



July 23, 2019

The Honorable David Cicilline
Chairman
U.S. House Antitrust, Commercial, and Administrative Law Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable F. James Sensenbrenner
Ranking Member
U.S. House Antitrust, Commercial, and Administrative Law Subcommittee
2138 Rayburn House Office Building
Washington, D.C. 20515

Re: Online Platforms and Market Power, Part 6: Examining the Dominance of Amazon, Apple, Facebook, and Google Hearing

Dear Chairman Cicilline, Ranking Member Sensenbrenner, and Members of the Subcommittee:

On behalf of Color Of Change (“COC”) and Liberation in a Generation, we submit this letter for the record in connection with the House Antitrust, Commercial, and Administrative Law Subcommittee’s hearing, “Online Platforms and Market Power, Part 6: Examining the Dominance of Amazon, Apple, Facebook, and Google” hearing, which is scheduled for July 27, 2020.

The 21st century internet age, which, in its infancy, allowed for the decentralization of media voices and provided digital oxygen to emerging movements like the Movement for Black Lives, has given rise to new tech and e-commerce juggernauts that have accelerated racial inequities. These companies occupy an overwhelming amount of market, social, and political power and yet operate unbecomingly to the civil rights legislation that has been the law of the land for multiple generations. In fact, these companies have actively eroded away hard-fought civil rights wins in the areas of voting rights and ethical labor practices, have opened the door to predatory housing, finance, and employment discrimination, and have created back doors to statutes like Violent Interference with Federally Protected Rights, 18 U.S.C. § 245, and Conspiracy Against Rights, 18 U.S.C. § 24, which were created to protect communities from hate crimes.

This erosion of civil rights by tech giants is especially concerning given the salience of Black users on these platforms. Black millennials spend more time on social networking sites than any other racial group. Additionally, Black people of all ages over-index in membership on all of the Big Tech social media platforms and in ownership of gaming devices. Black people are also more likely than other races to be considered tech trailblazers by their friends and colleagues.



This isn't a new phenomenon—historically, Black people have consistently been early adopters of new media sources and social media technology. The symbiotic relationship between Black users and emerging platforms helped to extend the cultural cachet of platforms while amplifying the voices of those not served by traditional communication mechanisms. Beyond the public display and trafficking of Black aesthetic, social media offered an opportunity to publicly center Black lives, move messages from margin to center, and challenge narratives and policies that reinforce racial inequities. But the promise of equality and opportunity has been crushed by the weight of consolidated communications and commerce power and corporate gatekeepers tipping the scale away from progress and circumventing the civil rights laws that have existed for generations.

Further, the disappearance of choice and competition have destroyed the entrepreneurial spirit of innovation and have created de facto segregated access to opportunities for socio-economic mobility, privacy, access to information, and community autonomy. These corporations wield increasing power over our society and play a clear role in driving the racial wealth gap all while benefiting from Black labor and talent and erasing Black-owned businesses. The centralized power over the flow of information and access to data privacy, as well as the trading of goods and services that these platforms have, has triggered economic, health, and social disparities on par with what we saw during the Gilded Age before the U.S. plunged into The Great Depression.

Oftentimes inequities in our economy come from corporations being able to act together to neutralize attempts at oversight or from a single corporation or unregulated industry growing to a size that is too unwieldy or “too big to fail.” In that context as well as the micro context of consolidated corporate power, the re-emergence of unrestrained monopoly power in the 21st century is a continuation of history—history that has shown that forward progress in civil rights will always be met with attempts to consolidate power. Whether race is deployed as an underlined wedge issue or racial inequities are a byproduct of power grabs, the impact to marginalized communities is still the same. We are left bearing the brunt of harms that stem from an economy that lacks the freedom of choice and competition. **We encourage Congress to undo Amazon, Apple, Facebook, and Google mergers in order to create healthy competition and to promote choice in the market as a means to force more accountability, responsiveness, and good governance in service of racial equity.**

Below we address the dimensions of racialized harm related to Amazon, Apple, Facebook, and Google. These harms warrant Congressional action and regulation of the tech industry.



