have ever visited, every video they
1932 have ever liked, every comment they have ever made online,
1933 how much money their parents make, where they live, all the
1934 places they go. So it is just -- it is completely unfair.
1935 The advertiser knows everything about the child, and the
1936 child knows very little about how the advertising works.

1937 And then the last thing I will just say is, of course,

1938 it leads to a tremendous amount of data collection, and that
1939 data can be misused in all sorts of ways.

1940 *Mrs. Trahan. Well, certainly. I thank you for that.
1941 I mean, as Congresswoman Castor pointed out, many of us are
1942 mothers. I am the mother of two young girls. I am very
1943 concerned that they could be watching an online video of
1944 their favorite athlete, only to be targeted with a dangerous
1945 weight loss supplement. And we certainly need more
1946 transparency into how these ads are targeted.

1947 Dr. Marechal, can you speak to why it is important for
1948 researchers to be able to study all digital advertisements,
1949 as opposed to just a subset, like political ads?

1950 *Dr. Marechal. First, it is very difficult to draw a
1951 clear line around what ads are political or not. For
1952 example, when an oil company runs ads advertising its
1953 commitment to green energy, is that political?

1954 How about when Facebook runs ads claiming to support
1955 updated internet regulation, while lobbying against it behind
1956 closed doors?

1957 What about these diet ads that we were just talking
1958 about, is that political?

1959 Moreover, even if we agree where to draw the line, can
1960 we trust platforms to enforce it accurately? I think it is
1961 clear that the answer there is no.

1962 But more importantly, ads can be dangerous or

1963 discriminatory, even if they are not political. The diet ads
1964 here is a great example, again.

1965 But more importantly -- but many people would say that a
1966 housing ad is not political. But if it is targeted in such a
1967 way that Black users can't see it, that is discriminatory and
1968 harmful. And that is exactly what --

1969 *Mrs. Trahan. That is --

1970 *Dr. Marechal. -- what targeted advertising enables.

1971 [Audio malfunction.]

1972 *Mrs. Trahan. -- you can speak to why researchers need
1973 to have details regarding, not just the aggregated
1974 description of its audience that is targeted, but also a
1975 description of the aggregate users who saw or engaged with an
1976 ad.

1977 *Dr. Marechal. Right. So the targeting parameters only
1978 tell you who the advertiser was trying to reach. They don't
1979 tell you who saw the ads. Many times those two groups are
1980 the same. But if they are not, there is one of two things
1981 that is likely happening: either the platform is defrauding
1982 the advertiser by charging for a service that they didn't
1983 deliver, or it is optimizing the targeting beyond what the
1984 advertiser asked for, often in ways that are discriminatory.
1985 Either way, this is something that we should know, so that we
1986 can put an end to it.

1987 *Mrs. Trahan. Thank you for that. I do want to

1988 emphasize I think political ad transparency is important. I
1989 know the lines are blurred more and more.

1990 And on the resource page of my website, I have started a
1991 digital ad library, where I am posting all of my political
1992 ads. I have included all the data outlined in the Social
1993 Media Data Act. I am happy to chat with my fellow members,
1994 if they would like to join me in that.

1995 But I think, just in my close -- and I do have a few
1996 more questions I will submit for the record.

1997 [The information follows:]

1998

1999 *****COMMITTEE INSERT*****

2000

2001 *Mrs. Trahan. But Frances Haugen told us just last week
2002 that researchers have begged and begged and begged for very
2003 basic data, data that they will never get unless Congress
2004 acts. And the Social Media Data Act begins to address this
2005 issue. And I look forward to continuing to work with all of
2006 you on the transparency issues that will pave the way for us
2007 to legislate.

2008 Thank you.

2009 *Ms. Schakowsky. Thank you. The gentlewoman yields
2010 back, and I recognize Mr. Pence for his five minutes of
2011 questions.

2012 *Mr. Pence. Thank you, Chairwoman Schakowsky and
2013 Ranking Member Bilirakis, for holding this hearing. And
2014 thank you to the witnesses for appearing here today.

2015 This hearing is imperative to exploring the parts of Big
2016 Tech that could be negatively impacting the social fabric of
2017 our country, and harm the -- harming the well-being of
2018 Hoosiers and all Americans.

2019 I am increasingly concerned with the growth-at-any-cost
2020 mindset of Silicon Valley, which has been around for a long
2021 time, as we heard last week. Social media platforms monetize
2022 inflammatory content using opaque algorithms and tactics
2023 intended to manipulate the tendency of its users. This
2024 information allows Big Tech platforms to sell highly-valued
2025 advertising space with precisely placed ads at the most

2026 optimal times.

2027 If profit is the ultimate goal, and there is nothing
2028 wrong with making money, one way to get there is to gin up
2029 users by promoting content that elicits the strongest
2030 responses. This creates a feedback loop of more clicks that
2031 lead to more data, which leads to smarter algorithms that can
2032 collect even more data. These efforts seem to work in
2033 conjunction with the expansive shield of Section 230 to evade
2034 accountability.

2035 For Big Tobacco, warning labels plastered on the side of
2036 a pack of cigarettes served as a long-time immunity defense.
2037 For Big Tech it is Section 230. And much like Big Tobacco,
2038 tech companies use these same tactics on our youth to bring
2039 in lifelong customers -- if some of you remember Joe Camel.

2040 Unfortunately, for my constituents, there is a little
2041 insight -- there is little insight into algorithms Big Tech
2042 employs to take advantage of their sweeping access in our
2043 everyday lives, nor do Hoosiers have adequate control over
2044 the amount of information collected, or how it is used to
2045 tailor personal and curated content.

2046 You know, we had truth in lending. We had to take care
2047 of that many years ago.

2048 Building off the Communications and Technology
2049 Subcommittee hearing last week, which many of my colleagues
2050 here attended, it is clear this committee needs to get

2051 serious with our efforts to rein in Big Tech.

2052 Mr. Greenblatt, I think you would agree that there are
2053 positive aspects of social media. Whether it is checking in
2054 with family or friends, or for small businesses to expand
2055 their reach, there are healthy uses of social media. But it
2056 seems to me these tech companies realized early on that they
2057 sit on top of a gold mine of user information with virtually
2058 no guardrails to protect consumers. And, as you detailed in
2059 your testimony, incendiary and controversial content is good
2060 for business.

2061 Throughout this hearing, we have acknowledged the
2062 harmful aspects of overexposure to hateful content. This is
2063 -- this has become a -- very much a bipartisan issue. We --
2064 in my opinion, we ought to consider proposals that stop a
2065 platform's ability to generate revenue off content that has
2066 been adjudicated to have harmed the well-being of its users.

2067 If platforms -- Mr. Greenblatt, if platforms were
2068 eliminated -- or limited in their ability to use algorithms
2069 to curate content for users, what would happen to social
2070 media companies, would they still be profitable enough to
2071 stay in business?

2072 *Mr. Greenblatt. Well, first of all, I would just say,
2073 Representative Pence, I agree with the analogy that you drew
2074 to Big Tobacco. I mean, speech may be different than
2075 cigarettes, but addictive products that the companies fail to

2076 manage, about which they obfuscate and lie to elected
2077 officials and to watchdogs, there is clearly a problem that
2078 requires government intervention. I wish it were different.
2079 Unfortunately, it is not the case.

2080 And I also agree that, like tobacco, you know, social
2081 media can be used in moderation for fun. And Facebook and
2082 other services have connected people across cultures, across
2083 countries. There is a lot of value to that. But the way
2084 they have been exploited by extremists, the way they have
2085 been used to abuse against children and manipulate them in
2086 ways that have been described is indefensible.

2087 Now, the reality is these companies, indeed, are so big,
2088 and are so profitable, I actually believe they could fix this
2089 problem today, if they wanted to. Sure, it might hurt their
2090 margins a little bit as they made some capital investments.
2091 But if they have the resources -- think about Facebook. It
2092 is 16 years old, and yet it has 3 billion users across the
2093 Planet Earth. It has the most sophisticated advertising --

2094 *Mr. Pence. So, in the interest of time, you think that
2095 they could be profitable, they wouldn't necessarily go out of
2096 business?

2097 *Mr. Greenblatt. Absolutely.

2098 *Mr. Pence. Thank you.

2099 *Mr. Greenblatt. Yes.

2100 *Mr. Pence. Madam Chair, I yield back.

2101 *Ms. Schakowsky. I thank the gentleman, and now Mr. --
2102 no, Mr. McNerney, sorry.

2103 Mr. McNerney, you are recognized for five minutes.

2104 *Mr. McNerney. I thank the chair for correcting that
2105 observation, and I thank the witnesses. Your testimony is
2106 very stark and important.

2107 Mr. Golin, I just first want to say I appreciate your
2108 observation that Big Tech is counting on partisan division to
2109 prevent meaningful reform. And so we have to take that upon
2110 ourselves to make sure that that isn't the case.

2111 Dr. Marechal, AI and machine learning are significantly
2112 more efficient for targeting specific consumers and for
2113 moderating content. Also, amplify and shape content in a way
2114 that creates entirely new harms, which we are hearing about
2115 this morning. So how does the use of AI and machine learning
2116 accelerate the spread of harmful content online, when
2117 employed to prioritize engagements of profits?

2118 *Dr. Marechal. Thank you for that question.

2119 I want to be really clear that we are talking about two
2120 different types of algorithms here.

2121 On one hand, we have the algorithms that boost content,
2122 including recommendation algorithms, the algorithms that tell
2123 you what groups to join, what people to add as friends, what
2124 accounts to -- and order the content on your timeline. That
2125 is based primarily on correlation, and on predictions based

2126 on engagement. What are you most likely to click on, watch,
2127 comment on, like, et cetera.

2128 On the other hand, we have algorithms that are meant to
2129 perform content moderation. That is to say, to identify the
2130 types of content that is illegal, that is against the
2131 platform's own rules, because it is harmful to -- judged to
2132 be harmful to users and to society.

2133 AI is not good at this latter part. This is one of the
2134 big lies that the tech industry has been selling us, that we
2135 are just around the corner from a big achievement in AI that
2136 will suddenly make it possible for them to have these huge
2137 and profitable platforms, where their goal is to have as much
2138 of human economic activity and human life filter through
2139 these platforms, so that they can make money off of it. They
2140 want us to believe that they are just around the corner from
2141 being able to identify and moderate away all the direct
2142 sales, all the incitement to violence, all the hate speech,
2143 all the content that we are rightly concerned about today.
2144 Again, that is not true. Only human judgment can do that.

