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6 HOLDING BIG TECH ACCOUNTABLE:

7 LEGISLATION TO PROTECT ONLINE USERS

8 TUESDAY, MARCH 1, 2022

9 House of Representatives,

10 Subcommittee on Consumer Protection and Commerce,

11 Committee on Energy and Commerce,

12 Washington, D.C.

13

14

15 The subcommittee met, pursuant to call, at 10:31 a.m.,  
16 in the John D. Dingell Room, 2123 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 Craig, Pallone (ex officio); Bilirakis, Upton, Latta,  
22 Guthrie, Bucshon, Dunn, Lesko, Pence, and Rodgers (ex  
23 officio).

24 Also present: Representatives Eshoo; and Walberg.

25

26 Staff Present: Katherine Durkin, Policy Coordinator;  
27 Waverly Gordon, Deputy Staff Director and General Counsel;

28 Jessica Grandberry, Staff Assistant; Tiffany Guarascio, Staff  
29 Director; Perry Hamilton, Clerk; Ed Kaczmariski, Policy  
30 Analyst; Zach Kahan, Deputy Director Outreach and Member  
31 Service; Mackenzie Kuhl, Press Assistant; Jerry Leverich,  
32 Chief Counsel, Communications and Technology; David Miller,  
33 Counsel; Kaitlyn Peel, Digital Director; Caroline Rinker,  
34 Press Assistant; Chloe Rodriguez, Clerk; Andrew Souvall,  
35 Director of Communications, Outreach, and Member Services;  
36 Michele Viterise, Counsel; Caroline Wood, Staff Assistant;  
37 C.J. Young, Deputy Communications Director; Michael Cameron,  
38 Minority Policy Analyst, CPC, Energy, Environment; Peter  
39 Kielty, Minority General Counsel; Emily King, Minority Member  
40 Services Director; Tim Kurth, Minority Chief Counsel, CPC;  
41 Kate O'Connor, Minority Chief Counsel, C&T; Brannon Rains,  
42 Minority Professional Staff Member, CPC; and Michael Taggart,  
43 Minority Policy Director.

44

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

47           Today we will hold a legislative hearing entitled,  
48 "Holding Big Tech Accountable: Legislation to Protect Online  
49 Users.''

50           Due to COVID-19, members can now participate in today's  
51 hearing, either in person, remotely, or remotely online via  
52 conference, and in accord with the updated guidelines issued  
53 by the attending physician.

54           Members, staff, and members of the press can participate  
55 in the hearing room, and are not required to wear masks.

56           For members participating remotely, your microphones  
57 will be set on mute for the purpose of eliminating  
58 inadvertent background noise. Members participating remotely  
59 will need to unmute your microphones each time that you wish  
60 to speak.

61           Please note -- please notice that, once you have unmuted  
62 your microphone and anything that is -- but anything that is  
63 said will be -- can be heard over the loudspeakers. And so  
64 you don't want to do that.

65           Since members are participating from different locations  
66 at today's hearing, all recognition of members shall -- such  
67 as -- such for -- as such for questions will be in the order  
68 of subcommittee seniority.

69           Documents for the record can be sent to Ed Kaczmarek at

70 the email address that was provided to staff, and all  
71 documents shall be entered into the record at the end of --  
72 the conclusion of the hearing.

73 The chair now recognizes herself for five minutes for an  
74 opening statement.

75 So today we begin the third legislative hearing of the  
76 Energy and Commerce Committee to consider legislation to rein  
77 in Big Tech.

78 This subcommittee has worked long and hard to respond to  
79 the challenge, the challenges presented by Big Tech. But  
80 despite our scrutiny and repeated calls for change, the tech  
81 industry has not responded. Now is the time for change and  
82 for accountability.

83 We know social media platforms can be used for good, and  
84 we have seen in the last week the heroic stories of Ukrainian  
85 people, and the amazing fight-back that they have shown, and  
86 courage that they have shown. But misinformation and  
87 disinformation are seemingly still amplified, and that is  
88 having dramatic costs for people around the world.

89 For example, Russian state-owned media is targeting  
90 Spanish speakers around the globe with disinformation to --  
91 excuse me, when it comes to the -- what is going on in the  
92 invasion of Ukraine. Previously, social media abetted a  
93 genocide in Myanmar and a deadly insurrection on January 6th.

94 We are done with apologies and denials from Big Tech

95 companies. We are done turning a blind eye when billionaires  
96 build economic empires by feeding Americans an ever-  
97 increasing diet of disinformation. It is time to regulate.  
98 So we will be considering five bills today.

99 Ms. Eshoo's bill, the Banning Surveillance -- excuse me.  
100 What does that say?

101 \*Voice. Advertising.

102 \*Ms. Schakowsky. What?

103 \*Voice. Advertising.

104 \*Ms. Schakowsky. Okay, the Banning Surveillance  
105 Advertising Act, which I am a proud cosponsor of, to ban  
106 targeting advertising that can track individual users across  
107 the internet.

108 Ms. Clarke's bill, the Algorithms Accountability Act,  
109 will require technology companies using the art of -- using  
110 artificial intelligence to assess the impact of their  
111 algorithms on consumers -- disinformation to --  
112 discrimination, rather, to -- of protected classes no -- has  
113 no place in our digital world.

114 Mrs. Trahan's bill, the Digital Service, Oversight, and  
115 Safety Act, improves transparency for consumers and ensures  
116 that research can be -- can measure the impact of social  
117 media on our society.

118 Mr. Bilirakis's bill, the CAPTURE Act -- that is the  
119 short title -- studies whether law enforcement has the

120 resources to keep us safe online.

121           Mr. Mullin's bill, the Increasing Consumer Education on  
122 Law Enforcement Act, empowers consumers to protect the --  
123 them -- to protect themselves.

124           So as we refine these proposals, I have no doubt that  
125 can help create a fairer, safer internet, one that protects  
126 consumers, and who -- and whose business model isn't rooted  
127 in disinformation.

128           So I look forward to the hearing, and welcome all the  
129 comments of my colleagues on both sides of the aisle, so that  
130 we can work together on this.

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

132

133 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

134

135           \*Ms. Schakowsky. And with that, I would like to welcome  
136 the ranking member, Mr. Bilirakis, for his five minutes.

137           \*Mr. Bilirakis. Thank you so very much, Madam Chair.  
138           Good morning, and welcome to today's subcommittee  
139 legislative hearing, our witnesses.

140           Today's hearing is the third in a series of what the  
141 majority calls "Holding Big Tech Accountable.'" I am -- I  
142 certainly hope the fourth will be on a national privacy and  
143 data security framework.

144           For the December hearing, Republicans invited TikTok to  
145 testify as our witness, since they are not at the center --  
146 they are at the center of many of our shared concerns. But  
147 TikTok declined.

148           For this hearing, I appreciate that the majority backed  
149 our efforts to invite the company, this particular company,  
150 TikTok, this time on a bipartisan basis. But sadly, TikTok  
151 declined yet again. I know this isn't what you want, Madam  
152 Chair. I certainly don't want it, either. So again, very  
153 disappointing, and we are not going to give up.

154           Madam Chair, if we put our heads together, I am sure we  
155 can figure out a way to get this company, this particular  
156 company, TikTok, before our subcommittee, like so many others  
157 who have appeared as part of our country's democratic  
158 process. How very arrogant of them. But again, we are not  
159 going to give up. We need to hear from TikTok.

160           The legislation today covers a broad range of issues,  
161 you know, not just hear from TikTok. We need to ask  
162 questions of TikTok.

163           While I share many of the same concerns as my colleagues  
164 regarding Big Tech's abuse of power, I worry about proposals  
165 that miss the target and hurt other parts of our economy.  
166 Without more careful vetting, these bills will lead to a  
167 worse consumer experience, adversely impact American  
168 innovators and small businesses, and increase market  
169 dominance for large companies, specifically Google in this  
170 case.

171           So far this Congress, this committee has heard from  
172 academics, industry experts, and consumer advocates, which is  
173 great. I am pleased that today we finally get to hear from  
174 law enforcement's perspective. They are on the front lines  
175 -- and I know you agree, Madam Chair -- for protecting our  
176 kids online, which is a primary focus in our fight against  
177 Big Tech. And thank you again for holding this hearing.

178           I am proud to welcome Mike Duffey, a law enforcement  
179 officer based in my home state of Florida, who has dedicated  
180 more than 20 years of his career to protecting our Floridians  
181 and our nation's children from predators and other dangerous  
182 threats online.

183           Law enforcement's insights are critically important, as  
184 we consider multiple avenues to rein in the abuses



185 perpetrated by Big Tech. I believe two bills under  
186 consideration today will help.

187 First we have got the H.R. 6786, the Increasing  
188 Consumers Education on Law Enforcement Resources Act,  
189 introduced by my good friend, Representative Mullin. It will  
190 require FTC and attorneys general to develop a public  
191 education program to inform our constituents about law  
192 enforcement resources regarding online safety.

193 The second is my bill -- and thank you for mentioning  
194 it, Madam Chair, and agenda'ing the bill -- H.R. 6755, the  
195 Cooperation Among Police, Tech, and Users to Resist  
196 Exploitation Act, or the CAPTURE Act, which will require the  
197 Government Accountability Office to research and provide  
198 recommendations on how to improve coordination and  
199 consultation between social media companies and law  
200 enforcement without creating constitutional issues.

201 Some here may recognize the single point of contact  
202 proposal, as it currently exists in the FirstNet framework.  
203 This is a model I am looking to apply to tech platforms so  
204 Federal, state, and local law enforcement have clarity on who  
205 is reached reaching out to these companies in order to tackle  
206 harms online.

207 Given the connection to today's Democratic bills have on  
208 privacy and data security, I know my friend, the chair, will  
209 appreciate me once again emphasizing the importance of

210 passing a national privacy and data security law. Even the  
211 House Administration Committee just held a hearing on a  
212 national privacy standard. We are all well overdue -- we are  
213 overdue to hold a committee hearing because we have the  
214 jurisdiction in this committee, and I know the chair has  
215 promised that we would.

216         Madam Chair, I know these issues are extremely important  
217 to you, and the best way to protect our constituents online  
218 is through a national privacy and data security framework.  
219 It is time our subcommittee moves beyond these one-off bills  
220 that beat around the bush of privacy and data security  
221 concerns. Leader Rodgers -- and she will -- I am sure she  
222 will confirm this -- and I remain fully committed to working  
223 across the aisle with anyone to enact a truly comprehensive  
224 privacy and data security law, and I urge my colleagues to  
225 join me in these efforts.

226         Thank you again for allowing me to participate today,  
227 and I look forward to the discussion, especially how these  
228 proposals will help protect our kids online.

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

230

231         \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

232

233           \*Mr. Bilirakis. Thank you, and I yield back.

234           \*Ms. Schakowsky. Thank you, Mr. Bilirakis. And I do  
235 look forward to very soon dealing with a comprehensive  
236 privacy bill. I think we are on our way.

237           And let me now welcome the chair of the full committee,  
238 Mr. Pallone, for five minutes.

239           \*The Chairman. Thank you, Chairwoman Schakowsky.  
240 Today's hearing is the third in a series of hearings this  
241 committee has held on legislative reforms to hold social  
242 media companies accountable. The two previous legislative  
243 hearings covered reforms to section 230 of the Communications  
244 Decency Act and consumer protection-focused legislation to  
245 help build a safer internet. Today we will examine  
246 legislation to enhance transparency and further promote  
247 safety online.

248           These hearings come after years of repeated bipartisan  
249 calls for social media companies to change their ways. Since  
250 2018 the committee has held 8 hearings on the subject. We  
251 have examined these issues from all sides, and now it is time  
252 for us to come together and to act. We are committed to  
253 working with our Republican colleagues on legislation to  
254 increase transparency, limit online manipulation, and improve  
255 online safety.

256           And we all know how important social media is to our  
257 daily lives. It allows us to connect with family and friends

258 to organize and to stay safe. And we are seeing that  
259 firsthand right now in Ukraine, as images posted on social  
260 media are exposing the world to just how depraved and  
261 misguided Vladimir Putin's actions are.

262 Ukrainians armed with their smartphones are documenting  
263 the bravery of their fellow citizens standing up to the  
264 Russian military and the brutality of war. Social media is  
265 allowing Ukrainians to spread the word without any filters of  
266 the true impacts of this war. The images they are capturing  
267 on their phones are being shown worldwide, showing the world  
268 the atrocities being inflicted on the Ukrainian people.

269 But at the very same time, we have seen weeks of Russian  
270 disinformation campaigns used to lay the groundwork for the  
271 invasion of Ukraine. These campaigns use propaganda to build  
272 support for the Kremlin and, unfortunately, they spread like  
273 wildfire online.

274 And there is no question that fast-moving current events  
275 can be difficult for social media companies to respond to  
276 quickly. But that is their responsibility, and they must be  
277 held accountable. We must ensure they are transparent, and  
278 their incentives align with the good social media can do for  
279 people, and not the bad.

280 Today we will discuss five bills that target different  
281 parts of the social media ecosystem to make platforms safer  
282 for users.

283           One of the best ways to make these companies more  
284           accountable is to make them more transparent. We will  
285           discuss legislation that establishes an Office of Independent  
286           Research Facilitation at the FTC. This new office would help  
287           facilitate academic research on social media platforms to  
288           help us get the data we need on how these companies are  
289           targeting users.

290           Another bill requires companies that use automated  
291           decision-making to conduct impact assessments on their  
292           systems, and regularly report the results to the FTC. Now,  
293           these assessments will help ensure that machine learning is  
294           being employed in a fair and nondiscriminatory manner.

295           We will also consider a bill to ban the practice of  
296           targeted advertising, which includes a provision prohibiting  
297           advertisers from using information that identifies a consumer  
298           as a member of a protected class for advertising purposes.

299           And finally, we will consider bills that will help  
300           social media companies work better with Federal, state, and  
301           local law enforcement to protect users who feel their safety  
302           has been violated online.

303           Now, these proposals, along with the proposals we  
304           considered in the two previous legislative hearings, are  
305           collectively major steps in addressing the real harms caused  
306           by Big Tech.

307           Another part of tech accountability is protecting

308 people's privacy. I know that both the ranking member of the  
309 subcommittee and the chairwoman mentioned this, and have been  
310 involved with this, and we are particularly concerned about  
311 our children's privacy, as more and more apps are used by and  
312 targeted to our kids.

313 I think every member of this committee agrees that more  
314 must be done on privacy, and that is why we have been working  
315 since last Congress on a bipartisan staff draft. Our work on  
316 that legislation continues, and I hope the Republicans will  
317 work together with us on that, as well.

318 The bills before us today collectively address tech  
319 accountability. The time to act is now, and these bills can  
320 help us make the internet a safer place. And I look forward  
321 to our discussion today and, obviously, hearing from our  
322 excellent panel.

323 [The prepared statement of The Chairman follows:]

324

325 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

326

327           \*The Chairman. I yield back, Madam Chairwoman, and  
328 thank you for all that you have done on these issues. You  
329 are -- you really have been working on them for a long time,  
330 and it is -- it has made a difference in terms of where we  
331 are today. Thank you.

332           \*Ms. Schakowsky. Thank you, Mr. Chairman. And now,  
333 wearing her Ukrainian yellow --

334           \*Mrs. Rodgers. That is right.

335           \*Ms. Schakowsky. I want to recognize Mrs. Rodgers, our  
336 ranking member, for five minutes for her opening statement.

337           \*Mrs. Rodgers. Thank you, Madam Chair.

338           First I want to say, "Glory to Ukraine.'" Several of us  
339 on this committee had the opportunity to travel to Ukraine,  
340 and were inspired at the time with their fight for  
341 self-determination and independence. And today I continue to  
342 support their fight for freedom, and I pray for their  
343 strength and security, and their freedom to prevail.

344           While some tech companies have taken steps to prevent  
345 the proliferation of Russian state-sponsored propaganda, I  
346 hope that we too on the subcommittee will be vigilant in  
347 addressing how others, like Twitter, maintaining an account  
348 for the Kremlin; or TikTok, reinstating Russian, state-owned  
349 media, are complicit in spreading it, as well as other  
350 disinformation campaigns from Putin. This has real-world  
351 consequences for the Ukrainians and our other European

352 allies.

353           We all share the goal of holding Big Tech accountable,  
354 especially for our children. Big Tech platforms are my  
355 biggest fear as a parent. Nearly every conversation I have  
356 with parents in schools these days comes back to the concerns  
357 about Big Tech and our kids. It is echoed by pediatricians,  
358 school administrators, and teachers. Big Tech are not  
359 advocates for children. Our kids, the users, are their  
360 product, and they are being manipulated and exploited for  
361 profit. They are being exposed to cruelty, bullying, and  
362 induced to self-harm. These harms have been worsened by the  
363 move to virtual life because of government-imposed school  
364 closures and lockdowns.

365           We must -- this committee can and must -- do more to  
366 address this crisis. If we are going to address issues with  
367 Big Tech and the advertising industry, that discussion  
368 includes improving transparency and accountability for how  
369 these businesses are collecting personal information,  
370 especially from our children. My Republican colleagues and I  
371 unveiled a privacy and data security framework last year.  
372 Addressing these issues in a hearing would help us make  
373 progress.

374           One bipartisan bill we asked to be considered is the  
375 Walberg-Rush Child Online Privacy Protection Act update.  
376 Despite many changes being considered on the collection and



377 use of data today, unfortunately, this one is still missing  
378 on the schedule.

379         Also, if we are discussing emerging technologies like  
380 artificial intelligence, we should be addressing how AI can  
381 strengthen American leadership and reflect our values of  
382 freedom, human rights, and human dignity. These are issues  
383 that require time, education, and hearings to debate and  
384 identify common ground.

385         A key component for many of these issues is the  
386 authority Congress grants to the Federal Trade Commission.  
387 The bills today proposed by the Democrats enact sweeping  
388 changes for the FTC. I appreciate that the Commission wants  
389 to be more involved in improving data security. We have been  
390 clear that we are willing to negotiate on additional  
391 authority, but changes like this must be given the  
392 appropriate time for discussion and vetting.

393         We need to start by ensuring accountability and  
394 transparency from the FTC on its current authorities before  
395 we give them more power. The FTC should come before this  
396 committee to help us better understand how they would use  
397 additional authority, as well as provide us assurances it has  
398 its own house in order.

399         For this reason I sent a letter to Chair Khan yesterday  
400 on the FTC's recent enforcement announcements for the  
401 security vulnerabilities found in the open source software --

402 specifically, Log4J. Recent testimony in the Senate suggests  
403 government systems may have used Log4J, so we must learn  
404 whether agencies under our jurisdiction have system  
405 vulnerabilities that could be exploited specifically by  
406 foreign actors like Russia or China.

407         Missing from today's witness panel is TikTok, who  
408 declined an invitation to testify. And it is not the first  
409 time. TikTok threatens the safety, mental health, and  
410 well-being of our kids. A recent Wall Street Journal  
411 investigation found teen girls are developing tics from  
412 content they watch on TikTok. This is alarming, and their  
413 complete carelessness with people's personal information is  
414 even more concerning.