Dimensions of Racialized Harm Correlated to an Unregulated and Consolidated Tech Industry

Economic Harms

Data shows that it would take the average Black family 228 years to build the wealth of the average white family today, but if we keep going at the current rate, by 2053 the median wealth of Black Americans will fall to zero. Even where there are gains made, it's too often not sustainable. Black children raised in the middle 20 percent of wealth distribution are much more likely than their white peers to fall into the bottom 40 percent as adults. Unregulated and consolidated Big Tech firms drive this racial wealth gap through:

- 1. The unregulated and consolidated tech industry has eroded worker rights, wages, and fair labor practices that ensure a U.S. economy built to better withstand a global health crisis.** Research by EPI shows that the presence of an Amazon fulfillment center actually has a negative impact on local labor markets by increasing low-wage warehouse jobs, crowding out and lowering the number of available jobs in other sectors.¹
- 2. The accelerated demise of Black-owned and local businesses and the stunted growth of Black innovation correlates with the increased market power of Big Tech.** Big Tech firms use monopoly rents to charge exorbitant prices for prime real estate on pages and to undercut competitors and confuse buyers (e.g., if a consumer sorts products by low to high cost, paid ads may bump a higher-priced item to the middle of the list and give the false impression that there are no lower-priced versions of the items available). These monopoly rents disproportionately impact Black business owners as they have less access to capital to invest in their businesses.² As a result, Amazon has an unfair competitive advantage over Black-owned businesses because the market is structured in a way that allows tech giants to serve as both participant and owner of the platform.

Tech giants also use their power in one market to crush would-be competitors in other markets (e.g., artificially deflating the price of goods and services to knock competitors out of the market; overinflating costs once the market is cleared; algorithmic gaming; arranging the order or labeling of products on a page to prioritize their content and

¹ Janelle Jones and Brian Zipperer, "Unfulfilled promises: Amazon fulfillment centers do not generate broad-based employment growth," *Economic Policy Institute*, February 1, 2018, <https://www.epi.org/publication/unfulfilled-promises-amazon-warehouses-do-not-generate-broad-based-employment-growth/>

² "2016 Small Business Credit Survey: Report on Minority-owned firms," Federal Reserve Banks of Cleveland and Atlanta, November 29, 2017, <https://www.clevelandfed.org/en/community-development/reports-by-topic/small-business/about-the-joint-small-business-credit-survey/2016-small-business-credit-survey.aspx>



apps). For example, take-it-or-leave-it negotiations around usage and access to platforms harm independent business owners forced to overly rely on specific platforms to market or sell goods and services.

3. **Predatory data collection and targeting practices from private actors leads to price gouging, substandard products and goods, and exclusion of Black communities from equitable employment, credit, and housing opportunities.** Big Tech relies on data from consumers to power their business models. The outsized market power and lack of regulation of these firms fosters an environment where advertisers use these platforms to prey on consumers using algorithmic profiling.³ These tech platforms participate in rampant data collection that provides insight into the psychology of a consumer-user and allows for highly specified target marketing that drives the algorithmic profiling of advertisers. Advertisers then use algorithmic profiling to engage in price discrimination that negatively impacts Black users and benefits Big Tech firms who depend on these same Black users to power their platforms.⁴
4. **The large-scale nature of Big Tech allows for predatory data collection through a complex and Internet-wide surveillance network.** Other industries, such as telecommunications, have been prohibited from spying on customers to gather data for marketing purposes. The Telecommunications Act prohibits phone companies from collecting private and personal data while monopolistic tech companies routinely engage in similar practices through the use of their market position to extract user data without consent and undermine potential competitors.⁵ Without competition, Facebook is able to run an internet-wide network of “plug-ins” and tracking “pixels” that allows them to follow users across the internet and devices. Because these plug-ins and pixels are on nearly all sites, Facebook is able to copy and ultimately crowd out rival corporations.
5. **Unlike telecommunication companies, Big Tech is completely unregulated in its capacity as a 21st century public utility, thus exposing people—especially Black people—to the harm that can be created by unregulated entities.** Big Tech controls a service that is a necessary public utility. Big Tech, particularly social media companies, have become the primary source of information of millions of people in the United States and across the country. As stated above, Big Tech has become a deeply relied-upon source of information for Black people. Through these platforms, people get critical

³ Nathan Newman, “How Big Data Enables Economic Harm to Consumers, Especially to Low-Income and Other Vulnerable Sectors of the Population,” Federal Trade Commission Comments, August 2014, https://www.ftc.gov/system/files/documents/public_comments/2014/08/00015-92370.pdf

⁴ Ibid.