2145 *Mr. McNerney. Well, thank you for that clarification.
2146 So could increased transparency, artificial intelligence, and
2147 machine learning by internet platforms help to improve online
2148 safety?

2149 *Dr. Marechal. Absolutely. On the content moderation
2150 front, we need to know much more about the state of the art,

2151 as it is today, and what technology can and cannot do.

2152 We have learned from Ms. Haugen's revelations, as well
2153 as from other whistleblowers previously, that Facebook in
2154 particular basically does not moderate content in languages
2155 other than English. I am exaggerating slightly here, but if
2156 you look at -- again, at Ms. Haugen's testimonies before
2157 Congress and in other places, it is really clear that that --
2158 as things are for us in the U.S., and for other English
2159 speakers around the world, it is orders of magnitude worse
2160 than that elsewhere.

2161 When it comes to content recommendation, you know,
2162 recommendation systems, likewise, we really need to
2163 understand what recommendations we are getting, what other
2164 people are getting, right? I have a sense of what is being
2165 recommended to me; I have no idea what is being recommended
2166 to you, or to other people in society.

2167 And again, policymaking in this area requires evidence.
2168 The first step towards getting evidence is greater
2169 transparency.

2170 *Mr. McNerney. Well, thank you. Some clarification
2171 there.

2172 I also want to thank you for your recommendation that we
2173 not allow CEOs to be both board members and majority
2174 shareholders. Hopefully, we can work with the committees of
2175 jurisdiction to get that done to do something there.

2176 You also recommended that we should create conditions to
2177 help us produce evidence-based policy. Would you expand on
2178 that a little bit?

2179 *Dr. Marechal. Yes, absolutely. So that is what I was
2180 referring to when I was speaking to the need for
2181 transparency, and for researcher access to platform data.

2182 So much of what we believe about -- or think we know
2183 about platforms is based on our own individual experience, on
2184 anecdotes, on investigative journalism, on kind of one-off
2185 research studies, but it is not comprehensive, right? We
2186 have little snapshots of a huge problem, but that does not --
2187 that is not enough to fully understand the nature and extent
2188 of the problems, because only the platforms have access to
2189 that information.

2190 So I believe that, in order to legislate effectively, we
2191 need a much more detailed understanding of the facts on the
2192 ground.

2193 *Mr. McNerney. I yield back.

2194 *Ms. Schakowsky. The gentleman yields back.

2195 Mr. Armstrong, you are recognized for five minutes.

2196 *Mr. Armstrong. Thank you, Madam Chair. I appreciate
2197 everybody being here today.

2198 And I think how we get here -- I have sat through a lot
2199 of hearings in this committee and in my former committee, and
2200 I think we come down to this simple truth, that, as the

2201 larger the platform gets, more data is collected, more
2202 sophisticated algorithms are developed, which further
2203 entrenches their place in the marketplace, and stifles
2204 competition, and continues to incentivize the collection and
2205 use of that data to maximize profit. And seven -- several of
2206 you have basically said this, and you are not unique.

2207 The problem is with the business model, one that is
2208 designed to attract attention, collect and analyze what keeps
2209 that attention in place: ads. Whether the content is
2210 somehow detrimental to that individual, minor or adult or
2211 society in general, isn't a concern.

2212 Now, several tech companies have recently announced that
2213 they will eliminate targeted advertising on certain topics,
2214 and we all know contextual advertising still occurs in other
2215 media. But after doing this for nearly three years now, I
2216 think my question is basically this: Should we restrict
2217 targeted advertising? Should we just restrict it?

2218 Should we ban targeted advertising to children? I
2219 understand there would be significant consequences. But if
2220 the cost, societal costs are as high as some of the witnesses
2221 here and witnesses, indeed, that we have heard talk about
2222 today, it becomes a simple cost-benefit analysis.

2223 The business model is not a bug, it is a feature. And
2224 it continues to do that.

2225 And listen, Republicans talk about increasing

2226 competition in the marketplace, and how we do that, and often
2227 times -- and these aren't unique, right? We have had members
2228 on both sides of the aisle agree on certain issues. We have
2229 had members disagree on issues. But eventually, when we are
2230 talking about capitalism, we are talking about profit, we are
2231 talking some of the largest, most powerful companies in the
2232 history of the world, should we start talking about taking
2233 away the financial incentive for platforms --

2234 [Audio malfunction.]

2235 *Mr. Armstrong. -- of at least one empirical study from
2236 2019 that concludes that, after accounting for other factors
2237 like user device information or geolocation data, publishers'
2238 revenue only increases by about four percent when a user's
2239 cookie is available. That increase corresponds to an average
2240 increment of just \$.00008 per advertisement.

2241 And as we continue to do this, and we move around, and
2242 we talk about how we do all of these things, I think the
2243 question has to become how do we disincentivize these
2244 companies from financially profiting off of conduct that is
2245 particularly harmful to adults and children? And I think we
2246 do this -- and I have listened, I have learned more about --
2247 I have learned just enough about all of this to be dangerous,
2248 I think. And we continue to move our way through this.

2249 But I think it is about we, as a legislative body, and
2250 as people who interact in this industry, I think it is about

2251 time we start having the real conversations about that. And
2252 I have got a minute and 50 seconds.

2253 Yes, Mr. Lane. Question mark, question mark.

2254 *Mr. Lane. The industry is actually moving away from
2255 targeted advertising. If you -- the last interactive
2256 advertising bureau meetings because of the GDPR and other
2257 related rules are slightly -- you know, are moving away.

2258 The question isn't targeted advertising that is the
2259 problem, especially if you talk with Jonathan Greenblatt. It
2260 is what are they watching. And if the algorithms -- you
2261 know, I worked for Fox, right? So it was -- you know, the
2262 goal was to, you know, spend a lot of money to -- for the
2263 Super Bowl, because you got a lot of people watching it. The
2264 ads weren't relevant. And so people are going to pay for the
2265 ads. They pay a lot of money for Super Bowl ads that are not
2266 targeted because of the crowd, the viewership.

2267 So the question is how are the algorithms, as I
2268 mentioned before, this black hole where they are trying to
2269 create people to be stuck in this system, the -- you know,
2270 the edge of the net, the edge players, and how do we deal
2271 with that issue? I don't think getting rid of targeted
2272 advertising is going to help as much for the issues around
2273 what Jonathan is talking about as the issue of the
2274 manipulation of people, and bringing them down this black
2275 hole.

2276 *Mr. Greenblatt. I would reinforce what Rick said. It
2277 is the surveillance advertising that is a problem. So I
2278 don't have a problem with advertising to our children. It
2279 happens on Saturday morning cartoons, you know, since the
2280 dawn of television. It happens in other media. The
2281 challenge is that we don't know what information they are
2282 collecting, they refuse to be transparent about it, and it is
2283 one -- to use the term -- one big black hole.

2284 So I think what we need is these -- companies to submit
2285 to a degree of transparency, which would elucidate how their
2286 marketing works and, again, prevent children and others from
2287 being manipulated.

2288 *Mr. Lane. And if I was going to have one area, in
2289 talking with the groups I work with on child safety, it is to
2290 have the parental control set to on, instead of off. That
2291 would go a long way of protecting the kids, because most
2292 parents don't know how to turn on these parental controls.
2293 And having them set to on for children and younger users,
2294 both at the device level, as well as at the social networking
2295 level, would be very helpful.

2296 *Mr. Golin. Can I just agree with you, Representative
2297 Armstrong, that I think getting rid of data-driven
2298 advertising to children is one of the most important things
2299 that we could do to protecting them?

2300 *Mr. Armstrong. Well, and I am 26 seconds over --

2301 *Ms. Rich. And --

2302 *Mr. Armstrong. -- but I would say the one thing -- the
2303 one point to that is if you -- whatever the new financial
2304 incentive is, we will have to deal with that one secondly.
2305 But the reason I bring it up is the financial incentive to be
2306 there.

2307 And with that, I yield back.

2308 *Ms. Schakowsky. The gentleman yields back.

2309 And Congresswoman Clarke, you are recognized for five
2310 minutes.

2311 *Ms. Clarke. Thank you, Chairwoman Schakowsky and
2312 Ranking Member Bilirakis, for holding this very important
2313 hearing. And thank you to our witnesses for your insightful
2314 testimony today.

2315 Technology will always be a double-edged sword. While
2316 it is often a source of good and progress in the world, we
2317 must also take care to limit the harms and abuses that
2318 inevitably occur.

2319 As I mentioned during our hearing last week in the
2320 Communication Technology Subcommittee, the widespread use of
2321 algorithms by social media platforms to determine the content
2322 that users view has far too often resulted in discriminatory
2323 practices and the promotion of harmful misinformation.

2324 Recent whistleblower reports make it quite clear these
2325 platforms knowingly amplify the most dangerous, divisive

2326 content. Indeed, it is central to their business model.
2327 This is a major concern of mine when it comes to safeguarding
2328 our democracy and stopping the spread of online
2329 misinformation aimed at marginalized groups.

2330 After the 2016 election, a Senate Intelligence Committee
2331 report found that Black Americans in urban areas were
2332 disproportionately targeted on social media with false
2333 reports and conspiracy theories meant to propagate distrust
2334 in our democratic institutions. The report specifically
2335 notes that Russian operatives "took advantage of the Facebook
2336 recommendation algorithm, an assessment Facebook officials
2337 have corroborated.''

2338 Mr. Ahmed, how would legislation like Congresswoman
2339 Matsui's Algorithmic Justice and Online Platform Transparency
2340 Act help prevent the targeted flow of disinformation aimed at
2341 marginalized communities like we saw during the 2016
2342 elections, and are now seeing again with the COVID-19
2343 vaccine?

2344 *Mr. Ahmed. Thank you for the question. I think there
2345 are two ways in which it would help, and -- to abate civil
2346 rights concerns.

2347 The first is that it would help us to deal with the
2348 kinds of algorithms that feed racist, discriminatory material
2349 to people that weren't already following it. So one of our
2350 reports on algorithms showed how people following wellness

2351 influencers were fed anti-vax content. People that then
2352 followed anti-vax content were fed anti-Semitic content,
2353 because it knew that you could broaden, as well as deepen,
2354 people's extremisms.