415         TikTok's ties to China raise significant concerns  
416 regarding the amount of access the CCP has to information of  
417 Americans. We know TikTok's parent company, ByteDance, is an  
418 extension of this authoritarian regime, and now we see  
419 reports that TikTok is allowing Russian Government propaganda  
420 to proliferate. TikTok operates with disregard for U.S.  
421 national security concerns. Our witness today, Officer  
422 Duffey, can share more on how they challenge the reach of  
423 local law enforcement, as well.

424         These concerns about privacy and Big Tech are issues we  
425 have been leading on, and we look forward to working together  
426 to address.

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

428

429 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

430

431 \*Mrs. Rodgers. I yield back.

432 \*Ms. Schakowsky. The gentlelady yields back, and the  
433 chair would like to remind members that, pursuant to  
434 committee rules, that all members' written opening statements  
435 shall be included in the record.

436 And now I would like to introduce our witnesses for  
437 today's hearing. As you can see, two are here. Is that  
438 three in person?

439 \*Voice. Yes, just --

440 \*Ms. Schakowsky. Oh, three in person and one remotely.  
441 And I want to welcome Laurel Lehman, who is policy analyst at  
442 Consumer Reports; Katie McInnis, who is senior policy --  
443 public policy manager at Duck Duck Goose.

444 \*Voice. DuckDuckGo.

445 [Laughter.]

446 \*Ms. Schakowsky. I am sorry. Duck, Duck Goose, that is  
447 a game. Duck Duck Gov (sic). Okay, sorry about that.

448 Okay, I want to also welcome Mike Duffey, who is special  
449 agent supervisor in charge at the Florida Department of Law  
450 Enforcement.

451 And Mutale Nkonde, who is the founder and chief  
452 executive officer at AI -- excuse me, of AI at the -- what is  
453 this, public?

454 \*Voice. AI for the People.

455 \*Ms. Schakowsky. Oh, AI for the People U.S. There we

456 go.

457           So at this time the chair will recognize each witness  
458 for five minutes to provide their opening statements.

459           But before we begin, I want to make sure that I call  
460 attention for the witnesses that are testifying in person.  
461 In front of you, you -- some of you have testified before,  
462 but if not, you will notice that there are lights in front of  
463 you, and the light will initially be green. The green will  
464 turn yellow when you have one minute remaining. And please  
465 begin to wrap up your testimony at that point. The light  
466 will turn red when your time has expired.

467           For the witness who is testifying remotely, there is a  
468 timer on your screen that will count down your remaining  
469 time.

470           And with that, let me ask Ms. Lehman.

471           You are recognized now for your five minutes.

472           \*Ms. Lehman. Thank you, Chair Schakowsky.

473           \*Ms. Schakowsky. Microphone.

474           \*Voice. We can't hear you. Is it on?

475           \*Voice. Maybe closer --

476           \*Voice. Pull it closer.

477           \*Ms. Lehman. All right. There we go?

478           \*Voice. There we --

479           \*Ms. Schakowsky. There we go.

480           \*Ms. Lehman. All right.

481           \*Voice. Fine.

482           \*Ms. Lehman. All right. Thank you, Chair Schakowsky.

483

484 STATEMENT OF LAUREL LEHMAN, POLICY ANALYST, CONSUMER REPORTS;  
485 KATIE MCINNIS, SENIOR PUBLIC POLICY MANAGER U.S., DUCKDUCKGO,  
486 INC.; MIKE DUFFEY, SPECIAL AGENT SUPERVISOR,  
487 FLORIDA DEPARTMENT OF LAW ENFORCEMENT; AND MUTALE NKONDE,  
488 CHIEF EXECUTIVE OFFICER, AI FOR THE PEOPLE U.S.

489

490 STATEMENT OF LAUREL LEHMAN

491

492 \*Ms. Lehman. Chairman Pallone, Ranking Member Rodgers,  
493 Chair Schakowsky, Ranking Member Bilirakis, and members of  
494 the subcommittee, thank you for inviting Consumer Reports to  
495 testify today on the crucial matter of protecting consumers  
496 online.

497 My name is Laurel Lehman, and my work at CR focuses  
498 specifically on platform accountability, so that is where I  
499 will spend most of my time today.

500 For 86 years, consumers have turned to CR for answers to  
501 questions like, "Is this product safe? Is it worth my time  
502 or money? What risks might it pose to my family?"  
503 Consumers today grapple with the same questions, but about  
504 their online experiences. It is this platform safe? Is it  
505 worth my time? Are the goods I am buying from this ad  
506 authentic? Why am I seeing this ad again?

507 Today's hearing grapples with this century's version of  
508 confronting the very same challenges that have driven CR's

509 fight for a fair, just, and transparent marketplace all  
510 along. The bills before the subcommittee today seek these  
511 same aims, and we are excited to work with you to refine,  
512 craft, and pass legislation that can help us usher in the  
513 online ecosystem that consumers deserve.

514 Consumers face a range of issues in the digital  
515 marketplace. In a nationally-representative survey, CR found  
516 that, of the 94 percent of Americans who said they had ever  
517 had at least 1 social media account, 84 percent had adjusted  
518 their social media settings at some point to limit or filter  
519 content in some way; 39 percent had elected to turn off  
520 targeted ads; 59 percent said that they had read news on a  
521 social media site they initially believed to be true, but  
522 later learned was made up; and 37 percent told us that they  
523 had, at some point, wanted to change their privacy settings  
524 on a social media platform, but didn't know how.

525 And their concerns are limited to social media. They  
526 expand to e-commerce and the way that AI impacts their lives,  
527 as I elaborate on in my written testimony.

528 Yet the digital marketplace is as varied in potential  
529 solutions as it is in its problems. Just as one no recall  
530 safety standard or warning label can unilaterally keep  
531 consumers safe offline, the variety of challenges consumers  
532 face online requires a range of evidence-based policy  
533 solutions, from comprehensive transparency to expanded use of



534 section 5 authorities to approaches of consumer protection  
535 law to cautious, narrow changes to section 230, and certainly  
536 include a stronger, better-funded FTC.

537         Auto and product manufacturers are expected to conduct  
538 safety testing, and CR can test cars and appliances for  
539 performance under stress to see how manufacturer claims line  
540 up with their advertising. Digital product manufacturers,  
541 however, have no such obligations to research, mitigate, or  
542 disclose risks or dangers in the ways their systems work.  
543 They are not required to publish clear community guidelines  
544 or terms of service, or report on how effective their  
545 enforcement of such guidelines may be. And they make no  
546 guarantees they are appropriately staffing and equipping the  
547 teams that -- dedicated to keeping consumers safe from  
548 harassment, spam, counterfeit products, hate speech, and  
549 misinformation.

550         Transparency will be fundamental to all such evidence-  
551 based policy. In particular, three different kinds. I talk  
552 about pipelines, processes, and personnel.

553         When I talk about pipeline transparency, we are talking  
554 about what factors influence what a consumer sees online.  
555 Whether that is an algorithm, or whether that is an ad, what  
556 components go into that?

557         When we talk about process transparency, consumers  
558 deserve to know the rules of the road. What can they expect

559 from their online communities, and how can they expect those  
560 rules to be enforced?

561         When we talk about personnel, we are talking about, when  
562 platform fail consumers, how can we make sure that platform  
563 whistleblowers are empowered to make sure the public knows?  
564 And also, how we are making sure that platforms are  
565 appropriately staffed to enforce their terms of service  
566 everywhere they operate?

567         CR's test track can figure out how cars handle stress  
568 because we have speedometers. Right now no one can crash  
569 test ads and algorithmic recommendations, except the  
570 platforms that profit from them.

571         But transparency is the floor, not the ceiling, when it  
572 comes to building a more responsible online information  
573 ecosystem. Platforms clearly require stronger incentives to  
574 take responsibility for the harms they compound and  
575 accelerate.

576         Across consumer products, it is well understood that  
577 companies should bear responsibility for design and process  
578 choices related to foreseeable preventable harms.  
579 Meanwhile, YouTube failed to ban vaccine misinformation until  
580 September 2021, when platforms like Pinterest had started as  
581 early as February 2019. CR investigations in 2020 show that  
582 Facebook failed -- that Facebook had approved ads with  
583 COVID-19 misinformation.

584           Online platforms fail to take reasonable baseline steps  
585 to ensure their products are designed and managed  
586 responsibly. Consumers should be able to expect an online  
587 system where we can trust that platforms have values past  
588 those which they return to their shareholders.

589           At the end of the day, consumers deserve a safe, just,  
590 and transparent digital marketplace that they can trust.  
591 Congress can and must work to pass legislation that makes it  
592 possible, and CR looks forward to working with you in pursuit  
593 of that aim.

594           Thank you again for inviting us here today. I look  
595 forward to your questions, and to today's discussion.

596           [The prepared statement of Ms. Lehman follows:]

597

598           \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

599

600           \*Ms. Schakowsky. Well, thank you. And now Ms. McInnis  
601 from DuckDuckGo is recognized for five minutes.  
602

603 STATEMENT OF KATIE MCINNIS

604

605           \*Ms. McInnis. Thank you, Chairwoman. Chair Schakowsky,  
606 Ranking Member Bilirakis, Chairman Pallone, Ranking Member  
607 McMorris Rodgers, and members of the subcommittee, thank you  
608 for holding this important hearing and inviting me to  
609 testify. I am here to discuss DuckDuckGo's privacy-protected  
610 business model, and why we need bills like the Banning  
611 Surveillance Advertising Act to protect individuals online  
612 and to reform the general market.

613           DuckDuckGo is a privacy technology company. We believe  
614 that privacy is a human right, and that being private online  
615 should be simple and accessible to all. With one download of  
616 the DuckDuckGo privacy browser for mobile or the DuckDuckGo  
617 privacy essentials browser extension for desktop, we offer  
618 seamless protection from surveillance ads by blocking  
619 trackers. This includes our email protection service, our  
620 tracker blocker technology, and our private search engine,  
621 which is the fourth largest in the United States, and serves  
622 over three billion searches a month, globally. Our company  
623 was founded in 2008 in Valley Forge, Pennsylvania. And year  
624 after year, we have seen record growth, proving users'  
625 interests in being private online.

626           DuckDuckGo is robustly profitable, and has been since  
627 2014, thanks to our contextual ad model. Contextual

628 advertisements are based on the content being shown on the  
629 screen, and not -- and do not need to know anything about  
630 you. So if you go to DuckDuckGo and perform a search --  
631 let's say you search for mobile phones, we are going to serve  
632 you with ads for phones. It is as simple as that.

633 Behavioral advertising, by contrast, is based on  
634 personal profiles from data collected both on and offline  
635 about you. Have you ever searched for something online, and  
636 then saw an ad for that exact same thing pop up on another  
637 website, or an app? Or maybe you thought that your phone is  
638 listening to you, based on the creepy ads that you are seeing  
639 online? That is surveillance advertising. And rather than  
640 finding these ads useful, a majority of Americans say that  
641 this is a misappropriate use of their data. And it is no  
642 surprise this is a massive violation of their user privacy  
643 and data collection expectations.

644 And it is not just that. Data collection also results  
645 in additional harm, like discrimination, identity theft,  
646 fraud, scams, and filter bubbles. This same personal  
647 information that allows a company to target you with an ad  
648 also enables them to discriminate against you and others in  
649 the presentation of critical opportunities. And these harms  
650 are not just theoretical.

651 For instance, the Department of Housing and Urban  
652 Development brought a case against Facebook, charging them

653 with housing discrimination by allowing advertisers to  
654 restrict who saw ads based on race, religion, and national  
655 origin. This is a harm that was made possible, thanks to  
656 data collection for surveillance ads.

657         Online surveillance also enabled advertisers to use  
658 Google's ad tracking -- ad targeting algorithm to present  
659 more men than women with ads for higher-paying jobs. The  
660 practice of data collection, therefore, is not just about a  
661 user's privacy or data collection expectations, but about the  
662 presentation of critical access to opportunities and  
663 employment.

664         Consumers should have an easy and effective way to avoid  
665 this surveillance. And as our history makes clear, internet  
666 companies can be successful and profitable with a contextual  
667 ad model. Studies have additionally shown that publishers  
668 receive very little significant increase in revenue by using  
669 behavioral ads. And in fact, many online advertising  
670 companies started with a contextual ad model, including  
671 Google. Until recently even, most of the ads you are seeing  
672 online were contextual ads. However, due to Google's  
673 acquisition of DoubleClick and Facebook's ad -- Facebook's  
674 control of the ad duopoly with Google, there has been a focus  
675 on behavioral advertising, and innovation in contextual  
676 advertising has been severely suppressed.

677         If data collection for targeted ads were banned, access

678 to personal data would no longer determine whether companies  
679 would succeed or fail in the advertising market, meaning that  
680 more companies would be able to compete against Google and  
681 Facebook's ad duopoly.

682 As surveillance ads result in measurable harm for users  
683 and little to no increase in revenue for publishers, we must  
684 ask, "What is all this surveillance for, if it is not just  
685 lining the pockets of Facebook and Google?"

686 As a House Antitrust Subcommittee report and reports  
687 from governments around the world demonstrate, access to  
688 personal data enables Big Tech to protect and entrench their  
689 dominant status online, generally, and in the ad market, in  
690 particular. A shift back to contextual advertising,  
691 therefore, would significantly reduce Google and Facebook's  
692 inherent advantages in advertising and beyond.

693 Our mission at DuckDuckGo is to raise the standard of  
694 trust online. We therefore support bills like the Banning  
695 Surveillance Advertising Act that would do exactly that.  
696 Consumers should be protected from the harm surveillance  
697 advertising and data collection cause, like discrimination,  
698 identity theft, scams, and fraud.

699 We believe that getting privacy online should be as  
700 simple as closing the blinds. Therefore, we urge Congress to  
701 pass bills that allow individuals to easily protect  
702 themselves and would also have the benefit of strengthening



703 the online market.

704 I am pleased to answer your questions today, and make  
705 myself available to members in the future for in-depth  
706 discussions about this bill. Thank you.

707 [The prepared statement of Ms. McInnis follows:]

708

709 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

710

711           \*Ms. Schakowsky. Thank you. And now it is my pleasure  
712 to invite Mr. Duffey for five minutes.  
713

714 STATEMENT OF MIKE DUFFEY

715

716 \*Mr. Duffey. Thank you, Madam Chairwoman Schakowsky and  
717 Ranking Member Bilirakis, and members of the subcommittee.  
718 Thank you for inviting me today. I serve as assistant  
719 special agent in charge of Florida Department of Law  
720 Enforcement's [inaudible] crimes unit.

721 I started my law enforcement career during the AOL dial-  
722 up days. And in the 25 years since, I have seen massive  
723 changes in the way crime is committed and investigated. In  
724 that time I have learned that, whether crimes are committed  
725 in the virtual world or in the physical world, technology  
726 companies possess a large amount of essential evidence law  
727 enforcement needs to do our job. But lack the regulatory  
728 framework that enables efficient and lawful access to that  
729 evidence means that we are ineffective at reducing criminal  
730 threats, preventing victimization, or getting justice for the  
731 victims (sic).

732 My investigative unit at FDLE, like thousands of others  
733 across local, state, and Federal law enforcement, is in a  
734 never-ending race to improve our access to digital evidence.  
735 We need money for training and tools to access evidence we  
736 can obtain from devices that we seize. But we are also  
737 facing increased challenges with the complete inability to  
738 access digital evidence when platforms deploy end-to-end

739 encryption. Congress can help us address both of these  
740 issues.

741 I want to share today with you a few examples of the  
742 challenges we are facing. Service providers are subject to  
743 little or no data retention requirements. In contrast, the  
744 banking industry is obligated to keep financial records for a  
745 certain period of time.

746 In one example of how this can hurt our ability to  
747 respond to a crisis, a young person was livestreaming how he  
748 was going to commit suicide, potentially in front of a live  
749 audience. We immediately contacted the service provider that  
750 we had received this information, and to try to attempt to  
751 determine where the user was located. We noted that the  
752 livestream appeared to have ended, and the content provider  
753 was unable to find the record of the streaming event. We had  
754 nothing to follow up on, if it had not been for the family's  
755 own posting that they had intervened.

756 The lack of data retention requirements frustrates the  
757 most traumatic cases we deal with every day, which is the  
758 child sexual abuse cases. Service providers do -- who do  
759 identify CSAM on their platforms are required to report it to  
760 our partners at the National Center for Missing and Exploited  
761 Children. An investigation then begins with an agency  
762 serving legal process to a company for internet protocol  
763 information in an attempt to identify where the activities

764 were occurring. If the provider does not retain data, a user  
765 has deleted it, the child predator becomes harder to identify  
766 and stop.

767         The lack of standard terminology regarding the exchange  
768 of legal process between law enforcement and service  
769 providers leads to great confusion. Unless the terms we use  
770 to determine certain types of data matches within the own  
771 company's unique corporate terms, law enforcement must engage  
772 in a lengthy back and forth, costing valuable time in an  
773 investigation.

774         We have seen some service providers implement online  
775 portals that are designed to facilitate the requests from law  
776 enforcement. These portals have been helpful in terms of  
777 improving timeliness and security of data that -- exchanged  
778 between both parties. The response time is anywhere from one  
779 month to one day. This lag can ultimately be dangerous to  
780 the cases we investigate.

781         Most tech companies routinely provide law enforcement  
782 information when they really need -- in an emergency. But  
783 determining the exigent is actually in the hands of tech  
784 companies. As a matter of federal law, we in law enforcement  
785 have the most relevant facts and content to determine  
786 exigency, but yet the companies are the ones who have the  
787 final say.

788         In one example, an individual made comments regarding

789 being excited about July the 9th, and wanting to do what  
790 Nikolas Cruz did. Cruz was the murderer who took 17 innocent  
791 lives and injured 17 others at Marjory Stoneman Douglas High  
792 School, Parkland, Florida, in 2018. This individual's social  
793 media post had indicated they idolized Nikolas Cruz, and  
794 appeared to have visited the location where Cruz was  
795 arrested. Upon review of this information law enforcement  
796 provided the social media provider when asking relevant  
797 information about the user, the company unilaterally made a  
798 determination that they did not think the situation was an  
799 immediate threat at this time.

800 Big Tech platforms create -- Big Tech platforms have  
801 created -- have transformed society in many ways for the  
802 better. Others less so. Users of these platforms should  
803 expect that law enforcement officers charged with protecting  
804 them have a clear path to the evidence they need to punish  
805 the guilty and exonerate the innocent. The establishment of  
806 regulatory framework includes standardized legal processes,  
807 guidelines, and address the issues that would benefit  
808 industry, law enforcement and, most importantly, the citizens  
809 we serve (sic).

810 Thank you again for your invitation, and I look forward  
811 to your questions.

812

813

814 [The prepared statement of Mr. Duffey follows:]

815

816 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

817

818           \*Ms. Schakowsky. Thank you.

819           And now, Mr. Nkonde, I welcome you for five minutes for  
820 your testimony.

821



822 STATEMENT OF MUTALE NKONDE

823

824 \*Ms. Nkonde. Good morning, Chairwoman Schakowsky,  
825 Ranking Member Bilirakis --

826 \*Ms. Schakowsky. Oh, Ms. I am sorry.

827 \*Ms. Nkonde. No problem. And Ranking Member McMorris  
828 Rodgers, my name is Mutale Nkonde, and I am the founder and  
829 executive director of AI for the People, a national non-  
830 profit that uses strategic communications to really insert  
831 conversations around the impact that technology is having on  
832 society into public life.