⁵ Harold Feld et. Al, “Protecting Privacy, Promoting Competition: A Framework for Updating the Federal Communications Commission Privacy Rules for the Digital World,” *Public Knowledge*, February 2016, <https://www.publicknowledge.org/assets/uploads/blog/article-cpni-whitepaper.pdf>



information to help them navigate our nation’s economic and democratic systems, among other critical information. The larger these companies become, the greater control they have over this flow of information. In effect, these companies behave as public utilities with information being the product (similar to telecommunications companies that control the flow of information across the airwaves and fiber optic networks).

Social Harms

1. Predatory data collection and targeting practices by law enforcement agencies and third-party contractors serve as agents of the surveillance state, disproportionately compromise the physical and mental safety of Black communities, and infringe on constitutionally protected rights.
2. Big Tech firms engage in unethical health data collection—access and usage that routinely operate out of compliance with the Health Insurance Portability and Accountability Act—that degrades equitable health access.

Political Harms

1. **Rampant disinformation on these platforms jeopardizes the physical, social, and political health of our society at large—and Black communities specifically—while limiting access to organic, independent, local, and accurate news and information.** The U.S. Senate Select Committee on Intelligence found that the Russian Internet Research Agency (IRA) especially targeted Black Americans with disinformation on social media platforms like Facebook and Instagram during the 2016 elections.⁶ These disinformation campaigns intend to dilute public trust in digital news information and sway Black voters to act in alignment with Russia’s political agenda.⁷
2. **Big Tech’s active tax avoidance, as a result of their outsized lobbying power, weakens our public infrastructure and government services at all levels of government (federal, state, and local). Further, these companies’ failure to contribute their fair share in taxes means they operate at an uncompensated cost to the public (e.g. road wear and harmful emissions).** Sixty of America’s biggest corporations zeroed out their federal income taxes on \$79 billion in U.S. pretax income, including Amazon, Netflix, General Motors, Delta Airlines, Salesforce, and Prudential

⁶ Select Committee on Intelligence, “Russian Active Measures Campaigns and Interference in the 2016 U.S. Election,” United States Senate, https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf

⁷ Harry Zahn and Joshua Barajas, “What we learned—and still don’t know—from Senate reports on Russian election propaganda,” *PBS Newshour*, December 19, 2018, <https://www.pbs.org/newshour/politics/what-we-learned-and-still-dont-know-from-senate-reports-on-russian-election-propaganda>



Financial.⁸ Amazon, in particular, fielded a competition among local jurisdictions to site its second headquarters and sought to extract billions in public subsidies from the winning jurisdiction.⁹ In another example, the Economic Roundtable calculated that Amazon trucks last year created \$642 million in “uncompensated public costs” for noise, road wear, accidents, and harmful emissions that weakened our public infrastructure.¹⁰

Amazon, Apple, Facebook, and Google’s dominance in the market corresponds with decreasing levels of competition and freedom of choice. The market power of these firms erodes the social, political, and economic power of the Black community at a time when civil rights are continuously threatened. This hearing marks an opportunity for Congress to further investigate the consolidation of these firms and enact much-needed racially equitable reforms that regulate the tech industry in efforts of promoting competition, fair wages, and economic sustainability.

If you have questions, please contact Color Of Change’s Senior Director of Campaigns, Jade Magnus Ogunnaike (jade.magnus@colorofchange.org), or Liberation in a Generation’s Co-Founders/Co-Executive Directors, Solana Rice (solana@liberationinageneration.org) and Jeremie Greer (jeremie@liberationinageneration.org).

Sincerely,

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⁸ Matthew Gardner, Lorena Roque, and Steve Wamhoff, “Corporate Tax Avoidance in the First Year of the Trump Tax Law,” *Institute on Taxation and Economic Policy*, December 2019, <https://itep.org/wp-content/uploads/121619-ITEP-Corporate-Tax-Avoidance-in-the-First-Year-of-the-Trump-Tax-Law.pdf>

⁹ Jeffrey Dastin, “Billions in tax breaks offered to Amazon for second headquarters,” *Reuters*, October 19, 2017, <https://www.reuters.com/article/us-amazon-com-headquarters/billions-in-tax-breaks-offered-to-amazon-for-second-headquarters-idUSKBN1CO1P>

¹⁰ David Streitfield, “Activists Build a Grass-Roots Alliance Against Amazon,” *The New York Times*, November 26, 2019, <https://www.nytimes.com/2019/11/26/technology/amazon-grass-roots-activists.html>



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