2355 The second thing it would do is -- there is this issue
2356 where -- misinformation is a very old thing. It has been
2357 around for a long time. But social media is like
2358 retrofitting a sort of homing package onto that
2359 misinformation, in that it turns, you know, a dumb weapon
2360 into a smart weapon, which can hone into the communities that
2361 it is most effective on. And we have seen that -- the
2362 incredible ability of the -- of content being produced by bad
2363 actors, such as anti-vaxxers.

2364 So Robert F. Kennedy, Jr. and his misinformation about
2365 vaccines, which is then -- the algorithm drives it to the
2366 audiences that are most vulnerable to it. And that, of
2367 course, has led to -- it has led to death. I mean, 49 out of
2368 the last 50 deaths in D.C. were -- of COVID -- were of
2369 African American people. And that is a direct reflection of
2370 the misinformation that has been pumped into those -- into
2371 our communities.

2372 *Ms. Clarke. Thank you, Mr. Ahmed. The lack of
2373 accountability and transparency into how companies are using
2374 algorithmic systems is an issue I have been sounding the
2375 alarm on for years, and it is important we recognize that the

2376 use of discriminatory algorithms isn't limited to social
2377 media platforms. Increasingly, algorithms are being used by
2378 large companies to determine everything from who is eligible
2379 for health care coverage to whether or not a homebuyer
2380 receives a mortgage.

2381 While this may have certain benefits, the reality is
2382 that our current safeguards are insufficient to protect
2383 Americans from the harmful biases and design flaws inherent
2384 in new algorithms -- excuse me, in many algorithms. And this
2385 is why I will soon be introducing an updated version of my
2386 Algorithmic Accountability Act, along with Senators Wyden and
2387 Cory Booker, which requires that large companies audit their
2388 algorithms for bias and discrimination, and to report their
2389 findings to the FTC for review.

2390 Ms. Marechal, from a general perspective, why is it so
2391 important that we address the instances of algorithmic bias
2392 that affect critical decisions in people's lives?

2393 *Dr. Marechal. Thank you for that question,
2394 Representative Clarke.

2395 I think you described the stakes very well and clearly,
2396 yourself. Algorithms make decisions based on data. That
2397 data is often faulty. That data, even when it is accurate,
2398 reflects information that should not be taken into account
2399 when making certain decisions, right -- make decisions --

2400 [Audio malfunction.]

2401 *Dr. Marechal. -- to make them with things like race,
2402 or gender, or age, or other key markers of identity in mind,
2403 in order to be fair.

2404 Algorithms can only make decisions based on data. And
2405 so, it is -- and right now this is something that is
2406 perfectly legal in many cases, and --

2407 *Ms. Clarke. Ms. Marechal, I am so sorry, I am over
2408 time. I didn't realize it. I thank you for your response.
2409 I yield back, Madam Chair. Please, pardon me.

2410 *Ms. Schakowsky. Yes, thank you.

2411 Congressman Bucshon, you are next. You are recognized
2412 for five minutes.

2413 *Mr. Bucshon. Thank you, Madam Chair. In recent years
2414 there has been proposals for the creation of internet
2415 platforms and services aimed at children -- some of this I
2416 know we have covered, I apologize for missing part of the
2417 hearing -- which, I am thankful, have largely been put on
2418 indefinite hold, since I am quite certain they would become
2419 havens for predators, fraudsters, and cyber bullies. Our
2420 society has been seeing the terrible impacts of cyberbullying
2421 on our children, with far too many being injured, or even
2422 losing their lives as a result of malicious actors online.

2423 Mr. Lane, I applaud you for your work as a child safety
2424 advocate imposing these type of bad actors.

2425 One proposal that I have put forward would require the

2426 publication and annual updating of content moderation
2427 practices relating to cyberbullying for internet platforms.
2428 This transparency would be a powerful tool for parents and
2429 other users to know what kinds of content and actions will
2430 not be tolerated on a platform, and they could be used -- and
2431 they could use this information to allow and restrict their
2432 child's access.

2433 Do you -- would you agree that providing clear and
2434 consistent rules in this space would reduce the incidence of
2435 cyberbullying?

2436 *Mr. Lane. Yes, I do. When News Corp bought Myspace --
2437 and people maybe remember Myspace, it was the largest social
2438 networking site at the time -- this was one of the areas that
2439 we focused on, because of the concern that our CEO and others
2440 had when we purchased it, the harm that could be occurring
2441 through cyberbullying. And it was the first time that we
2442 looked. And we did instill a lot of practices to try to stop
2443 it, and monitor, and report, to try to hinder the access of
2444 folks who are cyberbullying one another.

2445 So I do think having clear processes in place would be
2446 very helpful, but I also think -- getting back to the point I
2447 was making earlier about having the parental control
2448 functions on in these -- in this world, what kids can talk to
2449 which kids, and making sure that their kids -- is critically
2450 important.

2451 *Mr. Bucshon. I mean, it is -- I have got four kids. I
2452 mean, it is a tough nut to crack. I mean, sometimes you
2453 don't even know that your kids are on certain sites. They
2454 have dual sites. They have the one where they show their
2455 parents, and they have the one that they are actually
2456 communicating on.

2457 And, as a parent, I do think parent engagement is
2458 extremely important in this situation, because we, as
2459 parents, said, "We have access to all of your phone
2460 information and your computer information, and the first time
2461 that you don't give it to us, you lose your phone, you lose
2462 your access to the computer.'"

2463 *Mr. Lane. Yes, this has been an area where -- has been
2464 very active in this space because of the harms, as kids go
2465 down a really bad rabbit hole in this area, and it can be so
2466 detrimental to their health, their safety, and their
2467 education, and it is something that really needs to be
2468 addressed.

2469 *Mr. Bucshon. Yes, and we can have everything in place,
2470 in that if the parents aren't -- or guardians are not daily,
2471 really -- I mean, I have got four kids -- daily engaged in
2472 what their kids are doing, we can do all we want here, and we
2473 may not still be able to stop it, but it is important to do
2474 it.

2475 Do you think the current patchwork of laws, regulations,

2476 and policies regulating the space to date have actually
2477 helped to allow cyberbullying, in many cases?

2478 *Mr. Lane. I don't know. I mean, the hard part with
2479 cyberbullying that we faced even at Myspace was, you know,
2480 the free speech -- you know, First Amendment. What is
2481 cyberbullying, what is bullying? That is always difficult to
2482 address.

2483 So the patchwork of different state laws, I mean, it is
2484 always hard when it is that way, and there is no natural law.

2485 *Mr. Bucshon. Yes.

2486 *Mr. Lane. I don't know -- and we tried to figure this
2487 out ourselves -- how you draft a law that completely can stop
2488 cyberbullying.

2489 *Mr. Bucshon. Do you -- I am just curious. Did you
2490 have childhood and teenage consultants on this, when you --
2491 you know, I know it sounds crazy, but all of us that have
2492 kids understand that what we think, as parents, might be one
2493 thing. The kids actually have quite a bit of insight.

2494 And I -- you know, I talk to my kids, and I am like,
2495 okay, like, I don't quite get this. But it would be
2496 interesting to know if that -- you think that would be
2497 helpful, where, actually, companies, and maybe even Congress,
2498 hear from teenagers, hear from kids about what is happening
2499 out there.

2500 *Mr. Lane. Yes, it is funny. We didn't have any teens

2501 that were with us. But Parry Aftab, who is one of the
2502 leaders and child safety advocates in the early days of the
2503 net, had this group called Teen Angels, and she would talk to
2504 them, and we would talk to her and get ideas.

2505 The other thing that we did is we had a direct line to
2506 the National Center for Missing and Exploited Children to see
2507 what could we do to fix it, to make it better. And we
2508 basically took every recommendation that they made, some may
2509 say to the detriment that now it is all about Facebook, and
2510 no one knows about Myspace.

2511 But we thought it was the right thing to do, and we took
2512 steps. We would not implement certain functionality because
2513 we couldn't figure out how we could protect children that
2514 made sense. Himanshu Nigam, who is our chief safety officer,
2515 we would talk almost every day on what we could do to make
2516 Myspace safer. And it is tough, but you can do it.

2517 *Mr. Bucshon. Yes, and it not only needs to make sense
2518 to us, it needs to be -- make sense to the people who are
2519 potentially being cyberbullied.

2520 So I would suggest that we seriously consider that in
2521 the future, when we are talking about this subject. We might
2522 have a few people who -- young people, who are actually in
2523 the arena, so to speak -- give us some advice. I mean, I
2524 think that is not a bad idea.

2525 I yield back.

2526 *Ms. Schakowsky. The gentleman yields back.

2527 And now, Mr. Cardenas, you are recognized for five
2528 minutes.

2529 *Mr. Cardenas. Thank you very much, Madam Chairwoman,
2530 and also Ranking Member Bilirakis, for holding this critical
2531 hearing. And I want to thank all the witnesses for all your
2532 expertise and opinions today to help educate us, so that we,
2533 hopefully, can make good policy to guide what is going on
2534 underneath our noses every single day.

2535 Every day Americans are forced to accept extremely
2536 complex, opaque, and one-sided terms of service to enjoy
2537 popular platforms that often market themselves as free.

2538 What I am holding up here is 27 pages of an agreement
2539 that -- anybody who uses Snapchat has agreed to these 27
2540 pages. There are roughly 106 million active Americans on
2541 Snapchat. How many of those users do you think have the time
2542 or formal legal education to understand and agree to a
2543 contract such as this, written by a team of lawyers, by the
2544 way? The average American doesn't have a team of lawyers,
2545 nor could they afford it.

2546 I predict that right around none is the number of
2547 Americans who have actually read every single one of these
2548 pages. And this goes for many, many, many of the platforms.
2549 Some of the platforms have reduced their agreements to two
2550 pages, probably much finer print and a lot more legalese.

2551 And once again, still, at the end of the day, same typical
2552 terms.

2553 Snapchat prides itself on protecting user privacy, and
2554 those who use the platform believe their snaps exist
2555 temporarily before being automatically deleted. But when you
2556 read the terms of service, you realize that this is not the
2557 case. In fact, Snapchat employees can access your private
2558 user data, including photos and/or videos. To go even
2559 further, hidden in Snapchat's terms of service, you grant
2560 Snapchat and its affiliates an unrestricted, worldwide,
2561 royalty-free, irrevocable, and perpetual right and license to
2562 use the name, likeness, and voice of anyone featured in your
2563 public content for commercial and non-commercial purposes.
2564 That is one of the clauses that is buried in these 27 pages.