833 I am here today in support of the Algorithmic  
834 Accountability Act that I have been working on, really, for  
835 the last five years, as an advocate, and something that I am  
836 happy that this committee is finally looking for.

837 As a storyteller, the best way for me to really express  
838 the impact that machine learning protocols have on public  
839 life is through an illustration. So this committee is very  
840 aware of the dangers of social media and algorithmic  
841 decision-making, so I am not going to go long, but I think  
842 that this will be illustrative in terms of the need for this  
843 Act.

844 In February 2022, Twitter users noticed that they were  
845 being shown ads from a company called OpenSea. OpenSea is a  
846 provider of NFTs or non-fungible tokens, which are parts of

847 currency based in blockchain that can be traded. What these  
848 users were being offered were the ability to buy what were  
849 described as Meta Slaves. These were avatars of African  
850 American people that were put up for sale in the same way  
851 that people were as sold in times of enslavement during this  
852 country.

853         Upon AI for the People contacting Twitter to say that  
854 this had happened, we found that the account had been taken  
855 down from the platform. But news reports found that, instead  
856 of removing that lot, what OpenSea actually did was just add  
857 Asians and other non-White Americans to their platform.

858         How did those slaves get onto those social media sites?  
859 Through a process called machine learning that informs our  
860 algorithmic decision-makers and decides who and what people  
861 get to see on their social media feeds. This is an example  
862 of the way the combination of targeted advertising online,  
863 racial animus towards non-White Americans, and machine  
864 learning conflates to create unsafe online environments for  
865 Black and other -- Black people and other members of  
866 protected classes.

867         The Algorithmic Accountability Act is important, because  
868 what that would do would be to introduce impact assessments  
869 so that an office within the FTC could look at this potential  
870 use case, and then decide. Is this in the national best  
871 interest? I would argue that it is not, because we know,

872 from the investigation conducted by Special Counsel Robert  
873 Mueller, one of the tactics of hostile nations such as Russia  
874 is to really incite racial divides and therefore, I would  
875 argue, undermine our national security as we divide against  
876 ourselves, instead of looking outward to protecting this  
877 great nation.

878 I argue that the Algorithmic Accountability Act, and  
879 even its what I would consider in many ways to be companion  
880 legislation, the Surveillance Advertising Act, provide an  
881 online environment in which people from protected classes can  
882 be safe.

883 AI for the People, as an organization, really does seek  
884 to highlight the numerous ways in which advanced  
885 technological systems -- and as we are looking to things like  
886 the Metaverse, Web3, and NFTs, technologies that we are not  
887 really commonly speaking about, we need to keep the  
888 protection of civil rights in mind. These platforms are  
889 enriching the few, without thinking about the ways in which  
890 they comply with laws that we have already standing.

891 And as I finish my remarks, because of intellectual  
892 property laws -- excuse the background noise. I sit -- I  
893 come to you from Brooklyn, New York. Unfortunately, this is  
894 a noisy part of the country, so it won't be long.

895 But the one thing I will say is, because of  
896 international -- intellectual property laws, researchers and

897 advocates do not have the ability to look at the source code  
898 to understand how these decisions are being made. So the  
899 passage of the Algorithmic Accountability Act will not only  
900 safeguard those of us from protected classes, but also give  
901 us insight into how these technologies make decisions that  
902 really have incredible impacts on the lives of many  
903 Americans.

904 I look forward to the discussion. I thank you for the  
905 invitation, and I yield my time.

906 [The prepared statement of Ms. Nkonde follows:]

907

908 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

909

910           \*Ms. Schakowsky. Thank you, Ms. Nkonde, and we have now  
911 concluded our witnesses' opening statements. At this time we  
912 will move to member questions.

913           Each member will have five minutes to ask questions of  
914 our witnesses.

915           I want to thank our witnesses for being here today.

916           And since we have witnesses appearing virtually, I need  
917 to ask my colleagues in the hearing room to mute themselves  
918 whenever they are not directing -- directly speaking during  
919 their Q&A portion, so that we can clearly hear the witnesses'  
920 remarks.

921           I will begin with my five minutes of questions.

922           So targeted advertising is at the heart of the online  
923 consumer model -- online business model. But it  
924 fundamentally violates users' privacy in a way that would  
925 never be accepted if consumers were actually given the  
926 choice. That is why I joined Representative Eshoo in  
927 introducing the Banning Surveillance Advertising Act, and  
928 this legislation prohibits companies from targeting  
929 advertising -- advertisement based on personal information.

930           So, Ms. McInnis, your company already bans targeting --  
931 targeted advertising. Can you tell us why you made this  
932 decision?

933           \*Ms. McInnis. Thank you for the question, Chairwoman.  
934 Our founder and CEO started out DuckDuckGo by wanting to

935 serve answers -- serve users with great instant answers at  
936 the top of the search engine results page. And he was really  
937 looking for his company to have a positive impact. As he was  
938 developing this company in 2008, he saw that there was a  
939 clear need for private search engines. And so we developed  
940 privacy for the search engine, have been expanding our  
941 privacy options ever since.

942 And thank you for noting that DuckDuckGo helps stem  
943 surveillance ads. We are working very hard to ensure that  
944 our users are protected as they do whatever they need to do  
945 online by blocking trackers in the first instance, so that  
946 information is not collected about them.

947 \*Ms. Schakowsky. And is your business still profitable,  
948 without the use of targeted advertising?

949 \*Ms. McInnis. Yes, we are very profitable. Our revenue  
950 is somewhere around 100 million per year. We have over 30  
951 million U.S. users in the United States, and they span the  
952 whole nation and the political spectrum.

953 \*Ms. Schakowsky. Thank you. When you were asking  
954 whether people get frustrated when they see that there is an  
955 ad that pops up, you know, "How did they know to target me?'"  
956 And people feel uncomfortable online because of that.

957 In our last tech hearing we discussed the impact of  
958 whistleblowers protection at the Federal Trade Commission. I  
959 am so glad to see that provisions in Mrs. Trahan's bill to

960 protect whistleblowers, similar to those in the FTC -- in the  
961 FTC Whistleblower Act that she and I have introduced in  
962 November.

963 So I wanted to ask Ms. Lehman, would consumers be better  
964 protected from online harm if the FTC whistleblowers were  
965 protected by Federal law?

966 \*Ms. Lehman. Thank you, Chair Schakowsky. Absolutely,  
967 yes.

968 We are excited about a number of the transparency  
969 provisions before us today. There is context that -- as many  
970 transparency reports as we have, as much nuance as we can get  
971 into, as much research as we do, there is context that you  
972 could only ever get when someone can tell you why a decision  
973 was made. And so for that reason, whistleblowers are  
974 critical to providing that context for consumers.

975 \*Ms. Schakowsky. I really don't have any more  
976 questions, except to say that we are going to move along as  
977 fast as we can to protect consumers from the harms that are  
978 out there, from the information that they don't want  
979 collected, and we want to do it in these -- the bills that  
980 are introduced today that we are discussing, but also to move  
981 quickly, and efficiently, and, very hopefully, in a  
982 bipartisan way to do comprehensive privacy legislation.

983 The time to regulate is now. The time to hold Big Tech  
984 accountable is now. We have heard over and over again the

985 promises, the denials of wrongdoing that we have heard from  
986 Big Tech and, really, enough is enough. Consumers want to be  
987 able to safely and confidently use what they can online, and  
988 not be exploited as they have been.

989 So I yield back, and now will -- Mr. Bilirakis for his  
990 five minutes of questions.

991 \*Mr. Bilirakis. Thank you, Madam Chair. I appreciate  
992 it very much.

993 Mr. Duffey, I thank you again for your testimony.  
994 Again, we appreciate the valuable insight you bring to this  
995 discussion.

996 I don't know if he can hear me.

997 But Mr. Duffey, we were having a little difficulty  
998 hearing you before, in your opening remarks. So hopefully we  
999 have -- you know, we have fixed that. I don't know, maybe  
1000 you need to speak into the microphone. You know, your  
1001 information is so valuable, so we want to catch everything.

1002 So anyway, I have a question for you. I am gravely  
1003 concerned about the crimes perpetrated on Big Tech platforms,  
1004 such as the sale of deadly fentanyl on Snapchat. And I  
1005 believe companies are not doing enough to help solve these  
1006 crimes. I mean, enough is enough, as the chairman said. Not  
1007 -- again, we can't allow this to happen anymore. Kids are  
1008 dying, for crying out loud.

1009 And so in fact, in our subcommittee, the Health



1010 Subcommittee, we had -- again, we had somebody testify on the  
1011 fentanyl crisis in December. And Chairman Eshoo agreed with  
1012 my assessment that Big Tech companies aren't doing enough to  
1013 coordinate the DEA on drug sales, in particular.

1014         Okay, that is why I recently introduced the CAPTURE Act,  
1015 which will help us to develop legislation to assist social  
1016 media companies to better communicate with law enforcement,  
1017 specifically in relation to events of imminent injury or  
1018 death to individuals.

1019         So from your experience, sir -- and I appreciate you  
1020 testifying and, again, you are doing a great job in our state  
1021 -- so from your experience, how has Big Tech failed at  
1022 cooperating with law enforcement to assist in solving these  
1023 dangerous crimes? And I would like for you to elaborate,  
1024 sir.

1025         \*Mr. Duffey. Thank you, Representative. Can you hear  
1026 me better now?

1027         \*Mr. Bilirakis. Yes, we can.

1028         \*Mr. Duffey. Okay --

1029         \*Mr. Bilirakis. Madam Chair, can we hear better? Yes,  
1030 I think so. Thank you. I can. Thank you.

1031         \*Mr. Duffey. Okay. So they have failed in the sense  
1032 that I don't think what we see is some of the -- they don't  
1033 understand the trends that today's youth is communicating by  
1034 on their platforms. The data retention, when we do --

1035 [Audio malfunction.]

1036 \*Mr. Duffey. -- investigation, is an issue, and -- is  
1037 what they do and what they don't keep, and for how long they  
1038 keep it.

1039 The content moderation, they build -- what we have seen  
1040 is a lot of these companies build a platform for one type of  
1041 use, and then, as you explained, it gets used and abused for  
1042 other areas.

1043 So I think the failure is the lack of communication in -  
1044 - between Big Tech and law enforcement to discuss the trends,  
1045 to discuss the acronyms, and the use of emojis, and the  
1046 different codes by which today's youth communicate.

1047 \*Mr. Bilirakis. Yes, sir, when you speak slower, we can  
1048 hear a lot better, so let's try that.

1049 \*Ms. Schakowsky. And stay real close to the mike.

1050 \*Mr. Bilirakis. Yes, and stay close to the mike. All  
1051 right, we really appreciate it.

1052 What more can Big Tech do, in your opinion, do you  
1053 believe -- again, this legislation that I filed, the CAPTURE  
1054 Act -- can help accomplish this?

1055 And then also, as I mentioned in my testimony, we  
1056 invited TikTok to testify at today's hearing to answer how  
1057 they have failed to protect our youth online. They again  
1058 ignored our requests. Okay, we are not going to give up, we  
1059 are going to have them here, and they are going to have to

1060 answer our questions. I know the chair agrees with me. She  
1061 is the leader in this area. It is clear they are not  
1062 investing the time or resources needed to adequately curb  
1063 dangerous content on their platform.

1064 Are you familiar with the dangerous viral changes that  
1065 populate the site, and how schools are scrambling to stay  
1066 ahead of the harms to other students and teachers alike?

1067 If so, can you elaborate on how this has stretched the  
1068 resources?

1069 And again, the teachers, the police officers, we can't  
1070 do -- they can't do it all. They need our help. So it has  
1071 stretched the resources for Florida police, I know. If you  
1072 can elaborate on that, I would appreciate it.

1073 \*Mr. Duffey. Thank you, Representative. I agree with  
1074 you 100 percent. The resources that we in law enforcement  
1075 have for identification of these viral challenges is, a lot  
1076 of times, brought to our attention by parents or school  
1077 resources officers who are within the school system, who are  
1078 listening to the kids, watching their activity, and hearing  
1079 firsthand --

1080 [Audio malfunction.]

1081 \*Mr. Duffey. As you mentioned, we don't have --

1082 [Audio malfunction.]

1083 \*Mr. Duffey. We are left to prioritize the different  
1084 types of leads which we can investigate properly, and then

1085 identify the ones that we can --

1086 [Audio malfunction.]

1087 \*Mr. Bilirakis. Thank you. I appreciate it. I yield  
1088 back, Madam Chair. Hopefully, we can get this cleared up and  
1089 straightened out, because I know a lot of members here, at  
1090 least on my side, want to talk to Mr. Duffey, and get  
1091 valuable information from him.

1092 So thank you, I appreciate it.

1093 \*Ms. Schakowsky. Yes. And now I recognize the chairman  
1094 of the full committee, Mr. Pallone, for five minutes for  
1095 questions.

1096 \*The Chairman. Thank you, Chairwoman. And we are here  
1097 today, as we know, to have an open, meaningful dialogue about  
1098 solutions to address the harm social media companies have  
1099 caused, and this is more timely than ever as we see social  
1100 media companies expanding their reach.

1101 So I want to use Facebook as an example, which now goes  
1102 by Meta. We have seen reports of sexual assault and  
1103 harassment in the virtual reality world that Facebook is  
1104 trying to create with the Metaverse. So let me start with  
1105 Ms. Nkonde.

1106 Can you expand on this issue? What are some of the real  
1107 harms that we will see as social media companies expand their  
1108 reach, if you will?

1109 \*Ms. Nkonde. Thank you for the question, Mr. Pallone.

1110 The issue -- just to read everybody in to the issue with the  
1111 Metaverse as it stands, the head of research of the Metaverse  
1112 recently wrote a [inaudible] article, in which she told us  
1113 that when she went in, she was sexually abused by male  
1114 avatars.

1115 The issue is, in order to get this immersive experience,  
1116 what the Meta are currently doing, what their team is doing  
1117 are investigating how to use light sensors to make it feel  
1118 like we are seeing, audio sensors to make it feel like we are  
1119 hearing, and tactile sensors to make it feel like we are  
1120 being touched.

1121 Therefore, if you go into an immersive environment where  
1122 you really feel that these things are happening to you, then,  
1123 despite the fact that it is in a headset, you are still going  
1124 to have that very real experience of abuse. And without  
1125 regulation of what is called Web2, what we know of Facebook,  
1126 these harms are going to be perpetrated further in the  
1127 virtual environments.

1128 \*The Chairman. And what about -- well, [inaudible]  
1129 about marginalized communities. How might they be impacted  
1130 by these changes that we are seeing?

1131 \*Ms. Nkonde. Marginalized communities are actually the  
1132 most vulnerable within this.

1133 And so the head of Metaverse research is a woman. She  
1134 is a protected class. So what we were seeing in her attack

1135 by male avatars were really the logics of sexism and hatred  
1136 of women being enforced in a place where you can reach your  
1137 target.

1138 Another group that we are seeing more [inaudible] of are  
1139 children in the Metaverse, which is a whole explosion of  
1140 issues, specifically because people under 13 are not even  
1141 supposed to be on that platform. And so, when we think about  
1142 regulation, we need to think about who are the most  
1143 vulnerable. Could [inaudible] avatar got away in those  
1144 situations. There is a history of racial violence in this  
1145 country. If we see attacks on women, it is logical that we  
1146 are going to see attacks on negatively racialized groups.

1147 And it is committees like this and the bills that are  
1148 being put forward that are really going to keep us American  
1149 people safe.

1150 \*The Chairman. [Inaudible] instances. I mean, I think  
1151 increased transparency would go a long way in making the  
1152 internet a safer place, so let me ask Ms. Lehman.

1153 How would the legislation before us today bring greater  
1154 transparency, and with a greater accountability, to these Big  
1155 Tech platforms, if you will?

1156 \*Ms. Lehman. Thank you, Chair Pallone. So the  
1157 transparency in those across the board today is a crucial  
1158 prerequisite to really understanding and forming the kinds of  
1159 harms we are seeing across the board, and being able to have

1160 that kind of context, being able to speak to the specific  
1161 harms.

1162 And so the bills before us today, particularly  
1163 Representative Clarke and Representative Trahan's bills, are  
1164 -- in requiring impact assessments, for example, and  
1165 requiring -- it requires companies to actually take account  
1166 for what kinds of harms, what kinds of risks do we need to  
1167 consider, do we need to think about, rather than building  
1168 first and asking questions later, once the harms have  
1169 happened.

1170 And I will yield back.

1171 \*The Chairman. I only have a little time left, but let  
1172 me just say we have consistently seen some social media  
1173 companies withhold critical information about how their  
1174 systems work from the public, which makes it difficult for  
1175 consumer protection agencies like the FTC to address the  
1176 issues users face online.

1177 Could you tell me, Ms. Lehman, how would these bills  
1178 help the FTC better protect consumers from unfair or  
1179 deceptive practices? But you only got 20 seconds.

1180 \*Ms. Lehman. Thank you, I will try. The short answer  
1181 is it helps inform how we do it.

1182 Eight seconds? Boy.

1183 It offers so much more perspective to the FTC to  
1184 understand the problems and, therefore, to keep consumers

1185 safe in sort of the mission. [Inaudible] seconds, okay.

1186 \*The Chairman. I made you go too fast. Thank you.

1187 \*Ms. Lehman. Thank you.

1188 \*The Chairman. Thank you, Madam Chair.

1189 \*Ms. Schakowsky. The gentleman yields back. Let me  
1190 just remind everyone in the room, all members, to please  
1191 unmute after you have spoken. Apparently, we are getting  
1192 some feedback here.

1193 I am sorry?

1194 \*Voice. They have to mute their mikes after they have  
1195 spoken.

1196 \*Ms. Schakowsky. Yes, to mute your mikes after you have  
1197 spoken.

1198 And now I recognize the ranking member of the full  
1199 committee, Mrs. Rodgers, for five minutes.

1200 \*Mrs. Rodgers. Thank you, Madam Chair. There certainly  
1201 is a lot before us in this hearing, and I appreciate the  
1202 attention. The Republicans also have -- we have a couple of  
1203 dozen bills around transparency and accountability.

1204 Clearly, there is action that needs to take place, and  
1205 we have been working with a variety of stakeholders getting  
1206 input. I know that, in committee, there is 35 bills that  
1207 have received a legislative hearing in the subcommittee.  
1208 Three have been marked up, and two have received the  
1209 bipartisan support.



1210 I really believe -- and what I want to make the request  
1211 of -- is that we work together, that this is a problem that  
1212 is going to require us seeking input and support from a lot  
1213 of different entities, Republicans and Democrats.

1214 But beyond that, I believe that we need to be hearing  
1215 from the advertising industry, AI developers, small  
1216 businesses, even the FTC, for that matter, on how this is  
1217 going to work, how they are going to operate after this --  
1218 what you might call an extreme makeover, FTC addition.

1219 And I fundamentally believe that we need to be  
1220 addressing a privacy law. We need a national privacy  
1221 framework in order to gird up what the whole space is right  
1222 now. And so we have drafted legislation, and are anxious to  
1223 work with our colleagues across the aisle on a privacy  
1224 standard. Certainly, there is an opportunity to find some  
1225 common ground.

1226 On some of the issues before us today, I wanted to start  
1227 with Ms. McInnis. Given recent reports on Big Tech needing  
1228 to do more to protect the people of Ukraine from the  
1229 misinformation campaigns generated by the Kremlin and its  
1230 still-active Twitter account, I have a couple of questions to  
1231 give you an opportunity to reflect on DuckDuckGo's part in  
1232 this debate.

1233 Does your company still maintain a partnership with the  
1234 Russian search engine Yandex?

1235           \*Ms. McInnis. In light of Russia's assault on democracy  
1236 in Ukraine, we have paused our relationship with Yandex.

1237           \*Mrs. Rodgers. Thank you --

1238           \*Ms. McInnis. Yandex was used to provide traditional  
1239 links, meaning non-news links on the search engine results  
1240 page, in Russia and Turkey.

1241           \*Mrs. Rodgers. Thank you. Given you raise revenue via  
1242 contextual advertising and affiliated programs, are you able  
1243 to say whether such revenue has ever come from Russian state  
1244 media sources in this partnership?

1245           \*Ms. McInnis. I do not know. Our advertisements are  
1246 provided through Bing's contextual ads program. And so  
1247 Microsoft's advertising would have the best information about  
1248 that.

1249           That said, we are -- yes, I think that they would be the  
1250 best ones.

1251           \*Mrs. Rodgers. Okay, thank you. Do you -- or how do  
1252 you see we best address concerns that we have over Chinese-  
1253 owned TikTok, and how it may be influenced by Russia via its  
1254 alliance with China?

1255           \*Ms. McInnis. Thank you, Ranking Member. Ranking  
1256 Member Bilirakis and Ranking Member McMorris Rodgers, you  
1257 have talked extensively about the need to protect children  
1258 online.

1259           Although we have that Children's Online Privacy

1260 Protection Act, banning the use of surveillance ads would, I  
1261 think, help protect children by banning the collection of  
1262 personal information, no matter their age, which I think  
1263 would help solve for some of the issues that we have been  
1264 seeing online, where dominant tech companies say, "We are not  
1265 sure if children are on our platform, we don't actually know  
1266 that they are there.'" And so, if we are protecting  
1267 everyone, we are protecting children more.

1268 In addition, I think having some privacy laws like the  
1269 general one you mentioned, or the Banning Surveillance  
1270 Advertising bill, which would -- of course, would protect  
1271 privacy -- would stem the ability of platforms like TikTok to  
1272 collect information, regardless.

1273 \*Mrs. Rodgers. Okay. Well, I thank you, and I  
1274 appreciate your engagement and your support on the  
1275 legislation. Fundamentally, we need a privacy framework, and  
1276 so we will continue to work on that.

1277 Officer Duffey, our law enforcement officers are  
1278 American heroes, and I have personally heard some very sad  
1279 tales of the role Big Tech played in tragic events impacting  
1280 our children, and the pressures on first responders. In your  
1281 -- you reference a -- exigent circumstances in suicide  
1282 intervention. Can you elaborate on the subjective  
1283 constraints that social media platforms put on law  
1284 enforcement to intervene in harm to children?

1285           And can you give us a sense which social media companies  
1286 do a better job in cooperating?

1287           \*Mr. Duffey. Thank you, Representative. Hopefully, we  
1288 have corrected some of the audio issues.

1289           But the [inaudible] exigent, when we serve a company  
1290 with exigent circumstances, it is left at their  
1291 determination. We present them with the facts as we are  
1292 given. Ultimately, each individual company is the final say-  
1293 so on whether they determine there is a threat to a person's  
1294 life or others [inaudible].

1295           \*Mrs. Rodgers. And which companies are cooperating?

1296           \*Mr. Duffey. It varies. The last one that I referenced  
1297 in my statement was TikTok.

1298           \*Mrs. Rodgers. Okay. Okay, thank you. I have run out  
1299 of time. I yield back.

1300           \*Ms. Schakowsky. Okay. Who is next?

1301           My colleague from the Chicago area, Congressman Bobby  
1302 Rush, you are recognized for five minutes.

1303           \*Mr. Rush. Well, thank you, Madam Chairman, for this  
1304 magnificent hearing. My question is directed to Ms. Nkonde.

1305           Ms. Nkonde, you mentioned facial recognition in your  
1306 testimony. The error-prone nature of facial recognition  
1307 software, especially when it comes to identifying people of  
1308 color and women, is extremely dangerous.

1309           In 2018 an ACLU study found that Amazon's facial

1310 recognition software falsely matched 28 Members of Congress,  
1311 including me, with someone else's mug shot. We are seeing  
1312 the real-world impact of this when, in June 2020, New York --  
1313 the New York Times reported on the case of Robert Julian-  
1314 Borchak Williams of Michigan, who was arrested by Detroit  
1315 police because he was misidentified by facial recognition  
1316 software. Later it was revealed that this software was used  
1317 "almost exclusively against Black people" and was used even  
1318 though the Detroit police chief estimated that it  
1319 misidentified individuals 96 percent of the time. Clearly,  
1320 this is a very serious problem with very, very serious and  
1321 very real implications.

1322 Ms. Nkonde, can you please speak to the role algorithms  
1323 play in these kinds of situations?

1324 Does the solution to this problem currently exist?

1325 If so, what needs to be done to implement them?

1326 And if not, what do we need to do, as Members of  
1327 Congress, to address these problems?

1328 \*Ms. Nkonde. Thank you for the question, Representative  
1329 Rush. Big questions. But yes.

1330 So the way facial recognition works is through a  
1331 computer engineering protocol called computer vision. The  
1332 training data are pictures of people's faces, and then the  
1333 algorithm will take a face graph. So it basically measures  
1334 your face in what we call facial architecture: color of the

1335 skin, broadness of the nose, circumference of the eyes, for  
1336 example.

1337           The issue within the Gender Shades report, which kind of  
1338 undergirded this idea that facial recognition technology did  
1339 not work in the Amazon, Microsoft, and IBM report, found that  
1340 the training data was using that of White men, which meant  
1341 that when those same systems were used to identify non-White  
1342 people like Mr. Williams, who you mentioned, it misidentifies  
1343 us.

1344           Therefore, one of the things that Congress could do  
1345 immediately is really take the Algorithmic Accountability Act  
1346 to markup. Because through impact assessments, the FTC would  
1347 be then able to figure out how -- what is the efficacy of  
1348 this technology? Is it recognizing Black and Brown people?  
1349 Where is facial recognition being used?

1350           Because many Americans believe it is just in law  
1351 enforcement, but they don't realize that when we use  
1352 self-checkout, for example, in pharmacies, they are using  
1353 facial recognition to figure out whether you have stolen  
1354 toothpaste or not, whether --

1355           \*Mr. Rush. Ms. Nkonde, can you also include how it  
1356 affects us African Americans in the area of criminal justice  
1357 and banking?

1358           \*Ms. Nkonde. Yes. In the area of criminal justice,  
1359 misidentification leads to incarceration or arrest. And in

1360 the area of banking or finances, the IRS has just been  
1361 stopped from using facial recognition in order to access our  
1362 records. And if you imagine that African Americans are not  
1363 being recognized, that would bar us from access to our own  
1364 financial information.

1365 \*Mr. Rush. Thank you, Madam Chair. I yield back.

1366 \*Ms. Schakowsky. Thank you, Mr. Rush.

1367 Mr. Upton, you are recognized for five minutes for  
1368 questions.

1369 \*Mr. Upton. Well, thank you, Madam Chair, and I want to  
1370 echo the remarks of Cathy McMorris Rodgers. I hope that we  
1371 can develop a privacy standard. It is something that is  
1372 bipartisan, it is long overdue. I know it is tough to do,  
1373 but I think we need to proceed down that road.

1374 For me, I am a dad, and I am also a granddad, so I sort  
1375 of like that Duck Duck Goose at the beginning.

1376 [Laughter.]

1377 \*Mr. Upton. I know where you were coming from, I think.

1378 But all of us want to protect the most vulnerable, and  
1379 that is our kids and our grandkids. We want to make sure  
1380 that there is every tool in that toolbox so that we know what  
1381 is going on, and their lives can be protected, because it is  
1382 no longer just don't talk to strangers. There is a lot of  
1383 strangers that are out there. And that is why we need to  
1384 make sure that those tools are there.

1385           And so, Mr. Duffey, I want to thank you for your  
1386 service, for coming before this committee to help us  
1387 understand the ins and outs of protecting our nation's kids  
1388 online. One of the concerns that I hear about most from my  
1389 constituents -- and there is a lot of them -- is the way that  
1390 Big Tech is impacting the mental health of our kids.

1391           So I just wonder if you can walk us through a step by  
1392 step of how you interact with a tech company, and how does  
1393 that change when there is a threat to a child that is viewed  
1394 as urgent?

1395           And I would just recommend that you get as close to your  
1396 mike as you can, because the -- despite this being the high  
1397 tech community, the connection is not all that great.

1398           \*Mr. Duffey. Thank you, Representative. I am getting  
1399 as close as I can, so hopefully this audio sounds a little  
1400 bit better.

1401           \*Mr. Upton. I knew it wasn't the Florida accent, I can  
1402 understand that better than Louisiana.

1403           \*Mr. Duffey. Thank you. So really, that relationship  
1404 with big technology is only engaged upon an incident  
1405 occurring. In the case of a missing child, or the case of  
1406 child sexual abuse material, or a threat of violence, or an  
1407 act of harm, we begin that engagement with technology.

1408           Outside of that, other than some of the big technology  
1409 companies, the startups and a lot of the newer companies, we



1410 have very little engagement with them. Typically, our  
1411 engagement, when it begins, is through legal process as we  
1412 begin to try to investigate the issue at hand.

1413 \*Mr. Upton. What is the value of the number of cases  
1414 that your department looks at every year, and has it been  
1415 increasing? What is -- what has been the trend line?

1416 \*Mr. Duffey. It has been increasing. Specifically as  
1417 it relates to the child sexual abuse material, we hear in the  
1418 State of Florida alone -- law enforcement as a whole in the  
1419 State of Florida has received over 18,000 leads reported to  
1420 us by the National Center for Missing and Exploited Children  
1421 alone in 2020. That means law enforcement has to put eyes on  
1422 each one of those leads to determine the ability to  
1423 investigate [inaudible] limited resources.

1424 \*Mr. Upton. And where was that number -- where were  
1425 you, say, 10 years ago, or when you started? I know you have  
1426 been with law enforcement for a while. But as I hear from my  
1427 law enforcement folks, I mean, they just -- they shake their  
1428 head in terms of some of the doors that get opened, and some  
1429 of the nasty stuff that really gets out there. How has that  
1430 changed from when you started?

1431 \*Mr. Duffey. Well, exactly. When I started the -- it  
1432 was a -- a lot of what -- the work we did was through the  
1433 U.S. Postal Service, because the online world didn't exist.  
1434 And the online world that existed was not as widely popular

1435 as it is today. So we are seeing exponential increases as  
1436 companies come online and today's youth and others begin to  
1437 leverage this platform to communicate, which ultimately  
1438 results in children being sexually abused online, sextorted,  
1439 and [inaudible] their mental health.

1440 \*Mr. Upton. Can you tell us one particular story of  
1441 where things worked out?

1442 \*Mr. Duffey. There has been a few where we have gotten  
1443 incidences of somebody saying, "I am watching a child being  
1444 sexually abused'' or a child was abducted and, through the  
1445 use of technology, we were able to work with the provider to  
1446 determine the location where that child or individual might  
1447 be. And through the use of technology, we were able to  
1448 locate that individual to prevent further abuse, or recover  
1449 [inaudible].

1450 \*Mr. Upton. And are you able to interact that with  
1451 Amber Alert?

1452 \*Mr. Duffey. We very much so are.

1453 \*Mr. Upton. Well, thank you. Again, thank you for your  
1454 service.

1455 I appreciate the hearing, and I yield back.

1456 \*Ms. Schakowsky. I wanted to point out that there was  
1457 much more clarity with the response of our online witness  
1458 because you turned off your mike each time after you asked  
1459 the question. And I would recommend that for everyone who is

1460 asking questions of our online witnesses.

1461           The -- and next, Ms. Castor, I recognize you for five  
1462 minutes for questions.

1463           \*Ms. Castor. Well, thank you, Chair Schakowsky, for  
1464 holding this hearing, and thank you to all of our witnesses  
1465 for appearing today, and a special shout-out to Special Agent  
1466 Mike Duffey from the Florida Department of Law Enforcement.

1467           Thank you, Special Agent Duffey, for your 25 years of  
1468 service, and especially on behalf of crimes against children  
1469 and online harm.

1470           The subcommittee has now held several hearings on  
1471 legislation to hold Big Tech accountable, and the bills  
1472 before us today by Representative Trahan and Eshoo, and  
1473 Representative Clarke are steps in the right direction. But  
1474 I believe it is urgent that we move legislation on online  
1475 privacy issues, especially when it comes to children.

1476           Passing a core comprehensive privacy bill is central to  
1477 holding Big Tech accountable. And if we can adopt safeguards  
1478 on processing personal information, tech platforms will have  
1479 less of an incentive to use many of their manipulative and  
1480 harmful techniques that are currently deployed to increase  
1481 engagement and addict their users, many of which we have  
1482 discussed in past hearings.

1483           So one of our witnesses -- witness companies today,  
1484 DuckDuckGo, is a good example of this principle.

1485           And with the online harm to kids being made plain over  
1486 the past few years, I work -- I have been working for a  
1487 number of years to develop the Kids Privacy Act to provide  
1488 parents the necessary tools to protect their children,  
1489 strengthen enforcement so companies are held to account for  
1490 improperly collecting children's personal data, and for  
1491 misuse of that data. It also closes loopholes. It has --  
1492 the bill has widespread support. It has been endorsed by the  
1493 leading child protection organizations, parents,  
1494 pediatricians, and privacy groups.

1495           So to my Republican friends, we really need bipartisan  
1496 support on this effort. The UK is ahead of us. The EU is  
1497 ahead of us. And even the United States Senate, they are  
1498 ahead of the House when it comes to children's online  
1499 privacy. They are now two bipartisan bills over there. And  
1500 while we all know that the Senate is not known for action,  
1501 they are ahead of us here. So if they can come up with a  
1502 bipartisan bill, so can we.

1503           So I am really speaking out more as a mother than as a  
1504 Member of Congress. I have really -- I have reached out to  
1505 the leadership, and I am doing so again because I am not  
1506 going to give up. I am -- my door is open to any Member of  
1507 Congress who wants to enter into good faith negotiations over  
1508 a bill that protects children's privacy, their safety, and  
1509 their health online, especially in the face of everything

1510 that we know now about crimes against kids, the rising rates  
1511 of mental health problems, and more.

1512 I mean, the Facebook whistleblower was here -- also made  
1513 plain that the Big Tech platforms, Facebook, Instagram, they  
1514 know about the harms, but they are more interested in getting  
1515 kids hooked and their profits than keeping kids safe online.

1516 So thank you for indulging me on that. But please, my  
1517 door is open, and we really want to protect kids.

1518 So my question for the witnesses today, each one of you,  
1519 yes or no, is a comprehensive Federal privacy law a critical  
1520 component of Big Tech accountability and protecting consumers  
1521 online?

1522 Ms. Lehman, you can start.

1523 \*Ms. Lehman. Yes.

1524 \*Ms. Castor. Ms. McInnis?

1525 \*Ms. McInnis. Absolutely.

1526 \*Ms. Castor. Special Agent Duffey?

1527 \*Mr. Duffey. Yes.

1528 \*Ms. Castor. And Ms. Nkonde?

1529 \*Ms. Nkonde. Yes.

1530 \*Ms. Castor. And here is another yes-or-no. Should  
1531 there be special focus on protecting children's privacy,  
1532 safety, and health online, yes or no?

1533 \*Ms. Lehman. Yes.

1534 \*Ms. McInnis. Yes.

1535 \*Mr. Duffey. Yes.

1536 \*Ms. Nkonde. Yes.

1537 \*Ms. Castor. Well, thank you.

1538 And Special Agent Duffey, you -- Representative Upton  
1539 asked you about a good news story, but tell us what you are  
1540 seeing right now because of the -- just the widespread  
1541 collection of data on children and their interaction with  
1542 online apps? What tools do parents need? What do parents  
1543 tell you right now that they feel they need from policymakers  
1544 here in Washington?

1545 [Pause.]

1546 \*Ms. Castor. Oh, Special Agent Duffey, your audio.

1547 \*Mr. Duffey. Sorry about that. Representative, thank  
1548 you.

1549 Being a parent myself, and talking with other parents,  
1550 the biggest issue we hear is that they don't understand how  
1551 to implement parental controls. A lot of these companies  
1552 implement the process. The explanation of how to do it is  
1553 not clear.

1554 \*Ms. Castor. Thank you very much. It is obvious that  
1555 we need to rebalance the power here, and put the power in the  
1556 hands of parents, and not these Big Tech platforms.

1557 Thank you. I yield back.

1558 \*Ms. Schakowsky. Thank you.

1559 Mr. Latta, you are recognized for five minutes.

1560           \*Mr. Latta. Well, I thank my friend, the chair, for  
1561 today's hearing, and I also thank our witnesses for appearing  
1562 before us today.

1563           As part of the Republican Big Tech accountability  
1564 platform, many of the Members in this body have proposed a  
1565 number of reforms to the laws governing Big Tech. My  
1566 proposal is to remove section 230 liability protections from  
1567 companies that act as bad Samaritans and knowingly promote,  
1568 solicit, or facilitate illegal activity.

1569           Broadly, I have serious concerns about some of the  
1570 activities that these companies are allowing to occur on  
1571 their platforms, whether it is explicitly permitting these  
1572 questionable activities or simply ignoring any illegal  
1573 content that they discover.

1574           I believe the legislation before us today misses the  
1575 mark. H.R. 6796 would create a new bureau at the Federal  
1576 Trade Commission with new rulemaking and investigatory  
1577 authorities to define the code of conduct for online  
1578 platforms. However, I do not believe it is the FTC's duty or  
1579 responsibility to be the moderators of content on social  
1580 media platforms. Rather, they should act as the  
1581 clearinghouse and inform consumers on Big Tech's content  
1582 moderation practices, including their enforcement decisions  
1583 and appeals decisions.

1584           Additionally, the legislation would require the FTC to

1585 hire 500 staffers. I can only imagine this undertaking would  
1586 set back the FTC many years and further slow its rulemaking  
1587 drafting process and its ability to protect consumers.

1588         Sadly, we aren't able to explore these concerns, as the  
1589 majority did not invite the FTC to testify today.

1590 Fortunately, we do have the opportunity to hear from Mr.  
1591 Duffey, a career law enforcer who has dedicated his career to  
1592 protecting Americans from predators in the real world, and is  
1593 now working to protect Americans, especially children, from  
1594 predators online.

1595         And Mr. Duffey, if I could begin my questions with you,  
1596 in your testimony it sounds like there were many instances of  
1597 you being reliant on the goodwill of these tech companies to  
1598 fully complete your law enforcement investigations. Would  
1599 you speak about your conversations with these companies, and  
1600 how would you characterize their concern for what is  
1601 happening on their platforms?

1602         \*Mr. Duffey. Thank you, Representative.