2565 Folks, I said one of any -- I said of anyone featured in
2566 your content. That is what that just meant. Anybody
2567 featured in your content. So if I put out content, and my
2568 colleague, Ms. Kelly, is next to me, all of a sudden I have
2569 wrapped her into it, and she hasn't agreed to anything. But
2570 it applies to what I have done, and I may have injured or
2571 aggrieved somebody that I care about. That means people who
2572 do not even sign up are subject to the -- this agreement.

2573 And again, even if that person disagrees, do they have a
2574 team of lawyers to go ahead and fight for their rights?

2575 Those who read the terms would notice that platforms

2576 often include an arbitration clause, stripping the ability of
2577 users to take these companies to court. Instead, they force
2578 users to resolve issues in house, on the company's home turf,
2579 with their team of lawyers against you.

2580 For supposedly free services, these platforms seem to
2581 take a lot of our users for granted, and a lot from us.

2582 Mr. Greenblatt, can platforms use the terms of service
2583 to include a provision that harms users and put them outside
2584 the reach of the law?

2585 *Mr. Greenblatt. Thank you for the question. I will
2586 preface my response by noting that I am not a lawyer, or a
2587 consumer protection lawyer, at that.

2588 That being said, it seems to me that the point you have
2589 raised is incredibly valid. Pages and pages and pages of 8-
2590 point legalese, and expecting my, you know, 15-year-old or
2591 12-year-old to understand that is laughable, at best, and it
2592 is malicious, at worst.

2593 I mean, the reality is this is why we need transparency.
2594 We need transparency in how these algorithms work. We need
2595 transparency in the data they are collecting. And, Mr.
2596 Congressman, we need a kind of not truth in advertising, but
2597 a truth in terms. I mean, what you just laid out is
2598 indefensible when it is directed at a minor.

2599 *Mr. Carbajal. And not just the minor, the average
2600 American just cannot -

2601 *Mr. Greenblatt. Absolutely.

2602 *Mr. Carbajal. It is just not an even playing field,
2603 not at all.

2604 Yes, Mr. Lane, briefly.

2605 *Mr. Lane. Yes, very briefly. This is why we need
2606 Section 230 reform, because if there is a violation of the
2607 terms of service, we need to have the civil litigation to be
2608 able to find out if there is a violation, so we can get teams
2609 of lawyers to engage in this process. And without the
2610 Section 230 reform that we are talking about, and the duty of
2611 care, we are waiting for a whistleblower, which we hope
2612 comes, but may never.

2613 *Mr. Carbajal. Well --

2614 *Dr. Marechal. Can I jump in here? I realize it is
2615 awkward, because I am remote, but Section 230 has absolutely
2616 nothing to do with this. This is about privacy.

2617 *Mr. Carbajal. Okay, thank you. I would like to ask a
2618 quick yes-or-no -

2619 *Dr. Marechal. Any -- can I just say any value that we
2620 care about shouldn't be subject to notice and choice in a --
2621 deep in a terms of service.

2622 *Mr. Carbajal. Thank you. Thank you very much. And
2623 this issue is, obviously, important, not only to the average
2624 American, especially for those of you are deeply involved in
2625 this every single day, as I can see by your answers.

2626 Very quickly --

2627 *Ms. Schakowsky. The gentleman's time has expired. You
2628 are going to have to put that in -- am I right? Yes, you are
2629 going to have to put that in writing.

2630 *Mr. Carbajal. I was hoping you would afford me the
2631 same generosity I have seen my colleagues do.

2632 I love you, just kidding.

2633 *Ms. Schakowsky. Okay, but --

2634 *Mr. Carbajal. I am going to yield back.

2635 *Ms. Schakowsky. Ask the question and then get an
2636 answer.

2637 *Mr. Carbajal. I yield back, I yield back.

2638 *Ms. Schakowsky. Okay.

2639 *Mr. Carbajal. I just saw everybody go a little extra,
2640 I thought --

2641 *Ms. Schakowsky. I would, but I --

2642 *Mr. Carbajal. I thought I would use my position, as
2643 well. Thank you.

2644 *Ms. Schakowsky. Okay. And now, Congresswoman Dingell,
2645 you are recognized for five minutes.

2646 *Mrs. Dingell. Thank you, Madam Chair. Thanks for
2647 holding this hearing, and to all of you who are testifying
2648 here today.

2649 In our March hearing, with many of the major tech CEOs,
2650 I raised the fact that violative, provocative, and divisive

2651 content often receives more engagement on social media
2652 platforms, which many of you have raised in your testimony.
2653 Several audits, investigations, and reports continue to
2654 substantiate the claims that companies are aware of this
2655 fact. And I believe it is our duty to ensure that they are
2656 not prioritizing profits and engagement over the safety and
2657 the health of their users. I would like to move some
2658 questions focused on these protections, first on prioritizing
2659 engagement.

2660 To the panel, if you would just answer this with a
2661 simple yes or no, are these companies actively making the
2662 choice to prioritize profits and engagement over combating
2663 disinformation, violent content, and negative health outcomes
2664 for individuals and children, yes or no?

2665 Dr. Marechal?

2666 *Dr. Marechal. Yes.

2667 *Mrs. Dingell. Mr. Greenblatt?

2668 *Mr. Greenblatt. Yes.

2669 *Mrs. Dingell. Mr. Ahmed?

2670 *Mr. Ahmed. Yes.

2671 *Mrs. Dingell. Okay. Mr. Golin - Golin, sorry.

2672 *Mr. Golin. Yes.

2673 *Mrs. Dingell. Mr. Lane?

2674 *Mr. Lane. Yes.

2675 *Ms. Rich. Yes.

2676 *Mrs. Dingell. Ms. Rich -- okay, so we got that. So my
2677 next question is for Dr. Marechal.

2678 Is there significant evidence that the changes we are
2679 proposing today to these platform algorithms will have an
2680 outsized impact on user engagement on the platform?

2681 What is the cost benefit for consumers and companies in
2682 incentivizing or requiring these changes?

2683 *Dr. Marechal. That is a great question, Congresswoman.
2684 I think the single most impactful thing that we could do to
2685 change the current incentives, which, as you say, push
2686 companies to prioritize engagement above all else, is to ban
2687 surveillance advertising. This could -- this would most
2688 effectively be done through comprehensive privacy reform.

2689 *Mrs. Dingell. Thank you for that. I firmly believe
2690 that independent researchers and the FTC should have access
2691 to data from these companies to ensure that features and user
2692 data are not being exploited in ways that push individuals
2693 and children towards disinformation, violence, extremism,
2694 negative health outcomes. And that is why I am supporting
2695 one of -- the Social Media Data Act, introduced by my
2696 colleague, Rep. Trahan, to ensure that researchers have
2697 access to information on targeted online digital
2698 advertisements, to study their potential harms to consumers,
2699 and create a working group to establish guidance on handling
2700 this data.

2701 In March I asked Mark Zuckerberg if he was opposed to a
2702 law to enable regulators to access social media algorithms --
2703 can't even talk today. In his response he said that giving
2704 more transparency into these systems was important, but we
2705 sure haven't seen any progress on Facebook since -- on that
2706 issue so far.

2707 So Dr. Marechal, why have companies so far resisted
2708 increased transparency on sharing advertising data with
2709 independent regulators and researchers, despite repeated
2710 commitments to do so, and repeated revelations that they are
2711 aware of the impact?

2712 *Dr. Marechal. In short, because, as bad as they are at
2713 moderating and governing user content on their platforms,
2714 they are even worse at moderating advertising. Facebook and
2715 other platforms are replete with ads that are illegal in the
2716 country in which they are served, that violate the platform's
2717 own stated rules. And they don't want to be -- get caught
2718 doing that.

2719 And they know that when, in the case of Facebook, it is
2720 -- 99 percent of their revenue comes from targeted
2721 advertising, for Google it is in the -- 90 percent, or
2722 something like that, it is very high for other platforms, as
2723 well -- that once you start tugging at that string, that the
2724 whole house of cards is likely to come down.

2725 This is a completely ungoverned and anti-competitive

2726 sector of the economy that needs to be regulated as soon as
2727 possible.

2728 *Mrs. Dingell. So I have many other questions, which I
2729 will submit for the record.

2730 [The information follows:]

2731

2732 *****COMMITTEE INSERT*****

2733

2734 *Mrs. Dingell. But I will give you my last one for Dr.
2735 Marechal.

2736 How do platforms create additional barriers or, in some
2737 cases, completely block independent researchers from
2738 obtaining data?

2739 And how would the Social Media Data Act alleviate some
2740 of these obstacles?

2741 *Dr. Marechal. That is a great question. So, you know,
2742 the New York -- the NYU ad observatory case from this summer
2743 is really the prime example of that.

2744 Companies, first of all, are constantly changing their
2745 code to make it harder for researchers to scrape, or to
2746 automatically connect -- collect information that is
2747 published on the internet that you don't need to log in to
2748 access.

2749 They are -- they also shut down the accounts, deplatform
2750 individual researchers when they start to do research that
2751 the companies find threatening. That is what happened to -

2752 *Ms. Schakowsky. You are going to have to wind up your
2753 answer right now.

2754 *Dr. Marechal. Thank you, ma'am. They also sue
2755 individual researchers, which is very, very chilling to
2756 research.

2757 *Mrs. Dingell. Thank you, Madam Chair. I will say one
2758 thing: the consequences of these decisions are boldly

2759 apparent and, in many cases, deadly. Thank you, Madam Chair,
2760 for holding these hearings, and I hope our committee acts
2761 soon.

2762 *Ms. Schakowsky. The gentlelady yields back, and now my
2763 colleague from Illinois, Congresswoman Kelly, for five
2764 minutes.

2765 *Ms. Kelly. Thank you so much, Madam Chair, for holding
2766 this hearing today, building off of our productive
2767 Communications and Technology Subcommittee hearing last week.
2768 I want to thank the witnesses for testifying today, and
2769 helping us craft legislation to hold Big Tech accountable.

2770 And to Mr. Greenblatt, I just wanted to say to you, 20
2771 years ago, maybe more now, I got engaged with the Anti-
2772 Defamation League, and it changed my life, because I got
2773 involved in a World of Difference and -- difference, so you
2774 helped me see things through a great lens that I still have
2775 with me.

2776 One of the fastest-growing methods for acquiring
2777 customers online is through influencer marketing.
2778 Influencers are people who have a lot of followers or social
2779 influence online, and who then use that influence to endorse
2780 and sell products. Today influencer marketing is a
2781 multibillion-dollar industry in the U.S.

2782 What I find concerning is that so many of our -- of
2783 today's top influencers are children, so-called kid

2784 influencers, with massive followings on social media. It is
2785 not clear online when content is organic or sponsored
2786 advertising. Studies show this problem is significantly
2787 worse for children, because children do not yet have the
2788 cognitive abilities to make these distinctions.

2789 Mr. Golin, can you talk about the harms that
2790 kidfluencers pose for children online, and why do you believe
2791 such advertising has become so prevalent?

2792 *Mr. Golin. Yes. So the reason it has become so
2793 prevalent is because it is allowed on on the internet, and it
2794 is not allowed on children's television.

2795 So on children's television we have the Children's
2796 Television Act, which prohibits product placement. It
2797 prohibits hosts from selling directly to children. And we
2798 don't have the same rules online, which is -- which makes no
2799 sense. If a child is watching a video on YouTube, they
2800 certainly deserve the same protections as if they are
2801 watching it on Nickelodeon, or Disney, or another television
2802 channel.

2803 And the harms -- you know, so children's understanding,
2804 they already understand advertising less than adults. But
2805 the way that we can get children to understand advertising
2806 better is by having it clearly separated from content. What
2807 research shows is the more that advertising is embedded, the
2808 less children understand about what is going on.

2809 So you have, on -- situations like on YouTube, unboxing
2810 videos. You have unboxing stars like Ryan's Toys Reviews,
2811 literally billions of views of these videos, where kids --
2812 where Ryan is talking about a toy he has been paid to talk
2813 about for 10, 15 minutes. Kids are watching infomercials.
2814 Studies have shown that kids who watch these videos are more
2815 likely to nag their parents for what is advertised, and more
2816 likely to throw a temper tantrum if they say no.

2817 These -- influencer marketing is also linked to higher
2818 levels of materialism. And if you look at Frances Haugen's
2819 documents, one of the things that teens themselves are saying
2820 is that influencer culture is toxic, and makes them feel bad
2821 about themselves.

2822 *Ms. Kelly. We also know that social media platforms
2823 often facilitate and certainly make a lot of money from
2824 influencer marketing. What responsibility do you think that
2825 these platforms have to protect children from this kind of
2826 marketing, and, in your mind, are they fulfilling these
2827 responsibilities?

2828 *Mr. Golin. They are absolutely not fulfilling these
2829 responsibilities. I mean, YouTube is making so much money
2830 off of kids watching unboxing videos. Influencer content on
2831 TikTok and Instagram is making those platforms -- but I don't
2832 think we can wait for these platforms to do the right thing.
2833 That is why I think we need legislation like the KIDS Act,

2834 that would ban these platforms from recommending influencer
2835 marketing to kids.

2836 *Ms. Kelly. So how do you think the KIDS Act would help
2837 protect children in these instances, where it is hard to
2838 distinguish between authentic and sponsored content?

2839 *Mr. Golin. Well, what it would do is it would prohibit
2840 the platforms from amplifying that content to children. And
2841 so that would be a mechanism where the platforms could be
2842 held responsible. And I think, if they were facing fines for
2843 doing that, that they would start cleaning up their act.

2844 *Ms. Kelly. And because I have a little bit more time,
2845 does anyone else want to make a comment about that?

2846 No? Okay, well, I will yield back. Thank you, Madam
2847 Chair.

2848 *Ms. Schakowsky. The gentleman -- the gentlelady yields
2849 back, and Mr. Soto is recognized for five minutes.

2850 *Mr. Soto. Thank you, Madam Chair.

2851 Transparency, privacy, integrity of information,
2852 protecting our kids, all critical ideals that our committee
2853 is charged with helping uphold in social media. These are a
2854 challenge in English. It is pure chaos right now in Spanish
2855 and in other languages, trying to uphold these ideals. So I
2856 applaud the chair and the ranking member, my fellow
2857 Floridian, for the bipartisan group of bills that have been
2858 put forward today that we are starting to review.

2859 We have seen lies about the vaccines, and about January
2860 6th, and about the 2020 election, and we have seen lies that
2861 breed hate and division in our nation. And so this committee
2862 takes this very seriously.

2863 For Spanish language content, it is often less moderated
2864 for misinformation and violence than English content.
2865 Spanish language content posts are often allowed to remain on
2866 social media pages for longer durations than English content.
2867 A question for Mr. Greenblatt, then Mr. Ahmed.

2868 How does having unregulated Spanish misinformation hurt
2869 minority communities and people of color?

2870 And how should -- how do social media companies and
2871 their algorithms fail to address the Spanish misinformation?

2872 Mr. Greenblatt?

2873 *Mr. Greenblatt. So it is a very good question,
2874 Congressman Soto.

2875 And one of the revelations of the Facebook whistleblower
2876 was that Facebook spends upwards of 90 percent of its
2877 resources on dealing with misinformation in English, despite
2878 the fact that less than 10 percent of its users are doing so
2879 in English. So there is a vast misallocation of resources,
2880 despite the fact that they do a pretty poor job, as has been
2881 stated already.

2882 ADL participates -- proudly participates -- in the
2883 Spanish Language Disinformation Coalition, and we work a

2884 great deal to look at these issues. I can tell you we have
2885 found examples. We did an analysis last year, last November,
2886 of Spanish language anti-Semitism on Facebook, and we found,
2887 with just a few keystrokes, about two dozen Spanish language
2888 accounts that were wildly in violation of Facebook's own
2889 terms of service, that they failed to take down, that got
2890 hundreds of thousands of -- coming from groups with hundreds
2891 of thousands of users getting upwards of 55,000 views. So we
2892 know this is a big problem.

2893 *Mr. Soto. And we have seen that published in even
2894 local newspapers and on -- in local television in places in
2895 our state, so we are deeply concerned about it. And then it
2896 is repeated in social media.

2897 I want to turn to Mr. Ahmed next.

2898 Again, how does unregulated Spanish misinformation and
2899 other foreign language misinformation hurt minority
2900 communities and communities of color?

2901 And how do algorithms fail to address this
2902 misinformation?

2903 *Mr. Ahmed. Well, this is a mixture of both algorithms,
2904 which are very good at targeting the right misinformation to
2905 the most vulnerable audiences, and bad actors, who are -- who
2906 understand that, actually, the Spanish-speaking market is an
2907 easier one to sell misinformation into, because there isn't
2908 as much moderation of the content there. And it is just --

2909 it -- there is a lower potential of that content being
2910 removed.

2911 What that means, in practice, is that if you take, for
2912 example, vaccine misinformation, that the content that was
2913 being targeted to Spanish audiences by non-Spanish-speaking
2914 originators -- so you found some of the key members of the
2915 Disinformation Dozen who aren't themselves Spanish speakers
2916 were having their content translated into Spanish at the same
2917 time, and pumping it out into Spanish-speaking audiences.
2918 And we saw that being taken up, we saw people debating it,
2919 and we saw people deciding not to vaccinate initially because
2920 of it.

2921 And what did that mean? That meant that, literally, you
2922 know, Latinx communities in America were dying because they
2923 were being -- A, they were more exposed to -- you know, there
2924 was a higher prevalence of acute COVID; and second, that they
2925 were then being persuaded not to take the vaccine, the thing
2926 that would most protect them.

2927 *Mr. Soto. Thank you, Mr. Ahmed. And just as a
2928 comparison, we saw vaccination rates really high in central
2929 Florida among both Puerto Rican and Mexican American
2930 communities. Puerto Rico has the highest rate in the nation,
2931 because it wasn't politicized in the media, in social media.
2932 But we saw in other areas, like in South Florida and South
2933 Texas, where misinformation campaigns were deliberate. And

2934 what did that lead to? Low rates.

2935 I heard crazy things said about the vaccines, when the
2936 only crazy thing about it is not taking them to stop this
2937 deadly virus.

2938 So thank you, gentlemen, for your input.

2939 And Madam Chair, I yield back.

2940 [Pause.]

2941 *Ms. Schakowsky. It is to Doyle? Okay. The gentleman
2942 yields back, and now as -- we welcome a waive-on to the
2943 committee, and that would be the chairman of -- also a
2944 chairman of the subcommittee, Mr. Doyle, for his five minutes
2945 of questions.

2946 *Mr. Doyle. Well, thank you very much, Madam
2947 Chairwoman, and to both you and Chairman Pallone, for
2948 continuing this series of legislative hearings to move
2949 forward with common-sense solutions to protect consumers
2950 online, and to hold online platforms accountable for their
2951 actions.

2952 Last week, at the Communications and Technology
2953 Subcommittee, we heard from experts on the harms caused by
2954 online platforms, as well as experts on legislative solutions
2955 to address these significant problems. And as we have heard
2956 from panelists today, providing victims access to the courts
2957 is not enough to address the breadth of issues surrounding
2958 tech platforms.

2959 I agree that transparency and other accountability
2960 measures are necessary, as well. So today's hearing and the
2961 witnesses' testimony are very important as we move forward.

2962 Mr. Greenblatt, you also made comments to this effect.
2963 In your testimony you note that hate speech and, potentially,
2964 disinformation and other dangerous content is often protected
2965 in the First Amendment. And then you go on to say that we
2966 need to do more than just focus on Section 230 reform as
2967 required to hold platforms accountable.

2968 Can you first talk about how some platforms are tuned
2969 for disinformation?

2970 I would like to hear more detail on how some platforms'
2971 designs encourages disinformation, hate speech, and harmful
2972 content.

2973 *Mr. Greenblatt. Thank you very much for the question,
2974 Congressman Doyle.

2975 So, first of all, let's just acknowledge that hate
2976 speech is part of living in a free society. Our First
2977 Amendment protects ideas, even those that we don't like. But
2978 the challenge is hate speech is not the same. And I am
2979 sorry, speech that causes direct harm is different.