1603         With regards to your question, the conversation is,  
1604 sometimes with the newer tech companies, is it a loss. And  
1605 what I mean by that is they don't understand the pure volume  
1606 of data which they have, which makes it a challenge for us in  
1607 law enforcement to ask for the specific information that we  
1608 are referring to, specifically when we talk about the -- what  
1609 we will call the word game.



1610           When we begin to do our investigation, we serve each and  
1611 every company with the legal process asking for specific  
1612 content. If that content language that we are asking for  
1613 doesn't match up with the exact language that they have, we  
1614 begin this banter back and forth to try to identify the exact  
1615 content we are looking for, which is -- which -- transparency  
1616 on what they have would be greatly -- you know, greatly  
1617 enhance our abilities to streamline some of our process.

1618           \*Mr. Latta. Well, you know, one of the ways we can hold  
1619 Big Tech accountable is increase the transparency  
1620 requirements.

1621           You were just talking about transparency. Last year I  
1622 released a discussion draft to require companies to disclose  
1623 their content enforcement decisions related to child  
1624 pornography, child trafficking, cyber bullying, illegal sale  
1625 of drugs, foreign terrorism content, counterfeit products,  
1626 revenge porn, and doxing.

1627           Do you believe that if law enforcement had more  
1628 information about how companies manage or conduct enforcement  
1629 against these types of activities, would it help you overall  
1630 perform your job?

1631           \*Mr. Duffey. Yes, I believe it would. It would allow  
1632 us to have a full understanding. I think it would open that  
1633 door, and have the conversations with these tech companies  
1634 that sometimes stand to the side. Having a better

1635 understanding by law enforcement would be a win for all.

1636 \*Mr. Latta. Well, thank you very much.

1637 And Madam Chair, before I yield back, I do have a letter  
1638 to the -- for the committee from ANA, which I would like to  
1639 ask unanimous consent to put in the record.

1640 \*Voice. We just have to check --

1641 \*Ms. Schakowsky. Without objection.

1642 [The information follows:]

1643

1644 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

1645

1646           \*Mr. Latta. Thank you, and I yield back.

1647           \*Ms. Schakowsky. Congresswoman Trahan, you are next,  
1648 recognized for five minutes.

1649           \*Mrs. Trahan. Well, thank you, Madam Chair.

1650           Throughout our country's history, bold reforms have been  
1651 born in moments of crisis. The Great Depression forced  
1652 Congress to create the Securities and Exchange Commission,  
1653 tasked with overseeing and regulating the market to protect  
1654 investors. And almost 80 years later, Congress passed the  
1655 Dodd-Frank Act in response to the 2008 financial crisis,  
1656 strengthening consumer protections against financial market  
1657 abuse and creating transparency and accountability  
1658 requirements for the entire financial system.

1659           Yet today, crisis after crisis created by large  
1660 technology platforms have resulted in minimal Federal  
1661 response. In fact, crickets.

1662           Under the leadership of Republican and Democratic-  
1663 controlled governments alike, a handful of U.S. companies  
1664 have become monopolies. They have optimized their platforms  
1665 solely for ad revenue and, in turn, they have become breeding  
1666 grounds for the spread of weaponized disinformation, hate  
1667 speech, and content that harms our children.

1668           These issues have been closely examined. We have held  
1669 hearings with experts, we have yelled at executives, and we  
1670 have sent letters all saying the same thing: Do better. Yet

1671 the end result has remained the same. Nothing changes. And  
1672 companies' stock prices hit new highs.

1673 The focus of today's hearing may be on the legislative  
1674 proposals introduced by myself and my colleagues, but the  
1675 question is much simpler: How long can we continue this  
1676 inaction?

1677 How long can we look at our children and say the change  
1678 is necessary, but we just haven't been able to enact it yet?

1679 Congress has gotten off the sidelines in the past for  
1680 practically every other industry: cars, airplanes, and  
1681 banks. We employ key organizations that keep pace with new  
1682 developments, and inform regulations aimed to protect  
1683 consumers. We must get off the sidelines once again. Enough  
1684 listening to companies saying, "Trust us, we have a process  
1685 for that.'" Enough internal bickering that ends any real  
1686 chance of progress. And enough watching Europe go first, and  
1687 the Senate.

1688 I commend my colleagues on the committee, including our  
1689 panel's leadership, who recognize that we have everything we  
1690 need to act: the smoking guns, the historical precedent, and  
1691 the legislative text. All we need today is the willpower.

1692 So Ms. Lehman, the Digital Services Oversight and Safety  
1693 Act creates a bureau at the FTC, staffed with experts  
1694 employed to issue rules related to public-facing transparency  
1695 reports, certified researchers with data access, and

1696 disclosures to the Commission, so that we can shine sunlight  
1697 on how consumer data is collected and used. Could you please  
1698 explain why transparency requirements like these are so  
1699 important?

1700           \*Ms. Lehman. Absolutely, thank you. Transparency  
1701 requirements, particularly like those in your bill, we have a  
1702 variety of them, right? So we have users and advertisers and  
1703 individuals who need to understand what values the platforms  
1704 that they use operate on. They -- so that parents can decide  
1705 is this platform -- are these platforms' values coherent with  
1706 what I want my kids to be on?

1707           And some of the most exciting components of the bill  
1708 really are that we have seen time and time again that there  
1709 is an allergy for the platforms to transparency and to  
1710 accountability, whether that is Facebook disabling  
1711 crowdsourcing, or disbanding the CrowdTangle team, whether  
1712 that is other -- we have seen the list that -- and so, having  
1713 access to understand, okay, what kinds of misinformation, how  
1714 does it spread, how can we fix these problems, we don't have  
1715 the context for that right now. And the parts of the bill  
1716 that shine that sunlight make that possible.

1717           \*Mrs. Trahan. Well, thank you. And in your experience,  
1718 how quickly do social media companies change their products  
1719 and processes?

1720           And why is it so important to have a bureau that is

1721 flexible and nimble enough to quickly publish safety  
1722 guidelines or issue new rules for disclosures?

1723       \*Ms. Lehman. Yes, I think particularly for -- in this  
1724 space things can change instantaneously. I think we think we  
1725 have heard a little bit today about the Metaverse, and about,  
1726 like, what Web3 and AR and [inaudible] look like. If we  
1727 think back to five or six years ago, which is kind of a long  
1728 time, in -- sometimes in legislative land, right?

1729       You -- what would -- how would a -- how could thinking  
1730 through live video -- and the advent of live video was fairly  
1731 revolutionary, and the fact that video is happening on  
1732 phones, and how did that change, and what kinds -- as we  
1733 heard from Mr. Duffey earlier, what kinds of harms can come  
1734 from live video? Those are the kinds of things we need to be  
1735 able to pivot instantaneously on, and -- that we can't wait  
1736 for.

1737       \*Mrs. Trahan. I couldn't agree more. Certainly, there  
1738 is so much in the black box that we need to shine a light on  
1739 so that we can keep up. Not just the Congress, the FTC. I  
1740 mean, if not them, who is going to be armed with transparency  
1741 in this regard?

1742       So I -- the last thing -- I know I am out of time, but I  
1743 would like to request unanimous consent to enter a report  
1744 from the NYU Stern Center for Business and Human Rights  
1745 entitled, "Enhancing the FTC's Consumer Protection Authority

1746 to Regulate Social Media Companies.''

1747 \*Ms. Schakowsky. Without objection --

1748 \*Mrs. Trahan. Thank you, Madam Chair.

1749 \*Ms. Schakowsky. -- so ordered.

1750 [The information follows:]

1751

1752 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

1753

1754           \*Ms. Schakowsky. Okay. Mr. Guthrie, you are recognized  
1755 for five minutes.

1756           \*Mr. Guthrie. Thank you. Thank you, Madam Chair. I  
1757 have a letter from the U.S. Chamber of Commerce. It has been  
1758 submitted to your staff, but I would like to ask to enter  
1759 into the record.

1760           \*Ms. Schakowsky. Without objection, so ordered.

1761           [The information follows:]

1762

1763           \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

1764



1765           \*Mr. Guthrie. Thank you, Madam Chair. Thank you so  
1766 much. And thanks to everybody for being here today. And my  
1767 questions are for Mike Duffey.

1768           And the United States has seen historic levels of opioid  
1769 abuse, leading to tragic deaths over the last several years.  
1770 According to the Kentucky Office of Drug Control Policy,  
1771 illicit fentanyl and its analogs were detected in more than  
1772 70 percent of all cases in Kentucky in 2020. The opioid  
1773 crisis has been exacerbated by deadly fentanyl being  
1774 trafficked into our communities through our southern border  
1775 and on the social media platforms millions of Americans,  
1776 including our children, are using.

1777           The Energy and Commerce Committee has passed several  
1778 bills to address this epidemic. One bill -- I know it is in  
1779 a different subcommittee, a subcommittee I have the honor of  
1780 being ranking member -- but the HALT Fentanyl Act.

1781           I mean, the idea that March 11th -- after this expires  
1782 -- after the CR expires, that illicit fentanyl will be street  
1783 legal in America is just wrong. I wish we could make it  
1784 permanently illegal. I do expect and hope that we can work  
1785 together to at least extend it, moving forward. But it is  
1786 just absolutely frustrating that we can't permanently  
1787 schedule illicit fentanyl that is -- 70 percent of  
1788 Kentuckians who died of an overdose died of illicit fentanyl  
1789 in 2020.

1790           But I am also concerned that -- and where it ties into  
1791 this hearing -- that illegal drugs are still available online  
1792 through illegal pharmacies, and even these widely popular  
1793 social media platforms. This type of illegal activity online  
1794 is troubling and inexcusable. I am working on a draft  
1795 legislation as part of the Republican Big Tech platform that  
1796 will help prevent this from happening on these sites by  
1797 requiring internet platforms to implement and maintain  
1798 reasonable content moderation policies and practices to  
1799 address the illegal sale of drugs on their platforms.

1800           Additionally, the Federal Trade Commission and states  
1801 attorneys general would ensure enforcement of these policies.  
1802 So my question is for Mr. Duffey.

1803           In your testimony, you discuss the challenges that tech  
1804 platforms present to law enforcement. Do you find that most  
1805 platforms have a formal process or framework by which to work  
1806 with law enforcement personnel?

1807           And do you think legislation in this space will enhance  
1808 law enforcement's capabilities to track this illegal activity  
1809 and facilitate?

1810           So what is the current status of these platforms, and  
1811 what would you like to see Congress do, Mr. --

1812           \*Ms. Schakowsky. Unmute. That will help the -- if you  
1813 -- we can hear him better if you unmute. There we go.

1814           \*Mr. Duffey. All right. Thank you, Representative. I

1815 do believe that any type of framework would be to our  
1816 advantage, and a win for all.

1817 Right now, as the --

1818 [Audio malfunction.]

1819 \*Mr. Duffey. -- out of Big Tech, and how they struggle  
1820 to -- they build a tool which is used by the general  
1821 population that becomes popular, and then gets misused. And  
1822 them addressing and having some framework and requirements as  
1823 to having a group that is able to handle the volume of law  
1824 enforcement compliance legal process that we serve, and  
1825 mandating that they build out these groups to respond to our  
1826 responses will not only help law enforcement investigative  
1827 efforts.

1828 The other side of it is if these Big Tech corporations  
1829 enact encryption, then we are back to not being able to  
1830 investigate an opioid case where an individual has overdosed  
1831 and now we can't get into that mobile device to identify, nor  
1832 do we have the tools to try to get into this device to  
1833 determine who that person was communicating with to  
1834 potentially stop others from getting this drug, and work a  
1835 criminal investigation.

1836 So having -- first, having these companies be held  
1837 accountable to creating a outreach or law enforcement  
1838 response compliance group; secondly, allowing the law  
1839 enforcement to have the tools needed to help fight

1840 encryption. And I am not indicating that -- we are not  
1841 asking for anything that we aren't entitled to with proper  
1842 legal process. If we can't get into these locked devices,  
1843 the person who overdosed, that child who overdosed on the  
1844 ground there, we can't identify where the suspect may be.

1845 \*Mr. Guthrie. Well, thank you, and I just have 20  
1846 seconds, so I will yield back.

1847 I don't have time for another question, so I will yield  
1848 back my time. Thank you, Madam Chair.

1849 \*Ms. Schakowsky. The gentleman yields back, and next is  
1850 Mr. McNerney for five minutes.

1851 \*Mr. McNerney. I thank the chair, and I thank the  
1852 gentleman from Kentucky for yielding early.

1853 [Laughter.]

1854 \*Mr. McNerney. I thank the witnesses. Your testimony  
1855 is very compelling this morning.

1856 Ms. McInnis, please describe for a minute or so how  
1857 banning surveillance ads would transform the online  
1858 ecosystem.

1859 \*Ms. McInnis. Absolutely, and thank you for the  
1860 question, Representative.

1861 Right now, Facebook and Google control an ad duopoly in  
1862 online advertising sales because they have convinced the  
1863 advertising market and advertisers that behavioral ads are  
1864 more relevant and serve users with more targeted ads than

1865 others would. There is no reason, however, why contextual  
1866 advertisements should not and could not be just as relevant  
1867 as behavioral ads.

1868 DuckDuckGo has used contextual ads for our entire  
1869 existence to show users relevant offers in the moment. We  
1870 think that, you know, while you are searching for sneakers,  
1871 you are likely wanting to see ads about sneakers, and not an  
1872 ad for a vacation you might have taken a few months ago.

1873 In addition, if this bill was enacted, many companies  
1874 would be prevented from the collection of online data,  
1875 meaning that their duopoly -- Facebook and Google's duopoly  
1876 -- and ads would be diminished. Companies would be able to  
1877 compete against them more forcefully in the market, and we  
1878 would have more innovative, contextual advertisement services  
1879 for users. And therefore, the ads would be more relevant and  
1880 more useful to users in the future.

1881 \*Mr. McNerney. Thank you. And that was just a little  
1882 more than a minute.

1883 Ms. Lehman, you argue that if companies are truly proud  
1884 of how effectively they protect consumers, you would expect  
1885 them to welcome independent investigators or researchers.  
1886 Unfortunately, that is not happening, which is why a  
1887 comprehensive approach to transparency created in the Digital  
1888 Services Oversight and Safety Act, H.R. 6796, is so  
1889 important. So please explain how increased transparency from

1890 this legislation would result in concrete changes.

1891 \*Ms. Lehman. Thank you for the question. So where  
1892 platforms fail to take responsibility, transparency can flag  
1893 issues. It can -- and it can flag the extent of the issues,  
1894 and how those issues persist.

1895 And the kinds of issues we have talked about today a  
1896 little bit, we have talked about misinformation, we have  
1897 talked about discriminatory advertising. We have talked  
1898 about targeting ads to children, whether that -- and  
1899 targeting ads to minors. And there is a CR article last year  
1900 about targeting gambling and alcohol ads toward minors. This  
1901 is the kind of thing that, without transparency, we don't  
1902 have a good sense of the scale of the problem, and how best  
1903 to combat it.

1904 When we -- with Representative Trahan's bill, we  
1905 suddenly have the ability to make clear where the problems  
1906 are coming from, and how they can best be stemmed.

1907 \*Mr. McNerney. I forgot to say that I am going to  
1908 switch to DuckDuckGo tonight. Thank you.

1909 Ms. Lehman, in your written testimony it states that  
1910 algorithms can be opaque, and even for the engineers that  
1911 designed them. I have designed algorithms. I know what you  
1912 are talking about. How can the Algorithm Accountability Act  
1913 help engineers be more thoughtful about their designs and  
1914 testing processes?

1915           \*Ms. Lehman. Thank you. So with the Accountability  
1916 Act, it allows for -- it makes possible impact assessments  
1917 for -- and so it forces, again, the consideration that  
1918 platforms and companies utilizing algorithms don't presently  
1919 need to do.

1920           And so, because there are so many different factors that  
1921 can go into our recommendations or algorithmic decision-  
1922 making, it forces considerations, and not changes, and not --  
1923 but it -- that -- it is kind of a form of transparency unto  
1924 itself, but it -- forcing that forward is a crucial component  
1925 of understanding what factors go into things that can affect  
1926 everything from credit to housing to what ads we are seeing  
1927 online.

1928           \*Mr. McNerney. Well, in other words, pre-planning and  
1929 pre-specifications can help make algorithms more accountable  
1930 and transparent --

1931           \*Ms. Lehman. Yes --

1932           \*Mr. McNerney. -- believe that.

1933           \*Ms. Lehman. Yes.

1934           \*Mr. McNerney. Ms. Nkonde, in your testimony you  
1935 explained how predictions made through machine learning  
1936 create a feedback loop that can change the course of society.  
1937 Please elaborate on that. That is an interesting comment.

1938           \*Ms. Nkonde. So once a prediction has been made -- for  
1939 example, a wrongful [inaudible] in the case of Robert

1940 Williams, as we talked about earlier, that person now has a  
1941 [inaudible] record. But more importantly, their biometric  
1942 data is within that system, and there is no way of taking  
1943 back that bad decision-making. So that person's life has  
1944 been changed, not just personally, but administratively. And  
1945 they become part of a data set that is feeding back wrong  
1946 information.

1947 \*Mr. McNerney. Thank you. I ran out of time, and I  
1948 yield back.

1949 \*Ms. Schakowsky. The gentleman yields back, and -- yes,  
1950 Ms. -- next is Mr. Bucshon.

1951 \*Mr. Bucshon. Thank you, Madam Chair, for calling this  
1952 hearing today. This is a really, really important subject.

1953 In the last few years, multiple reports and incidents  
1954 have come out showing that America's youth has been harmed by  
1955 the often opaque and insufficient data privacy and content  
1956 moderation practices of tech platforms and other online  
1957 services. I think we can all agree that that is true. It is  
1958 extremely concerning.

1959 I have four children. My youngest now, my daughter, is  
1960 getting ready to graduate high school. And during her high  
1961 school years we have had to navigate this. And in our  
1962 family, just like everyone else's, like so many other people  
1963 from Indiana, Hoosiers, they have had to grapple with what  
1964 the fair and safe terms of our online presence is with this



1965 in mind, because, if anyone has teenagers, they know they  
1966 will be online, whether you know it or not. It is critical  
1967 that kids like my daughter learn to safely navigate these  
1968 technologies, prepare them for the 21st century life and  
1969 workplace.

1970 I was a surgeon before, and I would like to -- I always  
1971 like to say these issues need to be addressed, I think, with  
1972 a scalpel, rather than a hacksaw, in that there are data and  
1973 usage restrictions worthy of examination by this committee,  
1974 absolutely. Unfortunately, I think the legislation today,  
1975 which is extremely well intended, probably takes more of a  
1976 hacksaw approach than I would like to see, outright banning  
1977 targeted advertising and opening a private right of action to  
1978 let trial lawyers sue small business and local advertisers.  
1979 I doesn't, I don't think, address the issue. Rather, we  
1980 should examine policies how the FTC can better do their job  
1981 as the cop on the beat to protect children from privacy  
1982 dangers online.

1983 We are also reviewing a bill today that would  
1984 drastically expand the government to increase the FTC by  
1985 nearly one third of its existing size.

1986 So, Mr. Duffey, in your testimony you mentioned some of  
1987 the ways that predators and other bad actors try to pressure  
1988 and bully kids into providing information or materials that  
1989 could harm them for the rest of their lives by putting it in

1990 cyberspace, and that never goes away.

1991 Do you believe that requiring platforms to be more  
1992 transparent with their cyber bullying content moderation  
1993 practices would empower youth users and their parents to  
1994 avoid, oppose, or remove cyber-bullying content that can  
1995 quickly get out of hand and turn into exploitative or even  
1996 illegal content?

1997 \*Mr. Duffey. I do, thank you, Representative. I agree  
1998 with you 100 percent that some transparency with youth, law  
1999 enforcement, and parents would only add to the knowledge base  
2000 that -- for everybody on how to better protect yourself, the  
2001 content, and what you are getting, what you are contributing  
2002 when you sign up for these sites.

2003 And it would allow for us to have a wider scope to the  
2004 overall issue when it comes to sextortion and cyber-bullying,  
2005 along with the tactics used by these individuals.

2006 \*Mr. Bucshon. Well, thank you very much. And even -- I  
2007 live in Evansville, Indiana. And I can tell you, talking  
2008 with local law enforcement there, this is pervasive. It is  
2009 surprising. Even in rural counties I represent, bad actors  
2010 every day doing this. This is just not, you know, in cities,  
2011 big cities and other places. This is everywhere.

2012 Ms. McInnis, many consumers have already shown to be  
2013 interested in not having their data tracked, as evidenced by  
2014 the success of DuckDuckGo browser. But there are, obviously,

2015 those who have chosen to stay on the platforms that use their  
2016 data. Do you think that encouraging wider implementation of  
2017 privacy-by-design principles would give consumers the  
2018 confidence that their data is being responsibly used, and  
2019 could encourage more transparent practices in how a company  
2020 uses a consumer's data to alleviate the concerns and abuses  
2021 you have laid out by some of the advertisers currently?

2022 \*Ms. McInnis. Thank you, Representative. Absolutely.

2023 However, as the chairwoman and ranking member have  
2024 stated, we have waited too long for companies to  
2025 self-regulate, and we really should act now to incentivize  
2026 them to act in the best interests of their users.

2027 \*Mr. Bucshon. Yes, I mean, so what you are saying is  
2028 implementation -- wider implementation of privacy-by-design  
2029 principles should be driven by change in Federal law.

2030 \*Ms. McInnis. Unfortunately --

2031 \*Mr. Bucshon. Not voluntary.

2032 \*Ms. McInnis. Unfortunately, sir, I just think that  
2033 companies won't be incentivized to do so before we  
2034 incentivize them with law.

2035 In addition, I think competition reform bills would  
2036 level the playing field, allowing more companies like  
2037 DuckDuckGo to compete on privacy.

2038 \*Mr. Bucshon. That is a good advertisement.

2039 I yield back.

2040           \*Ms. Schakowsky. The gentleman yields back.

2041           Relevant to this subcommittee, the President is  
2042           apparently going to talk about social media and children's  
2043           mental health tonight, which is very important to us, yes.

2044           And next we have my friend, Congresswoman Clarke, for  
2045           five minutes.

2046           \*Ms. Clarke. I thank you very much, Madam Chairwoman  
2047           and Ranking Member Bilirakis, for holding this extremely  
2048           important hearing today. And I would like to thank you for  
2049           including my legislation, H.R. 6580, the Algorithmic  
2050           Accountability Act of 2022, which I recently reintroduced,  
2051           along with Senators Ron Wyden and Senator Cory Booker.

2052           My legislation takes common-sense and long-overdue  
2053           measures to protect consumers from harmful bias and  
2054           discrimination resulting from the widespread use of automated  
2055           systems that are governed by computer algorithms, artificial  
2056           intelligence, and machine learning.

2057           Let me be clear: the problem isn't just Facebook,  
2058           Instagram, and TikTok. The problem is pervasive. The very  
2059           same automated technologies that are being misused and abused  
2060           by social media companies are similarly being used without  
2061           oversight by a wide range of industries to make critical,  
2062           split-second decisions about people's health care, housing,  
2063           finances, employment, and so much more. And while these  
2064           technologies reach conclusions based on calculations, these

2065 calculations are the products of systems designed by humans,  
2066 subjecting them to a wide range of flaws that reinforce  
2067 broader societal discrimination, particularly against women  
2068 and people of color.

2069         So Ms. Nkonde - and it is so good to see you once again  
2070 -- could you share an example or two of algorithmic systems  
2071 leading to discriminatory outcomes that have a major impact  
2072 on people's lives?

2073         \*Ms. Nkonde. Yes, of course, Congresswoman Clarke. One  
2074 of the most recent examples is a pain management algorithm  
2075 that is used in over 1,000 health care settings in the United  
2076 States that was discriminating against Black American  
2077 patients because their health care costs were higher, in  
2078 aggregate, than other groups. And it wasn't because of care.  
2079 I can certainly speak about that more, but I know we don't  
2080 have time.

2081         And then the second example was one that was brought  
2082 forth by the Haas Business School at Berkeley that found that  
2083 mortgage recommendation algorithms were discriminating  
2084 against Black borrowers at the same rates as human beings  
2085 [were], because the inputs that were being used, the  
2086 questions that were being asked were asked discriminatory as  
2087 it were a human banker (sic).

2088         So those are two of a myriad of examples I could offer.

2089         \*Ms. Clarke. So thank you. It is clear to me that

2090 something must be done to address the current lack of  
2091 accountability and transparency around how automated systems  
2092 are being used. And that is why my Algorithmic  
2093 Accountability Act directs companies to assess their  
2094 automated decision systems for potentially dangerous flaws  
2095 such as inherent bias, safety risk, and performance gaps.

2096 Ms. Nkonde, would you agree that impact assessments are  
2097 a feasible and important first step in tackling this issue?

2098 \*Ms. Nkonde. Yes. As it has been said earlier in this  
2099 hearing, we are looking at impact assessments around  
2100 algorithmic thinkers in the EU, and understanding the  
2101 downstream impact of these technologies will be -- will  
2102 enable good faith actors on the public side to be able to  
2103 decide whether this is actually in line with existing law.  
2104 Because the harms I am describing are otherwise outlawed  
2105 underneath civil rights statute, which we should be following  
2106 if we are going to be -- if we are going to follow rule of  
2107 law in this country.

2108 \*Ms. Clarke. And Ms. Lehman, do you agree, as well?

2109 And how would these impacts assessments benefit  
2110 consumers?

2111 \*Ms. Lehman. Thank you, Congresswoman. A little bit,  
2112 as we mentioned earlier, having companies have to consider  
2113 things other than their profits, having them have to consider  
2114 how the systems they build have impacts on communities, on

2115 marginalized communities, on consumers across the board,  
2116 inherently, even if it may provide more internal  
2117 accountability and provide more external accountability as  
2118 well, I mean, it forces those considerations in a way that we  
2119 haven't previously seen.

2120       \*Ms. Clarke. Well, thank you. And my legislation would  
2121 further direct companies to report their findings to the FTC  
2122 for review, and require the FTC to establish a public  
2123 repository of automated decision systems along with high-  
2124 level information such as data sources and how to contest  
2125 decisions.

2126       Ms. Nkonde, how would these transparency measures be  
2127 helpful to consumers and researchers alike?

2128       \*Ms. Nkonde. They would protect our rights and enable  
2129 us to make informed decisions around what we are actually  
2130 buying, and the impact it will have on our lives as -- on a  
2131 whole.

2132       \*Ms. Clarke. Well, let me thank you for your testimony  
2133 here today to all of our witnesses. It is time that we make  
2134 a change.

2135       And with that, Madam Chair, I yield back. I have gone  
2136 over time.

2137       \*Ms. Schakowsky. The gentlelady yields back, and now,  
2138 Mr. Dunn, you are recognized for five minutes.

2139       \*Mr. Dunn. Thank you very much, Madam Chair. I

2140 appreciate the opportunity to discuss Big Tech today.

2141           You know, thanks to advancements in technology, it is  
2142 easier than ever to stay connected online. When the world  
2143 went into a lockdown with COVID, our relationships could  
2144 nominally be continued. And of course, essential businesses  
2145 remained open. So social media, with American Big Tech  
2146 leading the way, certainly was a boon to us, and we should  
2147 absolutely continue to uphold an economic system that allows  
2148 for innovation and open competition in the U.S. technological  
2149 industry, especially for small and medium-sized enterprises  
2150 that are trying to break into the market.

2151           Unfortunately, social media platforms have also provided  
2152 a new space for bad actors, foreign adversaries to exploit  
2153 the social media channels, to target potential victims and,  
2154 of course, spread harmful propaganda. And these threats are  
2155 heightened during the crisis like we are seeing now in  
2156 Europe.

2157           Some of the Twitter accounts that were sharing  
2158 information about the Russian unprovoked attack in Ukraine  
2159 were curiously suspended from Twitter during the beginning  
2160 days of the invasion. Twitter has noted that these accounts  
2161 were moved removed by mistake, not due to Russian  
2162 interference. And while this may not be an example of pure  
2163 Russian aggression, we know similar reports will likely  
2164 increase, and TikTok is already reporting a surge in Russian



2165 propaganda.

2166           The dangers of foreign adversaries using social media to  
2167 advance their agenda is clearly a very real danger. Social  
2168 media companies have a social responsibility to not allow  
2169 malign state influences on their websites, and I think our  
2170 national security depends on that.

2171           So first question, Ms. McInnis, we know China uses  
2172 search engines to push conspiracy theories, and we know  
2173 Russia is currently using propaganda online to spread  
2174 misleading information in Ukraine. How does DuckDuckGo  
2175 detect foreign manipulation campaigns such as this?

2176           And after detection, what steps do you take?

2177           \*Ms. McInnis. Thank you for the question, Congressman.

2178           First and foremost, the number-one thing that DuckDuckGo  
2179 does to help stem disinformation and misinformation online is  
2180 not collect your personal information. Companies that  
2181 collect a lot of personal information, such as Google, are  
2182 able to use that to further ensure that you are engaging in  
2183 the product, which leads often to the presentation of  
2184 conspiracy theories or other fringe videos that are  
2185 presenting non-credible information.

2186           Secondly, DuckDuckGo got started as a search engine that  
2187 was providing users with instant answers at its top-of-the-  
2188 search-engine results page. We have continued to do that,  
2189 especially with regards to information that may be targeted

2190 by people with ill intentions to provide misinformation and  
2191 disinformation.

2192           And what many may not know is that the top of the search  
2193 engine results page gets, by far, the most attention from any  
2194 user. So by presenting users with credible and authoritative  
2195 information at the top, we are ensuring that they are going  
2196 to find the right answers to their questions, and not be  
2197 steered away to another site that is looking to prey on their  
2198 fear and misinformation.

2199           \*Mr. Dunn. Thank you for that, Ms. McInnis. Again, our  
2200 adversaries also want access to individuals' data, so they  
2201 can build algorithms to target, predict, and manipulate  
2202 behavior in the United States.

2203           I am especially concerned about American companies that  
2204 have ties to the Communist Chinese Party, and what data they  
2205 are forced to share because of that relationship with China.  
2206 You know, I think consumers deserve more transparency.

2207           How is their data used? Can you tell us a little bit  
2208 more about that data? When are they forced to share?

2209           \*Ms. McInnis. Thank you for the question, Congressman.  
2210 I am not sure what data companies are forced to share, in  
2211 part because DuckDuckGo does not collect any personal user  
2212 data as people use our systems. So by --

2213           \*Mr. Dunn. Well, thank you for not doing that. I  
2214 appreciate -- time is drawing short, so I am going to ask you

2215 for yes-or-no answers to these, if you will.

2216 Do believe that the amount of individual data collected  
2217 by Big Tech companies is concerning?

2218 \*Ms. McInnis. Very.

2219 \*Mr. Dunn. Good. In general, is the data collected by  
2220 Big Tech companies used to influence individual behaviors?

2221 \*Ms. McInnis. Absolutely.

2222 \*Mr. Dunn. Okay, good.

2223 Mr. Duffey, we are going to give your technology another  
2224 shot here. From your experience, what tools could social  
2225 media sites implement to help users identify nefarious  
2226 accounts?

2227 [Pause.]

2228 \*Mr. Dunn. Shouldn't have taken the risk, I guess.

2229 \*Mr. Duffey. Thank you --

2230 \*Mr. Dunn. [Inaudible.]

2231 \*Mr. Duffey. I think the internal tools that they  
2232 collect --

2233 \*Mr. Dunn. Mr. Duffey, go ahead. What tools would you  
2234 wish you had from Congress?

2235 [Pause.]

2236 \*Mr. Dunn. A good computer --

2237 [Laughter.]

2238 \*Mr. Duffey. I would wish that the technology  
2239 companies -

2240 \*Mr. Dunn. What?

2241 [Pause.]

2242 \*Mr. Dunn. I appreciate the Chair's --

2243 \*Mr. Duffey. Can you hear me?

2244 \*Mr. Dunn. -- forbearance. I yield back.

2245 \*Ms. Schakowsky. Yes, I think we, unfortunately, lost  
2246 him. Next is Mr. Cardenas for five minutes.

2247 \*Mr. Cardenas. Yes, thank you, Madam Chairwoman  
2248 Schakowsky, and also Ranking Member Bilirakis, for having  
2249 this important meeting, and talking about these very good  
2250 bills.

2251 I would also like to thank my colleague, Representative  
2252 Lori Trahan, for introducing her bill, which would help shine  
2253 a light on the content moderation practices of Big Tech  
2254 companies.

2255 Without adequate transparency, we don't have the  
2256 information we need to understand how disinformation spreads,  
2257 and how to hold these companies accountable when they fail to  
2258 make strong-enough measures to combat it.

2259 This problem is particularly bad in Spanish-speaking  
2260 communities, where we have seen social media companies fail  
2261 to invest the resources necessary to fight Spanish-Language  
2262 disinformation. And it has come to my attention that Russia  
2263 is feeding disinformation about what is going on in the  
2264 Ukraine, specifically bombarding the Spanish-speaking

2265 community here in the United States and around the world. So  
2266 obviously, they are trying to skew the truth, and trying to  
2267 get certain communities to believe that Putin is muy bueno,  
2268 or a good guy, and he is not.

2269 Thanks to whistleblowers like Frances Haugen, a former  
2270 Facebook product manager, we know the Facebook -- that  
2271 Facebook directed 87 percent of their investments on  
2272 combating misinformation to English language content, in  
2273 spite of the fact that only 9 percent of Facebook users are  
2274 English speakers. What a disparity.

2275 These disparities are unacceptable, especially when  
2276 consuming misinformation can lead to real-world health,  
2277 safety, and financial consequences for communities. And  
2278 also, in some cases, people are actually dying based on what  
2279 people are fed and the actions that they take.

2280 Ms. Lehman, would publicly publishing how these online  
2281 platforms moderate non-English language content hopefully put  
2282 some pressure on companies to correct the disparities and  
2283 content moderation investment between English content and  
2284 content in other languages? And if so, how so?

2285 \*Ms. Lehman. Absolutely. And I think, in large part,  
2286 because those disparities, when they are said aloud, are so  
2287 dramatic and so disproportionate, and so just incredibly  
2288 disheartening, right?

2289 As the statistic you just cited, if it is 87 percent,

2290 even though it is making up 9 percent -- even though English  
2291 speakers make up only 9 percent of that platform, all sorts  
2292 -- all languages deserve the level of attention and the  
2293 intensity and the appropriate content moderation, because all  
2294 consumers deserve high standards of conduct moderation, and  
2295 that when they are using a platform online, they can expect  
2296 that their experience won't be different from someone else's  
2297 simply because of the language that they are using on that  
2298 platform.

2299 \*Mr. Cardenas. Thank you. We had Facebook in front of  
2300 us, and other companies, and they admitted that they could  
2301 put some more resources in there, but they choose not to.

2302 For example, McInnis, wasn't it earlier today that  
2303 somebody asked about whether or not DuckDuckGo is actually  
2304 profitable, and you said yes? What number do you -- did you  
2305 say that your revenue is \$100 million?

2306 \*Ms. McInnis. That is correct, Representative.

2307 \*Mr. Cardenas. Is that per year?

2308 \*Ms. McInnis. It is per year.

2309 \*Mr. Cardenas. An annual basis? A year. Well, I would  
2310 venture to guess that \$100 million is a slow day for  
2311 Facebook/Meta, Google, and Amazon.

2312 So I pray that DuckDuckGo can actually continue to  
2313 succeed in this environment, because we are talking about  
2314 companies that are now net worth \$1 trillion or more. And

2315 the reason why I point that out is because they choose not to  
2316 use good practices. They choose not to have practices that  
2317 are respectful of the consumer, respectful of the people who  
2318 are using their platforms.

2319 And so I just want to commend you, Ms. McInnis, and  
2320 please tell the C-suite executives at DuckDuckGo that I hope  
2321 and pray that your model continues to work in this  
2322 environment. And unfortunately, you are a tiny player on  
2323 this playing field. Please take a second if you think that I  
2324 am mischaracterizing, what I just said.

2325 \*Ms. McInnis. No, I appreciate your words,  
2326 Representative, and we are trying very hard to compete in  
2327 this marketplace. But as we have mentioned, Facebook and  
2328 Google hold a duopoly in advertising. And the Banning  
2329 Surveillance Advertising Act would help mediate that  
2330 inadequacy in the market, and allow for more companies to  
2331 compete on privacy, just like DuckDuckGo.

2332 \*Mr. Cardenas. Thank you so much. In 2020 a product  
2333 risk assessment calculated internally by Facebook found that  
2334 Spanish language misinformation detection on the platform  
2335 remains, "very low performance."

2336 In spite of that, the report's recommendation was to --  
2337 and I quote -- "just keep trying to improve," and aim -- and  
2338 claimed that -- and I quote -- "addition of resources will  
2339 not help." That -- nothing could be further from the truth.

2340           And the last thing I will say is, without public  
2341    accountability, I think that these companies will continue to  
2342    do the wrong thing, and we do need to have Federal  
2343    legislation to rein them in for the sake of people's health  
2344    and livelihood, and for the lives of the people and the  
2345    children who are badly affected by these platforms.

2346           I am sorry I went over my time, Madam Chairwoman, I  
2347    yield back.

2348           \*Ms. Schakowsky. No, I thank the gentleman.

2349           And Mrs. Lesko, you are recognized for five minutes.

2350           \*Mrs. Lesko. Thank you, Madam Chairman. Before I begin  
2351    my question, I want to correct the record.

2352           Earlier in the hearing Representative Castor had urged  
2353    the need for the House to have a bipartisan bill updating the  
2354    children's online privacy protection rule, and I agree we  
2355    need a bipartisan bill. But such a bill already exists.  
2356    Representative Walberg and Representative Rush introduced  
2357    H.R. 1781, the PROTECT Kids Act, earlier this year. And I  
2358    understand Republicans have requested this bill to be  
2359    included in the last two legislative hearings, but still to  
2360    no avail.

2361           Furthermore, the bill was reintroduced from last year,  
2362    so I am happy to say to Representative Castor that the Senate  
2363    is not ahead of us on this particular issue.