2980 Freedom of speech is not the freedom to slander people.
2981 Freedom of expression is not the freedom to incite violence.
2982 So platforms like Facebook or Twitter, Congressman, that
2983 often will use anonymity, that don't take down posts that are

2984 directly threatening to people, that don't take down posts
2985 that express lies or misinformation are directly damaging to
2986 the public good.

2987 Now, the reality is that there is a reason why
2988 newspapers, magazines, movies, television, radio, and all
2989 other media do not allow such content on their services,
2990 because they would be liable for litigation and for lawsuits
2991 if they did. Only the social media companies enjoy the
2992 privilege of non-accountability, and that is because of the
2993 loophole in the law, Section 230, that was referenced
2994 earlier.

2995 *Mr. Doyle. Thank you. Research has shown that, with
2996 very little information about a user, Facebook's algorithms
2997 can simply begin showing conspiracy theory and other
2998 disinformation to that user. Is it good policy that Federal
2999 law protects Facebook from any harm that comes to the user as
3000 a result of that information?

3001 *Mr. Greenblatt. Absolutely, it is bad policy. It is
3002 unambiguously bad public policy, and it is a loophole that
3003 extremists have exploited to great effect.

3004 And again, we have seen where, out in the open,
3005 extremists use Facebook groups to organize actions against
3006 other individuals. This would be inexcusable, again, in any
3007 other context. People are allowed to say hateful things.
3008 The question is whether Facebook and the other services

3009 should privilege them, should amplify them, should elevate
3010 them. I say the answer is no.

3011 *Mr. Doyle. So how do we pair the transparency and
3012 reporting requirements with other reforms, like we discussed
3013 last week, to protect both online users, and maintain a
3014 healthy online ecosystem?

3015 And how do we have meaningful transparency requirements
3016 that are not abused by those promoting hateful and other
3017 odious forms of speech, even if protected by the First
3018 Amendment?

3019 *Mr. Greenblatt. Well, I think one of the things that
3020 one -- could be done right away, Mr. Congressman, would be to
3021 allow researchers access to this information. You don't have
3022 to necessarily make it available to the entire public, but
3023 accredited researchers who apply could be given access. And
3024 you would need to have real criteria, so that Facebook and
3025 the other companies couldn't deny credible requests.

3026 But you have -- as public servants, you and the
3027 government, you are -- have to be compliant with a FOIA
3028 request. There is no reason why we couldn't create a similar
3029 FOIA-type requirement of these companies, because the data
3030 they have is our data, it is public data, it is citizen data,
3031 and they should be sharing -- more transparent, and sharing
3032 it.

3033 *Mr. Doyle. Thank you.

3034 Mr. Ahmed, we know, through your research, and now
3035 through Facebook's research, thanks to Frances Haugen, that a
3036 small number of users are responsible for much of the
3037 disinformation that we are seeing online. Clearly, the
3038 incentives are not aligned for these platforms to take this
3039 type of content more seriously, even when we know it leads to
3040 real-world harms.

3041 Can you tell us how the bills before us today will help
3042 realign the incentives?

3043 *Mr. Ahmed. Well, I think, comprehensively, what they
3044 do is give us more illumination as to the underlying
3045 rationale: the drivers, the business decisions, the economic
3046 rationale for allowing this content to remain on their
3047 platforms. And they really have.

3048 I mean, look, the Disinformation Dozen, of their 98
3049 social media accounts, 42 are still up. They still have
3050 around 52 percent of their audiences that they had before we
3051 wrote that report. So yes, some action has been taken. But
3052 for the main part, over half of it is still up there.

3053 And why is that true? What these would collectively do
3054 is start to create some transparency and, therefore,
3055 accountability for those failures.

3056 *Mr. Doyle. Thank you, Madam Chair --

3057 *Ms. Rich. Mr. --

3058 *Mr. Doyle. -- for holding this hearing, and I yield

3059 back.

3060 *Ms. Schakowsky. Thank you, Mr. Doyle. We are honored
3061 to have your presence today.

3062 I want to now recognize Representative Lesko for your
3063 five minutes.

3064 *Mrs. Lesko. Thank you very much, Madam Chairman, and
3065 thank you to all of the panel members for testifying today.
3066 This is such an important issue.

3067 It has been said that false information spreads so much
3068 faster on social media than accurate information, and I found
3069 that to be true. And I think a lot of it is because people,
3070 you know, whether it is media outlets or whoever it is, want
3071 us to have salacious titles and things so that we click on
3072 it, and then -- and use it. But my first question is for
3073 Jessica Rich.

3074 Jessica, the FTC recently released the draft fiscal year
3075 2022 through 2026 plans. I understand Chairman Khan deleted
3076 language from the FTC mission that specifically says that the
3077 FTC will accomplish their mission without unduly burdening
3078 legitimate business activity. How concerned are you that
3079 this altered mission statement could lead to increased costly
3080 regulatory burdens on businesses?

3081 *Ms. Rich. The deletion of that language sends a really
3082 bad message. And I would like to think of my former agency
3083 that it was a mistake. But one -- and they should -- and

3084 that they are planning to put it back in.

3085 One thing that is important to remember is that,
3086 regardless of whether that language is in a mission
3087 statement, that concept runs throughout so much law and
3088 policy at the FTC that, regardless of mission statement or no
3089 mission statement, it is going to be very hard to ignore
3090 undue burdens on legitimate business activity. It is built
3091 into deception, it is built into unfairness, it is built into
3092 substantiation, fencing in so many doctrines.

3093 But it was very ill-advised to take it out of the
3094 mission statement, and it sends a terrible message.

3095 *Mrs. Lesko. Thank you for that answer. And also to
3096 you, Jessica Rich, as you said, you are a former FTC director
3097 of the Bureau of Consumer Protection. What is your reaction
3098 to the -- granting the FTC civil penalty authority language
3099 in the mission statement, or granting them civil penalty
3100 authority?

3101 *Ms. Rich. Under the Build Back Better Act. The FTC
3102 badly needs stronger remedies, especially with the rollback
3103 of 13(b) authority. But it would be far better for both the
3104 FTC and the public if this type of authority came with more
3105 direction from Congress regarding the situations that --
3106 where this would apply.

3107 One thing to note that hasn't been talked about very
3108 much is that, even with this new authority, the FTC will

3109 still need to prove that any company, before paying civil
3110 penalties, has knowledge that they are violating the law. So
3111 that would be an important safeguard that would still be in
3112 there.

3113 *Mrs. Lesko. All right, thank you very much. My next
3114 question is for Mr. Rick Lane.

3115 Areas of clear vulnerability -- and you have said it in
3116 your testimony -- to putting our sensitive, personal data at
3117 risk are those situations where sensitive, personal
3118 information is stored in foreign countries known to be
3119 hostile to the United States -- one, namely, is China. Mr.
3120 Lane, how important is it that any reforms to Section 230
3121 also include reforms to transparency, and content moderation
3122 practices, and them storing our personal information?

3123 *Mr. Lane. I think it is very important. We have,
3124 actually, treaties now that we have signed about how we can't
3125 require data localization, and so we can't say where people
3126 can store, based on our treaties, and that should be looked
3127 at, as well.

3128 But in terms of what is happening with TikTok and
3129 others, I do believe that we need to take a closer look at
3130 how this data is being accessed, who is accessing it.

3131 One of the concerns I have is, if you have ever seen the
3132 documentary "A Social Dilemma," is where they show the --
3133 you know, supposed to be Facebook or -- turning the dial to

3134 try to influence our behaviors just a little bit. You know,
3135 elections are won and lost by two percentage points
3136 sometimes. And I would hate to see that there is information
3137 that is being derived that is just -- someone behind the
3138 scenes is turning that dial who may be hostile to our U.S.
3139 interest.

3140 *Mrs. Lesko. Well, I agree with you, and I did watch
3141 "Social Dilemma," and I think it is very interesting,
3142 because it kind of opens your eyes on how we are being
3143 influenced behind the scenes.

3144 Thank you, Madam Chairman, and I yield back.

3145 *Ms. Schakowsky. The gentlewoman yields back, and now I
3146 recognize Congresswoman Blunt Rochester for her five minutes
3147 of questions.

3148 *Ms. Blunt Rochester. Thank you, Madam Chairwoman, for
3149 the recognition, and allowing me to join this very important
3150 and timely hearing.

3151 The internet's remarkable power and potential have been
3152 used to create, unite, and innovate. Unfortunately, it has
3153 also been misused by bad actors to misinform, divide, and
3154 distract, preying on unsuspecting Americans. This hearing
3155 today represents a bipartisan consensus that large tech
3156 companies must reform their practices to ensure the internet
3157 remains a place of innovation and potential. The common
3158 denominator underlying the horrible things that we have heard

3159 about today is the ability for tech companies to use design
3160 practices to undermine user choice for the sake of profit.

3161 For my part, I introduced the bipartisan and bicameral
3162 DETOUR Act, because tech companies have used decades' worth
3163 of research on compulsion and manipulation, often conducted
3164 on the gambling industry, to design products that trick or
3165 strong-arm people into giving up their data or consent to
3166 potentially harmful content.

3167 Today we often call these "dark patterns," and they
3168 exist on virtually every tech platform today, because this
3169 data collection scheme fuels the algorithms and targeted ad
3170 programs we have decried in a bipartisan way.

3171 If we allow tech platforms to hamper Americans from
3172 making choices in their own self-interest, we will never see
3173 the internet reach its full potential.

3174 Dr. Marechal, I would like to begin with you. Can you
3175 provide us an example of a dark pattern that undermines user
3176 choice on the internet today?

3177 And what makes these tactics so ubiquitous online, and
3178 so effective in influencing user behavior?

3179 *Dr. Marechal. Absolutely, ma'am. Since the GDPR and
3180 CCPA, internet users have gotten used to seeing data
3181 collection consent pop-ups when they visit websites. And the
3182 point of that is to give us choice over whether or not to
3183 share -- to make our -- make it possible for companies to

3184 collect our data. But this is undermined by the type of
3185 deceptive design that you are talking about.

3186 You have noticed, I am sure, that many of them make it
3187 much, much easier to allow the website to collect whatever
3188 data it wants than to refuse that permission, or to get
3189 details about what data we want to allow or not to be
3190 collected. Even someone like me, who is onto them, I am
3191 often pressed for time, and so I click accept, rather than
3192 going through half a dozen more clicks to limit the data
3193 collection to what is needed for the website to work
3194 properly.

3195 Ideally, sites should only be able to collect the data
3196 that they actually need to do the thing you want them to do.
3197 But, at a minimum, it should be just as easy to protect your
3198 privacy as it is to give it away.

3199 *Ms. Blunt Rochester. Great, thank you so much.

3200 And Mr. Golin, why is it important that we consider
3201 regulation of dark patterns that target children, especially
3202 those that cause compulsive behaviors?

3203 *Mr. Golin. Yes. Well, we should regulate dark
3204 patterns that are aimed at children for three reasons.

3205 The first of all is because, as you mentioned, they are
3206 extremely prevalent. Most of the apps and the games that
3207 children are on use manipulative techniques, finally owned by
3208 endless A/B testing, in order to get kids to stay on

3209 platforms longer, in order to get them to watch more ads, and
3210 in order to get them to make in-game purchases.

3211 The second reason that we should do it is because it is
3212 unfair. You know, that -- when the idea is to undermine user
3213 autonomy and to manipulate children, that is unfair. Just a
3214 couple of examples. There are preschool apps aimed at very
3215 young children, where the characters in the game start
3216 mocking children if they try to stop playing, and taunt them
3217 into playing even longer. And you know, so many of the games
3218 that children play use virtual currencies that have no fixed
3219 rate, and so they manipulate those currencies, and -- so kids
3220 don't understand, when they are buying things with real
3221 money, how much money they are actually spending.

3222 And finally, we should regulate them because they cause
3223 harm to children. There is the financial harm that I just
3224 mentioned, where kids are racking up hundreds and thousands
3225 of dollars in in-game purchases, but they are also being used
3226 to drive compulsive use, to get kids to have more screen
3227 time, which, of course, displaces things that would be --
3228 that they could be doing that would have much more benefit to
3229 them.

3230 *Ms. Blunt Rochester. Yes, and also contribute to
3231 healthy child development. I think you are correct.

3232 And Mr. Greenblatt, you know, a lot of times we hear,
3233 when we discuss dark patterns, about things that companies

3234 shouldn't do. But can you -- you, you know, mentioned the
3235 Social Pattern Library, and it considers some very important
3236 things. What are good design principles? Can you describe
3237 some of the findings and recommendations that ADL made, as
3238 part of the Social Pattern Library?

3239 *Mr. Greenblatt. Yes, thank you for the question. A
3240 few points.

3241 I mean, number one, nudges are very useful. And we have
3242 seen services like YouTube and Twitter implement them based
3243 on our recommendations, and actually decrease the prevalence
3244 of hate on their platforms.

3245 Number two, doing things like turning off the automatic
3246 auto reel that you often see on services like YouTube. So
3247 the videos keep playing over and over again, and the young
3248 people, the children, are just fed this content without
3249 actively choosing it.

3250 Number three, another design principle is you don't have
3251 to have, let's say, controversial videos. I think you have
3252 to have controversial videos, but videos that violate the
3253 policies, if you will, there is just no reason to be
3254 promoting them. They should be taken down. But while they
3255 are being viewed, you don't have to put them in search.

3256 There are lots of little techniques that product
3257 managers can do in order to iterate the results slightly in a
3258 way that is consistent with preserving freedom of speech, but

3259 that doesn't --

3260 *Ms. Blunt Rochester. Thank you.

3261 *Mr. Greenblatt. -- will promote the fringes.

3262 *Ms. Blunt Rochester. Yes, my time has run out, but I

3263 will follow up with a question for Mr. Ahmed.

3264 [The information follows:]

3265

3266 *****COMMITTEE INSERT*****

3267

3268 *Ms. Blunt Rochester. And thank you so much, Madam
3269 Chairwoman, for this very important hearing, I yield back.

3270 *Ms. Schakowsky. Thank you.

3271 And Mr. Walberg, you are now recognized for five
3272 minutes.

3273 *Mr. Walberg. Thank you, Madam Chairwoman, and I
3274 appreciate being waived on today. This is a hearing that I
3275 think is important, with multiple hearings we are doing on
3276 Big Tech and its impact.

3277 I know members of this committee on both sides have long
3278 supported a comprehensive national privacy and data security
3279 framework, and we have a record of working in a bipartisan
3280 manner to achieve that. For that I am grateful. While many
3281 worthy proposals are being considered today, I fear that,
3282 without a bipartisan, cohesive framework, we will continue
3283 down a path of patchwork laws that confuse consumers and
3284 place undue compliance burdens on businesses.

3285 We may have significant differences on issues such as
3286 Section 230 reform, but privacy, particularly when it comes
3287 to children, should be a no-brainer. Or maybe that is the
3288 wrong term to use. It should be a good-brainer. That is why
3289 I have introduced, with my good friend, Congressman Rush, a
3290 bipartisan bill that would update and modernize the
3291 Children's Online Privacy Act, or COPPA. I wish that it was
3292 part of the hearing today, but it isn't. But still, it can

3293 be in the future, and I hope it is.

3294 Mr. Lane, as you know, this is not the only legislation
3295 aimed at enhancing child privacy laws. There are Democratic
3296 proposals in both the House and Senate, which reemphasizes my
3297 point that this should be a bipartisan issue.

3298 However, I have concerns with some of the COPPA
3299 legislation that has been introduced, including language that
3300 would grant new authorities to the FTC that may unduly burden
3301 legitimate business activity, such as good actors that have
3302 FTC-approved self-regulatory guidelines. And so, Mr. Lane,
3303 could you speak to why elimination of self-regulatory
3304 guidelines is harmful, and what might be some unintended
3305 consequences of doing just that?

3306 *Mr. Lane. Sure, happy to, and thank you for the
3307 question.

3308 First of all, I want to say I am a big supporter of
3309 reforming COPPA. I actually think it should start at 17 and
3310 go younger, and not at 16. I think it needs to be updated.
3311 Things have changed since Ed Markey moved the bill back in
3312 1998. But one of the pieces of the bill that is actually
3313 important that has not -- that may be left out, or included
3314 in part of the -- some of the reform bills, is the self-
3315 regulatory environment of having FTC-compliant COPPA entities
3316 being certified.

3317 And the reason that we supported that in the past, and

3318 why we liked it, was it was to help parents. It was to help
3319 parents to know that, if their kids were going on a site that
3320 was for 12 and under, that there was some mechanism, though,
3321 that was like a Good Housekeeping Seal of Approval, because
3322 we were concerned that, as Jessica knows, the lack of
3323 resources at the FTC, they can't investigate everybody.

3324 So we thought we could help put together a mechanism
3325 that would say we have a certification program that you go
3326 through. That certification program and that company can be
3327 certified by the Federal Trade Commission, and it would help
3328 provide parents with information that the sites that they
3329 were going to have their kids on would be COPPA-compliant.

3330 Now there have been some bad actors, and recently one of
3331 those bad actors got booted from the program. They should
3332 have. And I would support stronger enforcement of those
3333 entities like -- that are doing a great job.

3334 But I think it may do a disservice to parents that, if
3335 they have to kind of guess and hope and pray that these
3336 thousands of websites that are targeting 12 and under are
3337 COPPA-compliant, I think that maybe that would just be a
3338 mistake.

3339 *Mr. Walberg. Thank you. My legislation, of course, as
3340 you may know, raises the age for parental consent protections
3341 for children online from under 13 to under 16 years of age.
3342 It just seems that Big Tech, in this space, has a race to the

3343 bottom going on.

3344 *Mr. Lane. Yes. And if I can just add one other piece
3345 -- and Jessica was actually one of the first individuals I
3346 reached out to on this -- is this FinTech child privacy
3347 protection gap. Because what has happened is that, as kids
3348 are migrating into this digital e-commerce world, and having
3349 debit cards and digital wallets, those privacy rules are
3350 Gramm-Leach-Bliley, which is an opt-out regime, and you hope
3351 that the parents would opt out. As Congressman Cardenas had
3352 basically said, no one reads the opt out, and no one opts
3353 out.

3354 COPPA is for websites targeted 12 and under. So the
3355 concern is that, as you have this combination of kids'
3356 financial information being collected, and then tagging that
3357 along with social networking information, you have the
3358 perfect storm of underage kids having a whole dossier on them
3359 prior to them hitting 18. That could be detrimental to their
3360 future. And that gap, I think, needs to be filled by
3361 legislation.

3362 *Mr. Walberg. I appreciate that. I have some more
3363 questions, but I don't have time. I will get them to you.

3364 [The information follows:]

3365

3366 *****COMMITTEE INSERT*****

3367

3368 *Mr. Walberg. But I appreciate you adding that, because
3369 that is insightful. Thank you.

3370 *Ms. Rich. Can I make one quick point about the COPPA
3371 safe harbors?

3372 *Mr. Walberg. If the chairperson allows it.

3373 *Ms. Rich. Can you --

3374 *Ms. Schakowsky. I am afraid that is going to have to
3375 go into the -- to respond in writing.

3376 *Ms. Rich. Okay.

3377 *Ms. Schakowsky. We have to move on. And I now
3378 recognize for five minutes Mr. Carter.

3379 *Mr. Carter. Thank you, Madam Chair and Leader
3380 Bilirakis, for allowing me to waive on this hearing. I
3381 appreciate it very much.

3382 Ms. Rich, I will go to you, but I have another question
3383 here. I want to go back to the exchange that you had with
3384 Ranking Member Rodgers.

3385 We have got a lot of supply chain issues that are going
3386 on right now, and they can go beyond just a local retailer.
3387 Say I am the owner of a car dealership in Georgia, or a wine
3388 shop in Washington State, or even a grocer in a small town in
3389 West Virginia. I am paying more now than I was before to get
3390 access to products that aren't as available as they were
3391 before. I may have to charge more than I did a month ago,
3392 just simply because of the increased cost, obviously.

3393 I don't know the ins and outs of the FTC Act, so aren't
3394 the processes -- the process changes, the new authorities
3395 that the -- that have been discussed today, and other actions
3396 going to cause a lot of confusion and -- for me, as a
3397 retailer, and just for -- trying to responsibly run my
3398 business?