2364           I also want to add that I understand that Leader



2365 McMorris Rodgers and Ranking Member Wicker have now asked the  
2366 President twice on engaging on a comprehensive national  
2367 privacy and data security bill -- not just on children's  
2368 privacy -- and have not heard back yet, or there hasn't been  
2369 an attempt to build a consensus with us Republicans.

2370         So I think we do want to work in a bipartisan area,  
2371 because this is very important.

2372         Well, again, I want to say thank you to the witnesses  
2373 for being here today.

2374         Before I begin my questions, I want to express my  
2375 disappointment that representatives from the advertising  
2376 industry were not invited to testify at a hearing which  
2377 examines legislation that will severely impact the  
2378 advertising industry. It seems that they deserve a seat at  
2379 the table, so we can understand the effects.

2380         I do want to be clear, however, I have the same concerns  
2381 that my colleagues have, in terms of Big Tech abusing their  
2382 power and escaping responsibilities for their wrongdoing.

2383         However, H.R. 6416 will burden the small and medium-  
2384 sized enterprises that are looking to gain entry into a  
2385 market that heavily relies on advertising to be successful.  
2386 The niche products created by innovators looking to  
2387 capitalize on the American dream will not be able to grow or  
2388 even survive under this legislation.

2389         I do not believe that was the intent of the sponsor, my

2390 friend. I know you care about protecting Americans'  
2391 privacies, but let's not do it at the expense of small  
2392 businesses. Yes, abusers like Google must be held  
2393 accountable, but we must be sure to examine that actions  
2394 taken to curb Big Tech's power will not unduly burden small  
2395 businesses.

2396         The FTC has shown no interest in protecting good actors  
2397 in the market, so that duty now falls on us. But these are  
2398 the very same concerns that the Interactive Advertising  
2399 Bureau, an organization that should be on today's panel,  
2400 explained in a letter to this committee. And I ask that this  
2401 letter -- it is rather a lengthy one -- be submitted for the  
2402 record.

2403         And if Mr. Duffey can hear us --

2404         \*Ms. Schakowsky. Without objection, so ordered.

2405         [The information follows:]

2406

2407         \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

2408

2409           \*Mrs. Lesko. Thank you, Madam Chair.

2410           Mr. Duffey, thank you again for your testimony, and for  
2411 your long career wearing the badge. You raised many issues  
2412 that we should be examining as we hold Big Tech accountable.

2413           Central to our goal is the Federal Trade Commission and  
2414 their ability to inform Americans about resources they have  
2415 when their security has been violated. As a law enforcement  
2416 expert, what information would you want people to know about  
2417 when their safety is violated on social media platforms?

2418           \*Mr. Duffey. Thank you, Representative. Hopefully, the  
2419 audio is coming through a little bit clearer.

2420           To answer your question, I think today you would want to  
2421 know, when your safety is violated, what exactly is the data  
2422 that is -- was available to that individual. Was it personal  
2423 information, as it relates to your phone number? Was it date  
2424 of birth information?

2425           What -- a lot of times, when we see these social media  
2426 sites, there is a growing concern amongst individuals that  
2427 they are being encouraged to link their profiles to other  
2428 social media sites. The question then becomes -- is what  
2429 data carries from company to company, and how does that  
2430 impact the citizens that we serve every day?

2431           So I think, while a lot of it is we are used to credit  
2432 reports being offered to people once they are -- once they  
2433 have been compromised, from a social media perspective, were

2434 my pictures taken? The big picture of what exactly was  
2435 compromised, so that I can make a self-assessment as a  
2436 citizen to what safety factors I am more concerned of.

2437 \*Mrs. Lesko. Thank you.

2438 And Madam Chair, I yield back.

2439 \*Ms. Schakowsky. The gentlewoman yields back. And now,  
2440 Congresswoman Debbie Dingell, it is yours for five minutes.

2441 \*Mrs. Dingell. Thank you, Chairman Schakowsky. Thanks  
2442 for holding this important hearing, and to all the witnesses  
2443 for testifying today.

2444 In our December hearing on holding Big Tech accountable,  
2445 I discussed how these platforms prioritized profits over  
2446 people by keeping users engaged. These direct design choices  
2447 have a profound impact on children and adolescents who are  
2448 using these platforms, and we have seen an increasing  
2449 connection between time spent on new media and mental health  
2450 issues we are seeing in children and adolescents. In this  
2451 increasingly digital age, we need to be vigilant in re-  
2452 evaluating how these design choices impact children, and we  
2453 need to work to prevent subsequent harms online.

2454 I am going to -- I know previous questioners -- my  
2455 colleagues have asked some of these questions, and I am going  
2456 to try to build them. I want to start just by getting each  
2457 of you on record with the same question I asked at the  
2458 subcommittee's previous tech accountability hearing.

2459           To the panel, are social media companies conducting  
2460 business online actively making the choice to prioritize  
2461 profits and engagement over combating disinformation, violent  
2462 content, and negative health outcomes for individuals and  
2463 children?

2464           Just a yes or no answer, Ms. Lehman.

2465           \*Ms. Lehman. Yes.

2466           \*Mrs. Dingell. Ms. McInnis?

2467           \*Ms. McInnis. Yes.

2468           \*Mrs. Dingell. Ms. Nkonde?

2469           \*Ms. Nkonde. Yes.

2470           \*Mrs. Dingell. Mr. Duffey?

2471           \*Mr. Duffey. Yes.

2472           \*Mrs. Dingell. Thank you. Okay.

2473           Ms. Lehman, are there ways in which the design features  
2474 or algorithms of these platforms can take advantage of young  
2475 people in particular, leading to worse outcomes?

2476           Do these design choices increase the likelihood that  
2477 children will be exposed to divisive, violent, hurtful, or  
2478 inappropriate content?

2479           \*Ms. Lehman. Absolutely. So right now we -- a lot of  
2480 what is most exciting about the transparency of things before  
2481 us today is that there is not enough information to have a  
2482 good sense of how exactly some of these platforms are making  
2483 these design choices. We understand they are, but we don't

2484 know the intricacies of exactly how to fix it.

2485           A lot of this legislation allows us that insight, and  
2486 also starts to force platforms to consider ways that their  
2487 algorithmic systems are designed, ways that they are -- it  
2488 starts, as you said, when they are prioritizing profits over  
2489 people. It starts to combat that, it provides -- because,  
2490 ultimately, they do need incentives to do so.

2491           \*Mrs. Dingell. Thank you.

2492           Ms. McInnis, what responsibility do tech companies have  
2493 to protect children from manipulative marketing content and  
2494 product recommendations and targeted advertising?

2495           Should these companies have some level of [inaudible]  
2496 for a failure to protect our young users?

2497           \*Ms. McInnis. Absolutely. And thank you for the  
2498 question, Representative.

2499           We encourage tech companies to take more responsibility  
2500 over the kinds of tracking that they are using online, and  
2501 how that tracking encourages other third parties to target  
2502 users with misinformation, disinformation, and other offers  
2503 that may be inappropriate, especially for children.

2504           \*Mrs. Dingell. Thank you.

2505           Ms. Lehman and Ms. Nkonde, do you believe that, without  
2506 legislation, companies will take the necessary steps to  
2507 protect children from manipulative practices on their  
2508 platforms?

2509           How would the legislation under consideration today  
2510 ensure that regulators and researchers have the tools and  
2511 information necessary to protect children and adolescents  
2512 using these platforms?

2513           Why don't we start with Ms. Nkonde?

2514           \*Ms. Nkonde. I don't think that any of the companies  
2515 are incentivized to protect children because they are  
2516 publicly-traded companies. Therefore, their first priority  
2517 is to their shareholders. This legislation would create that  
2518 hand in the same way that, in the age of robber barons,  
2519 Congress had to come in and create an incentive.

2520           In terms of transparency, knowing the harm allows us to  
2521 have a targeted and appropriate remedy that can maintain  
2522 innovation and business in the United States, while  
2523 protecting our children, who, in my humble opinion, as a  
2524 mother, are our greatest asset.

2525           \*Mrs. Dingell. Ms. Lehman, 20 seconds. Can you give us  
2526 a quick answer?

2527           \*Ms. Lehman. Yes, I would echo Ms. Nkonde.

2528           And we know from previous hearings that platforms don't  
2529 action, or don't action -- maybe even three to five percent  
2530 of hate, of violence, and of incitement, these problems are  
2531 rampant, and I think if -- certainly, the transparency would  
2532 lend itself to public accountability for that.

2533           \*Mrs. Dingell. Thank you, Madam Chair. I yield back.

2534 \*Ms. Schakowsky. The gentlewoman yields back.

2535 And Mr. Pence, you are recognized for five minutes.

2536 \*Mr. Pence. Thank you, Chair Schakowsky and Ranking  
2537 Member Bilirakis, and thanks -- I thank the witnesses for  
2538 being here today. I am going to kind of give you a  
2539 background a little bit where I am at on this with some  
2540 statements.

2541 Like many of my colleagues, I am increasingly concerned  
2542 with the growth-at-any-cost mindset of Silicon Valley.  
2543 Social media platforms employ algorithms that promote  
2544 inflammatory, addictive content to elicit the strongest level  
2545 of user engagement. You know, as we have talked about with  
2546 children, that is a horrible thing.

2547 More clicks lead to more data that fuels a more  
2548 lucrative online advertising business model. Efforts to keep  
2549 users glued to their screen is at the heart of this business  
2550 model. You know, we know that is true, because everybody has  
2551 got their nose in their phone all the time.

2552 Our public disclosures have become overtly divisive.  
2553 Our younger generations have developed unhealthy addictions  
2554 to social media, and an individual's right to privacy is  
2555 disregarded.

2556 The online environment of intrusive data collection  
2557 inflammatory content is not the only option. I am encouraged  
2558 to hear the conversation today and the level of agreement we



2559 have on problems facing Hoosiers and all Americans as it  
2560 pertains to Big Tech. It is time that we start enacting in  
2561 advance holistic solutions that will rein in Big Tech and  
2562 produce real results to protect our constituents online.

2563 Our constituents should have more control over how their  
2564 personal information is collected and used online, or -- and  
2565 this is where I deviate a little bit -- receive fair  
2566 compensation when their information is collected and sold, as  
2567 it is happening absolutely non-stop.

2568 Ms. McInnis, in a previous hearing I discussed whether  
2569 or not a social media platform could still be profitable  
2570 without the ability to monetize content that has been  
2571 adjudicated to be harmful to users. Likewise, DuckDuckGo is  
2572 a profitable company that claims to not engage in  
2573 surveillance advertising. Concerns have been raised that, if  
2574 Congress limits a platform's ability to engage in automated  
2575 surveillance advertising tools, small businesses will suffer  
2576 from a lack of reach, which -- I wrestle with that.

2577 However, as you referenced in your testimony, research  
2578 shows only modest gains for the user of behaviorally-targeted  
2579 ads. I hear that a lot from the small businesses that use  
2580 social media. Some it is good for, but the vast majority, it  
2581 says it gets nothing for me.

2582 And yet, oddly, advertisers are very willing to pay a  
2583 premium for what they believe extends their reach. Is it

2584 reach, or extends their data collection?

2585           If the outcome for online advertising is similar to what  
2586 you can expect from other methods, the only difference  
2587 becomes the amount of information Google or Facebook or any  
2588 of the other Big Tech can gather from you and your business,  
2589 or you personally. What has the experience been like at  
2590 DuckDuckGo for small businesses seeking to advertise their  
2591 products to potential consumers, from your perspective?

2592           \*Ms. McInnis. Thank you for the question,  
2593 Representative.

2594           Unfortunately, we syndicate our contextual ads through  
2595 Microsoft. So Microsoft would have the best data on how  
2596 small businesses have utilized the platform. That said,  
2597 DuckDuckGo is a smaller tech company that is competing  
2598 against the giants. We also use contextual ads, and we have  
2599 used the contextual ads on our services, as well. So we have  
2600 proven that this is a profitable model for us.

2601           In addition, many small businesses have been using  
2602 contextual ads to their benefit.

2603           Finally, as I mentioned earlier, the ability to  
2604 discriminate in the targeting of advertisements also enables  
2605 companies to discriminate in the opportunities that they  
2606 present to users, meaning that some smaller businesses may be  
2607 discriminated against in the provision of financial  
2608 resources, rental opportunities, housing agreements, and

2609 other things that make their small business possible.

2610 \*Mr. Pence. Well, I would even say -- I appreciate that  
2611 comment. I would even say in sales, too, they get limited.  
2612 It depends on who is collecting the data, and who they are  
2613 dispersing that data to. It is a real problem for me.

2614 Ms. Nkonde, what is your answer to that same question?  
2615 And that question was your experience with small businesses,  
2616 the value there. Are they making money off this data  
2617 collection of Big Tech?

2618 \*Ms. Nkonde. I would actually agree with your  
2619 assessment that the returns are actually on the tech company  
2620 side, in terms of more data. Because with more data, you can  
2621 create more products, you have more insight. And the rate of  
2622 return can be negligible.

2623 But that is not to say all the time. There are some  
2624 businesses that are able to benefit, but not in the same way  
2625 that the big giants do.

2626 \*Mr. Pence. Yes, thank you for that. You know, I think  
2627 it is time we stop talking about being -- us receiving some  
2628 benefit for all the data that is being collected on us.

2629 And thank you, Madam Chair, I yield back.

2630 \*Ms. Schakowsky. The gentleman yields back. And now my  
2631 colleague from Illinois, Congresswoman Kelly, for five  
2632 minutes.

2633 \*Ms. Kelly. Thank you, Chair Schakowsky, for holding

2634 this hearing today, and for the witnesses appearing before  
2635 us.

2636 I am delighted to see that one of the bills recommended  
2637 by the E&C Racial Equity Working Group, the Algorithmic  
2638 Accountability Act, will be considered here today.

2639 Every day people go online and search or buy products,  
2640 and all the while, little bits of their activity get  
2641 collected and put toward creating an online profile of a  
2642 user's wants, likes, and dislikes. In the real world, more  
2643 and more decisions are being made by artificial intelligence  
2644 from data collected from what we do online. Large amounts of  
2645 data are combined to make predictions with little knowledge  
2646 of the underlying data used to train the algorithm, or the  
2647 potential bias that is encoded in the system. One of the  
2648 more difficult conversations to have around AI -- what it  
2649 means for AI to be transparent or explainable.

2650 Ms. Nkonde, in an interview last year with Stanford's  
2651 Engineering The Future of Everything podcast, you mentioned  
2652 that impact assessment information would be more useful than  
2653 opening up an algorithm and seeing what is inside. Can you  
2654 elaborate on this?

2655 Is it either or -- is it an either/or situation, or how  
2656 would the Algorithmic Accountability Act -- how would it help  
2657 biases in how algorithms are designed and the outcomes they  
2658 produce?

2659           \*Ms. Nkonde.  Congresswoman Kelly, I would suggest that,  
2660 because we are looking for accountability, the impact of the  
2661 technology is way more important than the longitudinal  
2662 algebra that it took to create the algorithm, because those  
2663 statistical models are going to be visible to very few people  
2664 in the population.

2665           And from an oversight perspective, Congress just needs  
2666 to know, are these products in line of the laws of our land?  
2667 And for that you just need impact.

2668           \*Ms. Kelly.  Thank you.

2669           Ms. Lehman, in your testimony you point out the  
2670 imbalance that the FTC often faces going up against some of  
2671 the largest tech companies in the world.  The Digital  
2672 Services Oversight and Safety Act and the Algorithmic  
2673 Accountability Act include increased FTC staffs and funding,  
2674 albeit at different levels.

2675           Can you explain how the current imbalance of FTC  
2676 staffing harms the ability of the government to stop bad  
2677 actors?

2678           \*Ms. Lehman.  Absolutely.  Thank you, Congresswoman.

2679           So the FTC today is a fraction of the size it was 40  
2680 years ago, even while the economies from some of the largest  
2681 platforms alone were unthinkable at that time.  And so the  
2682 kinds of resources that the FTC has to combat the systemic  
2683 problems throughout these -- throughout this industry is --

2684 the fact that we are still smaller than -- compared to the  
2685 outsized growth there, it -- we can only -- consumers will  
2686 only benefit from a fully empowered FTC that can -- that has  
2687 the level of expertise and funding to effectively go after  
2688 these industries.

2689 \*Ms. Kelly. Thank you.

2690 And Ms. McInnis, do you have anything to add?

2691 \*Ms. McInnis. We likewise support a fully funded and  
2692 resourced Federal Trade Commission.

2693 One of the best things that the Federal Trade Commission  
2694 and, indeed, the U.S. Government could do right now is  
2695 enforce our existing rules and laws. And so we encourage the  
2696 Federal Trade Commission to not only enforce their laws, but  
2697 also consider where they could act to protect users, perhaps  
2698 through examining new rules under the Children's Online  
2699 Privacy Protective (sic) Act, or acting against patterns that  
2700 we are seeing online under their section 5 authority.

2701 \*Ms. Kelly. Thank you. The European Union has already  
2702 started their work towards an AI law. Their bills differ in  
2703 many ways from the bills being considered today, but share  
2704 some important similarities.

2705 Ms. Lehman, how would the Algorithmic Accountability Act  
2706 align with European efforts to regulate AI, and how do they  
2707 differ on taking risk-based approaches?

2708 \*Ms. Lehman. Thank you, Congresswoman.

2709           So in the EU there have been proposed legislation --  
2710           there has been proposed regulation that would put algorithms  
2711           into different risk buckets. And so this is where they  
2712           differ insofar as they would go so far as to ban algorithms  
2713           in the use of, like, the highest risk buckets, thinking more  
2714           about, like, social credit scoring. There would be more  
2715           regulations around how they can be used in some of the  
2716           medium-risk buckets, and transparency in the lowest-risk  
2717           buckets.

2718           We are a little bit earlier on in our AI regulation  
2719           discussions, and so are -- in the U.S., the -- we -- the  
2720           primary mechanism we have right now in the Algorithmic  
2721           Accountability Act is impact assessments and that  
2722           transparency. So getting a sense of, okay, what are the  
2723           effects of these systems.

2724           \*Ms. Kelly. Thank you.

2725           And with that, Madam Chair, I yield back.

2726           \*Ms. Schakowsky. And next I call on Mr. Soto for his  
2727           five minutes.

2728           Mr. Soto, the floor is yours.

2729           \*Mr. Soto. Thank you, Madam Chair. When we look at 7  
2730           in 10 Americans using social media platforms -- that actually  
2731           even sounds pretty low for me; most people I know use social  
2732           media, right?

2733           And the practice of sharing user data to target

2734 advertisements has led to discrimination based upon race and  
2735 gender on occasion. Forty-two percent of Americans  
2736 experienced online harassment over the past year, forty-two  
2737 percent. And social media companies have consistently denied  
2738 and blocked the needed data for us to do independent research  
2739 and government research.

2740 But there is hope, right? Because, while we know so  
2741 many Americans are using social media, privacy online is an  
2742 issue that affects most Americans. And the big headline from  
2743 this hearing today is that the Energy and Commerce Committee,  
2744 Democrats and Republicans, are coming together to propose  
2745 bipartisan agendas, bipartisan bills to protect America's  
2746 privacy online.

2747 And Madam Chairwoman, I thank you and the ranking member  
2748 for -- my fellow Floridian, Gus Bilirakis, for your  
2749 leadership on this, the Banning Surveillance Advertising Act  
2750 of 2021. It prohibited advertisers from targeting  
2751 advertisements based upon personal information that links the  
2752 consumer's connected device, basically hunting down who you  
2753 are by your device, rather than by your preferences and what  
2754 you avail yourself to online.

2755 The second bill, the Algorithm (sic) Accountability Act  
2756 of 2022, which would conduct impact assessments on the  
2757 algorithms that are mysterious to so many folks, and have  
2758 regular reporting of these results to the Federal Trade



2759 Commission to make sure they are fair against discrimination,  
2760 against anti-consumer issues, against all sorts of nefarious  
2761 things that can happen if we leave it just to machines to  
2762 make these decisions.

2763         The third bill, Cooperation Among Police, Tech, and  
2764 Users to Resist Exploitation Act, or the CAPTURE Act. I want  
2765 to give a compliment to my fellow Floridian, the ranking  
2766 member, Gus Bilirakis, on this great bill on how social media  
2767 companies communicate, consult, and coordinate with Federal,  
2768 state, and local law enforcement to address illegal content  
2769 and activity online. We have to protect our kids, we have to  
2770 protect our families.

2771         My wife is an assistant principal in central Florida,  
2772 and we see kids being exposed to adult content that has  
2773 really hurt their childhood, and has made it harder on  
2774 educators, and particularly on parents.

2775         Increasing consumer education of law enforcement  
2776 resources, by Representative Mullin, that requires the FTC to  
2777 work with the attorney generals to develop educational  
2778 programs to inform the public on resources available, should  
2779 they feel their safety or security was violated. Right now,  
2780 many Americans don't know where to go, and this is a key  
2781 part.

2782         And then finally, the Digital Services Oversight and  
2783 Safety Act of 2022, which establishes the Bureau of Digital

2784 Services Oversight and Safety, a long-time need at the FTC to  
2785 beef up their oversight of social media platforms under the  
2786 FTC.

2787 Thank you, Special Agent Duffey, for being here.  
2788 Welcome from Florida, at least virtually. We appreciate you  
2789 testifying today. What other types of criminal acts and  
2790 dangers do you see online from Floridians, from your role at  
2791 FDLE?

2792 \*Mr. Duffey. Thank you, Representative.

2793 [Pause.]

2794 \*Mr. Duffey. Can you hear me?

2795 \*Mr. Soto. Yes, we could hear you. So what are the  
2796 types of criminal acts online that you end up seeing in  
2797 Florida, and the dangers?

2798 \*Mr. Duffey. We see everything that you could think of,  
2799 and more. There is not a day that goes by that we aren't  
2800 learning something new. Everything from the drug trade to  
2801 individuals selling other -- personal information from other  
2802 people's accounts. It has really become the modern day means  
2803 of communication amongst all criminal activity. They  
2804 establish groups using different platforms, leveraging  
2805 encryption services to hide behind a curtain that we are not  
2806 privy to.

2807 So it is increasingly becoming a challenge, as you  
2808 mentioned, with today's youth, and the content that they get

2809 exposed to on a daily basis, the mental health impact that it  
2810 has on them, and the lack of oversight in the amount of  
2811 content that they view is growing each and every day.

2812 So if you can think of a criminal activity, from selling  
2813 somebody's house that they live in, to compromising a bank  
2814 account, to title fraud, car fraud, it is all occurring in  
2815 the digital environment.

2816 \*Mr. Soto. Thank you, Special Agent Duffey. Together  
2817 we can empower parents, families, educators, consumers,  
2818 prevent discrimination with this critical agenda.

2819 And I yield back.

2820 \*Ms. Schakowsky. The gentleman yields back. And now,  
2821 Congresswoman Craig, you are recognized for five minutes.

2822 \*Ms. Craig. Thank you so much, Madam Chair, for  
2823 yielding.

2824 Ms. Lehman, I want to start by thanking you for  
2825 providing such thoughtful and helpful testimony across so  
2826 many different areas related to holding Big Tech accountable,  
2827 and for calling out Snapchat in your section 230 reform  
2828 ideas.

2829 I have raised my concerns about Snapchat serving as an  
2830 illegal marketplace for drugs in prior Big Tech hearings, and  
2831 I want to continue my focus on the issue during today's  
2832 hearing, as well.

2833 As my colleagues may recall, I have a constituent in

2834 Hastings, Minnesota, Bridgette Norring, who -- she and her  
2835 family lost their son, Devin, to a fentanyl overdose, and is  
2836 asking us to do more. I am here today raising her voice and  
2837 that of countless other parents in hopes that we can come  
2838 together and find a solution.

2839 Special Agent Duffy, thank you for what you do in law  
2840 enforcement every single day to help to crack down on these  
2841 illegal online sales. I strongly believe we need to give our  
2842 law enforcement agencies the tools, resources, and funding  
2843 they need to help protect our communities, both online and in  
2844 the physical world, from dangerous drug overdoses.

2845 You may have seen recent news stories online talking  
2846 about changes Snapchat was taking to curb drug dealing on the  
2847 app, under pressure from parents like Bridgette and other  
2848 parents who called on the CEO to do more and do better.  
2849 Based on your experience, though, Agent Duffey, and in  
2850 training those who use apps to conduct investigations, I am  
2851 hoping you can briefly walk us through what the current  
2852 process looks like when you attempt to target a known drug  
2853 dealer and hold them to account on an app like Snapchat.

2854 \*Mr. Duffey. Thank you, Representative.

2855 When we begin these types of investigations with  
2856 companies like Snapchat, we are often times the ones being  
2857 provided it through a citizen that becomes concerned. And in  
2858 some cases, some companies will police themselves and

2859 identify content. But ultimately, they are seemingly less  
2860 proactive in trying to remove some of this content, and  
2861 leaving it for law enforcement to become proactive on their  
2862 own site, which is a challenge as we struggle with retention  
2863 of law enforcement officers around the United States.

2864 So these investigations begin with us identifying a  
2865 criminal activity. Then we begin to serve legal process,  
2866 which becomes the first hurdle in trying to identify what the  
2867 company has retained or what they haven't retained, which  
2868 becomes the first struggle.

2869 And then, as we progress through the app, we end up at  
2870 internet service providers and cellular providers, because  
2871 the means of using these apps are done through mobile  
2872 devices. And so the mobile device itself, through the  
2873 companies that provide the service, we run again into another  
2874 issue of data retention and activity that may or may not be  
2875 kept, along with these criminal activities being used with a  
2876 virtual private network, meaning they are using a service  
2877 that ultimately hides their internet activity in which no  
2878 records are often found.

2879 So we have run into many roadblocks. I would say we  
2880 have less successes than we have incomplete cases because of  
2881 those things that I mentioned.

2882 \*Ms. Craig. Special Agent Duffey, you mentioned that  
2883 the Snapchat or other platforms sometimes will proactively

2884 contact law enforcement, but most of the time it is citizens  
2885 who are doing the trolling on these platforms and contacting  
2886 you. And I would assume that, often times, that is because a  
2887 family member has suffered some sort of catastrophic outcome,  
2888 or at least some harm.

2889         What do you think the responsibility of the social media  
2890 platforms should be, in terms of being proactive on their  
2891 platform?

2892         \*Mr. Duffey. Thank you. I think the responsibility is  
2893 all in their favor. They should be the ones content  
2894 moderating. They should be the ones communicating and  
2895 learning from law enforcement, who is learning from kids in  
2896 school and friends and family. Having that open conversation  
2897 will only benefit them.

2898         Right now, we see many of the companies ignoring or not  
2899 having that communication with the public and law  
2900 enforcement. Things -- they think that they can, in a sense,  
2901 take it upon themselves to learn it, or wait to become  
2902 reactive.

2903         So I think, if you are going to build a platform  
2904 environment for kids to operate on, then you need to be  
2905 responsible for taking action and learning what to look for.

2906         \*Ms. Craig. Thank you so much. Amen to that. And with  
2907 that, I am sorry I am out of time, but [inaudible] topic.

2908         I yield back.

2909           \*Ms. Schakowsky. The gentlelady yields back, and now I  
2910 welcome as a waive-on to our subcommittee Mr. Walden -- I am  
2911 sorry, Walberg - for five minutes.

2912           \*Mr. Walberg. Thank you, Madam Chair, for allowing me  
2913 to waive on to this hearing.

2914           This is the third legislative hearing the committee has  
2915 held on holding Big Tech accountable. But once again, I  
2916 believe it fails to address one of the most pressing issues:  
2917 it is personal, of course, but the need for a comprehensive  
2918 national privacy and data security framework. Though many of  
2919 the proposals today are admirable, they include components  
2920 that should be considered in a comprehensive framework, not  
2921 as a piecemeal set of bills. Members of the committee need  
2922 to get back to our bipartisan work to create this framework.  
2923 Privacy, and children's privacy in particular, should be a  
2924 no-brainer.

2925           Despite what the gentlelady from Florida said earlier,  
2926 there already is a bipartisan COPPA bill in the House. I and  
2927 my good friend, Congressman Rush, introduced the PROTECT Kids  
2928 Act, which would update and modernize COPPA for the online  
2929 behavior and devices of today. The legislation was  
2930 introduced last Congress, and I would be glad to work with  
2931 her on this issue.

2932           This is another reason why I am disappointed that the  
2933 majority denied Republicans' second request to include this

2934 legislation in today's hearing. I am committed to finding a  
2935 bipartisan agreement on COPPA as a part of a larger privacy  
2936 package, and I hope that the majority will work with us to  
2937 find common ground on our proposals.

2938         Ms. McInnis, my PROTECT Kids Act adds precise  
2939 geolocation and biometric information as two new categories  
2940 of personal information which are protected for children  
2941 under COPPA. I believe that behavioral ads can be beneficial  
2942 for adults, but many of those benefits do not translate when  
2943 it comes to kids. And so how can companies like TikTok  
2944 design their platforms to better protect this type of  
2945 information for children, without the negative effects that a  
2946 blanket ban on ad targeting would have for small business,  
2947 small and local businesses?

2948         \*Ms. McInnis. Thank you for the question,  
2949 Representative.

2950         We encourage companies like TikTok to stem the amount of  
2951 data that they are collecting from all users, especially  
2952 children.

2953         DuckDuckGo is a search engine, and so I can't speak to  
2954 many of the issues preventing social media companies, in  
2955 particular. But we do think that there is more that  
2956 companies could be doing proactively to protect users, and  
2957 also ways they could be adjusting their algorithm to ensure  
2958 that they are not causing the sort of mental health and other



2959 relevant harms that we have seen Frances Haugen speak about  
2960 with regards to Facebook that we know we are being  
2961 perpetrated online.

2962           But regardless, the fact that this company can target  
2963 users and adjust the algorithm in order to kind of reach  
2964 users in this moment of mental health crisis, or kind of  
2965 anything related to that, means that they are collecting too  
2966 much information on us all, much less kids.

2967           \*Mr. Walberg. Yes, yes. Thank you for that.

2968           My legislation also raises the age for parental consent  
2969 protections for children online from 13 to 16 years of age.  
2970 I have lost their votes now, but I think it is responsible, a  
2971 responsible approach to take. I support raising the age of  
2972 COPPA.

2973           But Mr. Duffey, in your testimony you highlight how  
2974 children and tweens frequently bypass parental consent  
2975 protections in order to socialize online. Can you elaborate  
2976 on the dangers that those between the ages of 13 and 16 face  
2977 on social media sites, and how those dangers may differ from  
2978 those under 13?

2979           And also, what should Congress be considering to address  
2980 age restrictions online?

2981           \*Mr. Duffey. Thank you, Representative. I would offer  
2982 to the committee that, when we talk about 13 to 16 years old,  
2983 we -- in talking with mental health professionals, I would

2984 offer up their thoughts and opinions and medical concerns,  
2985 because the content that you view at the age of 13 versus the  
2986 content that you are viewing at 16 is going to -- what we  
2987 have seen with the kids is it is going to greatly impact  
2988 potential behavior [inaudible] forward with as they grow.

2989         When we talk about the children today circumventing the  
2990 system, it is very much an issue, because I don't know that  
2991 you will ever stop youth from bypassing --

2992         \*Mr. Walberg. And parents can be an asset.

2993         \*Mr. Duffey. Yes, they very much can, but they need to  
2994 be educated, as well.

2995         \*Mr. Walberg. Okay, thank you. I see my time has  
2996 expired.

2997         And thank you for allowing me to waive on.

2998         \*Ms. Schakowsky. Thank you, Mr. Walberg. And now I am  
2999 happy to have the opportunity to waive on to this  
3000 subcommittee Congresswoman Eshoo, who is the author and chief  
3001 sponsor of the Banning Surveillance Advertising bill that we  
3002 are considering today.

3003         Ms. Eshoo, you are recognized.

3004         \*Ms. Eshoo. Well, thank you, Madam Chairwoman, for not  
3005 only holding this hearing, but welcoming me to waive on to  
3006 the subcommittee. I thank you for being with me on the  
3007 Banning Surveillance Advertising Act. If our colleague,  
3008 Bobby Rush, is still with us, I want to thank him, as well.

3009 First I want to go to Ms. McInnis. Thank you for your  
3010 excellent testimony, and for your support of my legislation.

3011 To my colleagues on both sides of the aisle, you may not  
3012 know, but my bill does go after the root of the social media  
3013 problem, which is a toxic business model. Critics say that  
3014 there can't be an internet economy without surveillance ads.  
3015 They have really poured it on, you know, that, you know, the  
3016 internet will implode without this.

3017 But I view it another way. And I think so does  
3018 DuckDuckGo, because it is a counter-example. So I want to  
3019 respond just briefly to a few questions related to the  
3020 criticism that opponents of my bill cite very often. And if  
3021 you could keep your responses brief, I would really  
3022 appreciate that.

3023 So to Ms. McInnis, have you found that contextual  
3024 advertising to be less effective than behavioral advertising?

3025 \*Ms. McInnis. We have not. We use contextual  
3026 advertising ourselves, not only to fund the business, but  
3027 also to reach new and potential users of the DuckDuckGo  
3028 services.

3029 In addition, I have spoken often about the need to  
3030 invest more in the contextual advertising model. Just  
3031 because the ad duopoly from Facebook and Google are asserting  
3032 to us that behavioral ads work better, it is not true that  
3033 contextual ads can't be just as relevant.

3034           \*Ms. Eshoo. Do you hear major complaints from users  
3035 that your ads are not relevant enough?

3036           \*Ms. McInnis. We syndicate our advertisements from  
3037 Microsoft's Bing.

3038           We find that users are coming to us primarily for  
3039 privacy protection, and we offer them best-in-class privacy  
3040 protection, relevant results, and quality services, while  
3041 also protecting their privacy.

3042           We are hopeful that, with a bill like the Banning  
3043 Surveillance Advertising Act of 2022, we will have more  
3044 competition in the contextual ads market, which will not only  
3045 enable more companies to compete against Facebook and  
3046 Google's ad duopoly, but also enable small businesses to go  
3047 to more advertisers, rather than just the two big duopoly -  
3048 big monopolies in town to source their advertisements.

3049           \*Ms. Eshoo. Two more questions. Are small businesses  
3050 able to use contextual ads to reach their customers?

3051           And the other question is will the internet break --

3052           [Audio malfunction.]

3053           \*Ms. Eshoo. -- without surveillance ads?

3054           Maybe you should take that first.

3055           \*Ms. McInnis. The internet will not break without  
3056 surveillance ads. And in fact, DuckDuckGo is proof positive  
3057 that you can have a successful and profitable company without  
3058 surveilling users.

3059           In addition, small businesses can use contextual ads to  
3060 reach their users. And indeed, many do, because contextual  
3061 ads are cheaper, and usually provide users with the same  
3062 amount of revenue in return. We have cited some studies from  
3063 researchers like Alessandro Acquisti, pointing out that  
3064 behavioral advertising does not, in fact, result in much  
3065 added revenue for publishers. And we think that is also true  
3066 for small businesses.

3067           \*Ms. Eshoo. Wonderful. Let me go to Ms. Nkonde.

3068           Thank you for your powerful testimony, and for  
3069 everything that you are doing in this space. Can you state  
3070 to members and whomever is tuned in about the harms that ad  
3071 targeting have caused people, particularly people of color?

3072           I think that this is -- I know what the answer is, but I  
3073 would like to have you put it out on the table, so that  
3074 people have even more clarity about this.

3075           \*Ms. Nkonde. So what we found in the election space is  
3076 our adversaries really take advantage of racial divides in  
3077 this country by targeting advertising online towards Black  
3078 communities, and we have heard earlier in this hearing  
3079 Spanish-speaking communities, when they want to divide and  
3080 weaken us.

3081           So what your bill actually does is add national security  
3082 protections on top of this, on top of all the other  
3083 protections, because, without that targeting -- targeted

3084 advertising, it breaks down that pathway.

3085 \*Ms. Eshoo. Thank you.

3086 And I yield back, Madam Chairwoman, and thank you for  
3087 having me with you. It is a terrific subcommittee.

3088 \*Ms. Schakowsky. The gentlelady yields back. I thank  
3089 you -- thank her for her presence with us today.

3090 I -- seeing no more members who have questions, I want  
3091 to sincerely thank our witnesses for your participation  
3092 today. This was really a great hearing. All of you  
3093 contributed so much to the discussions that we need to be  
3094 having, so I thank you.

3095 And I want to remind members that, pursuant to committee  
3096 rules, they have 10 business days to submit additional  
3097 questions for the record to be answered by the witnesses who  
3098 have appeared to today.

3099 And I certainly ask each witness to respond as promptly  
3100 as you can to any of the questions that you may receive.

3101 With that, before we adjourn, I request unanimous  
3102 consent to enter the following documents into the record: a  
3103 letter from the Association of National Advertisers; a letter  
3104 from the -- what is that?

3105 \*Voice. Interactive.

3106 \*Ms. Schakowsky. Interactive --

3107 \*Voice. Advertising.

3108 \*Ms. Schakowsky. I will start again. A letter from the

3109 Interactive Advertising Bureau; a report from New York  
3110 University; a letter from the Software and Information  
3111 Industry Association; a letter from the FTC -- a letter to  
3112 the FTC; a letter from the U.S. Chamber of Commerce.

3113 And without objection, so ordered.

3114 [The information follows:]

3115

3116 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

3117

3118           \*Ms. Schakowsky. And I want to see if my ranking member  
3119 had anything he wanted to add.

3120           \*Mr. Bilirakis. I am good. I appreciate everything you  
3121 have done today, and we hope we can --

3122           \*Ms. Schakowsky. Put -- yes, go ahead.

3123           \*Mr. Bilirakis. No, thank you very much, Madam Chair.  
3124 I appreciate it very much, and I want to thank the witnesses,  
3125 and the panel.

3126           And also, we want to get these bills moved forward with  
3127 a markup, and get them on the floor as soon as possible,  
3128 particularly when it comes to the social media and what it is  
3129 doing to our children. It is unacceptable. We have to hold  
3130 these companies accountable.

3131           So thank you for bringing it to our attention today.  
3132 And again, I appreciate it very much, Madam Chair. I yield  
3133 back.

3134           \*Ms. Schakowsky. At this time, the subcommittee is  
3135 adjourned. Thank you.

3136           [Whereupon, at 1:28 p.m., the subcommittee was  
3137 adjourned.]