3399 *Ms. Rich. I haven't done that analysis, but I do know
3400 that right now there is a lot of confusion about when the FTC
3401 instead chooses to pursue something through deceptive or
3402 unfair practices. And so the FTC is always better off when
3403 it has direction from Congress as to what the standards are
3404 for particular concerns like content moderation, privacy, et
3405 cetera. So I think, at least in many circumstances,
3406 direction from Congress decreases confusion.

3407 *Mr. Carter. Decreases confusion.

3408 *Ms. Rich. Decreases confusion.

3409 *Mr. Carter. Okay.

3410 *Ms. Rich. Now, what I think maybe you are asking
3411 about, though, is the issue of having multiple sectoral laws,
3412 instead of one law together, which I have been advocating for
3413 privacy, where at least companies would be able to look in
3414 one place for a lot of direction about important issues like
3415 data use.

3416 *Mr. Carter. Right.

3417 *Ms. Rich. And I do think having one comprehensive

3418 privacy law, which could include many of these elements in
3419 it, would be better off than having multiple sector rules.

3420 *Mr. Carter. Look, I was in business for over 32 years,
3421 and I can tell you, first of all, I didn't have time to do
3422 all this kind of research. Secondly, I mean, we are inside
3423 baseball here. But many of these people, many of these
3424 business people, they don't know how to navigate all this.

3425 *Ms. Rich. I agree that multiple sectoral laws, which
3426 is in the area I am the greatest expert in, which is privacy,
3427 has not been good for small companies, or even big companies.
3428 But it definitely is worse for small companies who really
3429 can't figure out what laws apply to them.

3430 *Mr. Carter. Right. All right, let me move on.

3431 Earlier this year there were several Senate Democrats
3432 that sent a letter to Chairwoman Khan at the FTC, encouraging
3433 her to begin a rulemaking process on privacy. I am hopeful
3434 my colleagues in the Senate will second-guess this approach,
3435 once they know how complicated it truly is, because it is
3436 truly complicated, and we don't need it to be complicated.
3437 We need to simplify. Be Thoreauish: simplify, simplify,
3438 simplify.

3439 Ms. Rich, I am also concerned with the timeliness that
3440 it is going to take to complete a rulemaking process on data.
3441 Can you shed some light on how long that process might take,
3442 and what that might mean for consumers and companies looking

3443 to understand all this patchwork of state laws?

3444 *Ms. Rich. There has been a tremendous overselling of
3445 the potential of the FTC to issue a rule on its own, using
3446 its Mag-Moss authority. Under that -- that is a very
3447 cumbersome process. It requires -- for each mandate in a
3448 rule, the FTC has to make -- prove it is unfair, deceptive,
3449 and prevalent, and then there is all sorts of procedural
3450 hurdles. Many rules that have been pursued under this
3451 process have taken years to complete.

3452 And also, given the controversy and all the debates
3453 surrounding privacy that have happened over the course of 20
3454 years, the public would be best served if Congress is the one
3455 to make the tough choices in this area.

3456 *Mr. Carter. Understood. But, you know, again, years
3457 of work that it is going to take in order to get this.

3458 *Ms. Rich. And litigation that would -

3459 *Mr. Carter. Absolutely.

3460 *Ms. Rich. -- likely ensue.

3461 *Mr. Carter. Absolutely. And, you know, most business
3462 owners just get so frustrated, they just throw their arms up,
3463 and they just -- and a lot of them quit.

3464 I have got a lot more, but I will submit it in writing,
3465 and thank you.

3466

3467

3468 [The information follows:]

3469

3470 *****COMMITTEE INSERT*****

3471

3472 *Mr. Carter. And I will yield back, Madam Chair.

3473 *Ms. Schakowsky. The gentleman yields back. And last,
3474 but not least, Mr. Duncan, you are recognized for five
3475 minutes.

3476 *Mr. Duncan. Sometimes they save the best for last. I
3477 am not sure that is the case here. But I want to thank you
3478 and -- Madam Chair, and the ranking member, for hosting
3479 today's hearing, and including my bill, the TELL Act. This
3480 legislation would disclose whether China and other -- and
3481 their state-owned entities are storing, accessing, and
3482 transferring the personal data of American citizens without
3483 being transparent about it.

3484 TikTok, one of the most popular social media platforms
3485 for our children, is a subsidiary of Beijing-based ByteDance.
3486 While I have notable concerns about American companies doing
3487 business in China, and accommodations they make to the
3488 People's Republic of China, it is astonishing to me that
3489 there is any doubt over the level of access and control the
3490 Chinese Communist Party has over this conglomerate and
3491 similar entities.

3492 Mr. Lane, it is great to see you again. Thanks for
3493 being here. As this committee thinks about the future of
3494 internet, and holding Big Tech accountable, are you concerned
3495 about the data being collected by TikTok and companies with
3496 similar relationships in China, and what that might mean for

3497 national security for our country?

3498 *Mr. Lane. I am concerned about that. I think we
3499 should all be concerned about that.

3500 *Mr. Duncan. Thank you. What other provisions on
3501 security vulnerabilities do you think we -- should be
3502 incorporated in this legislation to protect our economic and
3503 national security interests?

3504 *Mr. Lane. Well, I think the legislation starts in the
3505 right place. You know, as parents, I like to say it is a
3506 teachable moment, that people will know where their
3507 information is being housed, and where the companies are
3508 based. And hopefully, they will take their self-correction
3509 action that is necessary.

3510 But I also worry about those websites and other apps
3511 that are not going to disclose, and how do we find those.
3512 You know, as we know, Russia and Iran and China, you know,
3513 and the surrogates, are well-known cyber warriors. And there
3514 is going to be a lot of mischief underneath the ones that we
3515 see.

3516 And my concern is that, you know, we have this dark
3517 WHOIS issue, where we could find out. So, combining your
3518 information, are they where they say they are, and
3519 headquartered where they say they are? We could find
3520 information like that out through an open, accessible WHOIS.
3521 That is what forensics does.

3522 But unfortunately, you know, the NTIA and its
3523 bureaucrats have, for the past five years, stonewalled
3524 Congress taking action in this space. Congressman Latta was
3525 talking about the letters he sent to Homeland Security, the
3526 FTA, and others. And you have companies like VeriSign and
3527 GoDaddy and Namecheap, you know, they will be up on the Hill,
3528 talking to you guys about how we don't need to upset the
3529 multi-stakeholder process of ICANN. That process is now
3530 going on five years. And if -- and five years of darkness.
3531 And if it -- if they did develop something tomorrow, it would
3532 take three more years to implement.

3533 Congress can act on this now. Congress has the
3534 opportunity to fix a cybersecurity problem at no cost to the
3535 U.S. taxpayer. It is in our hands. And you can ask any
3536 cybersecurity expert. I have reports, I have letters from
3537 the, you know, the top people talking about this. So adding
3538 your legislation on where they are, and where the data is
3539 being stored, on top of a strong WHOIS legislation to fix
3540 this GDPR problem -- it is not a U.S. problem, it is a
3541 foreign government.

3542 And I will end on this. Imagine if this law that shut
3543 down the WHOIS, that is threatening our national security,
3544 was a Chinese law or an Iranian law. Would we still stand
3545 here, as a U.S. Congress, and say we shouldn't all set the
3546 multi-stakeholder process to address these laws? The answer

3547 would be no. And I think it is time for the U.S. Congress to
3548 step up, and try to fix this problem before more people get
3549 hurt.

3550 *Mr. Carter. You are exactly right. You know, Big Tech
3551 is not just Facebook or Twitter. It includes companies like
3552 Microsoft, and Apple, and Google, each of which has a
3553 significant presence in China.

3554 My time is going to expire. I had another question, but
3555 I just want to make this point, because I thought about this
3556 while you were speaking.

3557 I don't know that we truly care about all this being
3558 collected from our children through platforms like TikTok and
3559 others. And I raise that awareness because, for the past two
3560 congresses, I have tried to get this committee and this
3561 Congress to find one Democrat to cosponsor a piece of
3562 legislation that would stop the importation of child-like sex
3563 dolls, dolls that are used by pedophiles.

3564 Images, likenesses that are stolen from social media
3565 platforms, the doll created, crafted to look like the child
3566 of one of our constituents, so that someone can play out sex
3567 fantasies with a child-like sex toy, a doll. Very humanlike,
3568 very robotic, where even the voice is taken from the child's
3569 TikTok, and digitally put into that child-like sex toy, so
3570 that it can actually talk like that child to the pervert that
3571 is enjoying themselves with it.

3572 Madam Chair, find me a Democrat that will cosponsor
3573 that, and let's get that over, and let's stop the importation
3574 of child-like sex dolls. When I talk to your colleagues, "Oh
3575 yes, we'" -- yes, I will show them pictures of the dolls. I
3576 will be glad to share them with you. "Oh my God, we need to
3577 do something about that,'" and nothing is done, and so we
3578 continue to import sex dolls into this country that look like
3579 the children of people in our communities, sound like the
3580 children of people in our communities. And it is just wrong.
3581 With that I yield back.

3582 *Ms. Schakowsky. The gentleman yields back, and that
3583 concludes the questioning.

3584 And I want to thank, from the bottom of my heart -- this
3585 has been a wonderful panel, and I thank all of you for the
3586 work that you have done. And I know that it will lead to
3587 real action, I believe, in the Congress.

3588 And before we adjourn, let me also just thank my ranking
3589 member.

3590 I don't know if you wanted to make any final comment for
3591 our witnesses. Okay, you are okay?

3592 And I request unanimous consent to enter into the formal
3593 -- the following document into the record: an online
3594 tracking study.

3595 Without objection, so ordered.

3596

3597 [The information follows:]

3598

3599 *****COMMITTEE INSERT*****

3600

3601 *Ms. Schakowsky. And just stay for one more second,
3602 because I want to remind members that, pursuant to committee
3603 rules, they have 10 business days to submit additional
3604 questions for the record -- I know there were some unfinished
3605 questions that need answers -- to be answered by the
3606 witnesses who have appeared today.

3607 And I asked the witnesses to respond as promptly as
3608 possible to any questions that may come to you.

3609 Once again, thank you. Thank you to -- the
3610 participation. There were five waive-ons to this committee,
3611 which is a lot, showing the kind of interest in this
3612 committee.

3613 And, at this time, the subcommittee is adjourned.

3614 [Whereupon, at 2:52 p.m., the subcommittee was
3615 adjourned.]