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UNDERSTANDING THE DIGITAL ADVERTISING
ECOSYSTEM

THURSDAY, JUNE 14, 2018

House of Representatives

Subcommittee on Digital Commerce and Consumer
Protection

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in
Room 2322 Rayburn House Office Building, Hon. Robert Latta
[chairman of the subcommittee] presiding.

Members present: Representatives Latta, Kinzinger, Burgess,
Upton, Lance, Guthrie, Bilirakis, Bucshon, Walters, Costello,
Schakowsky, Cardenas, Dingell, Matsui, Welch, Kennedy, Green,
and Pallone (ex officio).

Staff present: Melissa Froelich, Chief Counsel, Digital
Commerce and Consumer Protection; Adam Fromm, Director of

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26 Outreach and Coalitions; Ali Fulling, Legislative Clerk,
27 Oversight & Investigations, Digital Commerce and Consumer
28 Protection; Elena Hernandez, Press Secretary; Paul Jackson,
29 Professional Staff, Digital Commerce and Consumer Protection;
30 Bijan Koochmaraie, Counsel, Digital Commerce and Consumer
31 Protection; Mark Ratner, Policy Coordinator; Austin Stonebraker,
32 Press Assistant; Greg Zerzan, Counsel, Digital Commerce and
33 Consumer Protection; Michelle Ash, Minority Chief Counsel,
34 Digital Commerce and Consumer Protection; Jeff Carroll, Minority
35 Staff Director; Lisa Goldman, Minority Counsel; Carolyn Hann,
36 Minority FTC Detailee; Caroline Paris-Behr, Minority Policy
37 Analyst; and C.J. Young, Minority Press Secretary.

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38 Mr. Latta. Well, good morning, and welcome to the
39 Subcommittee on Digital Commerce and Consumer Protection. We
40 really appreciate you all being here, and we look forward today
41 to your testimony.

42 And at this time, I'll recognize myself for five minutes
43 for an opening statement. And again, good morning and I wanted
44 to again thank our witnesses for being with us today.

45 An advertisement used to mean a quarter-page section in your
46 local newspaper, a billboard along the highway, or as our chairman
47 of the full committee would know in his radio days a radio spot
48 during the rush-hour commute.

49 While those types of advertisements still exist, targeted
50 digital advertising has begun to dominate the advertising and
51 marketing industry.

52 The digital advertising ecosystem is complex and often
53 misunderstood. Today, we hope to clear up some of this confusion
54 for consumers and discuss both the benefits and emerging, often
55 high-profile, challenges of online advertising.

56 Our expert panel of witnesses will explain how this
57 technology works and its place in our economy and our lives.

58 According to the Interactive Advertising Bureau, the
59 ad-supported internet ecosystem generated over \$1 trillion for
60 the U.S. economy in 2016 and was responsible for 10.4 million
61 jobs with 44 percent of those jobs employed by small and medium
62 businesses.

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63 The massive growth of online advertising's contribution to
64 GDP can be tied to improved data collection and subsequent ad
65 targeting. Digital ads are dependent on consumer-related
66 information and data, and many of the largest companies in the
67 world -- Facebook, Google, and the like -- are supported by revenue
68 generated from the collection of this data for the use of targeted
69 ads.

70 While these companies clearly have dominance in this space,
71 many of the benefits of this data collection trickle down to small
72 businesses and create a more tailored online experience for
73 consumers.

74 For example, a local greenhouse can use their limited time
75 and resources to advertise in the most effective way for less
76 cost by using targeted ads. Instead of publishing an imprecise
77 catch-all ad in the newspaper, they can purchase ad space on
78 websites dedicated to gardening or set up a geolocation range
79 for IP addresses in driving distance in their greenhouse.

80 This ensures that their ad is reaching their most likely
81 group of customers -- avid gardeners who live within 10 miles
82 of the greenhouse. In the same transaction, the gardeners
83 benefit from knowing what promotions and deals are available in
84 their home area.

85 To some consumers, these practices can feel like an invasion
86 of privacy, or leave them wondering how much personal information
87 about them is being sold. As this subcommittee continues to

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88 grapple with the many privacy issues and data breaches of the
89 past few years, we are no stranger to the risks of collecting
90 such detailed consumer profiles and amassing it in centralized
91 data repositories susceptible to bad actors.

92 This hearing is yet another opportunity to discuss these
93 risks and understand what those are in the private sector -- and
94 what those are in the private sector are doing to address them.

95 Additionally, ads are only effective if they're reaching
96 actual people. Digital ad fraud and the scourge of traffic bots,
97 algorithms designed to look like actual humans, complicate this
98 system in new ways, and undermine the trust in the current
99 advertising model.

100 Businesses who think they are paying for ad space because
101 of high audience interest might not get the response they want
102 because of bots. One study found that 22 percent of desktop video
103 ads were viewed only by bots.

104 The online advertising ecosystem has many players that
105 contribute to its effectiveness. Understanding how each of these
106 players interact with each other and with consumers is an
107 important step in discussing larger issues like privacy and data
108 security.

109 As always, it is one of the primary goals of the Energy and
110 Commerce Committee to ensure that consumers are informed and can
111 make educated decisions about their online habits.

112 The advertising-based model supports the platforms that we

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113 use to communicate, connect, shop, and work. Today, we hope to
114 hear of the many efforts undertaken by industry to innovate and
115 grow in this space, while at the same time responding to consumer
116 demands for privacy and security of their data.

117 Again, I want to thank our witnesses for being with us today
118 and at this time I will yield back my time and recognize the gentle
119 lady from Illinois, the ranking member of the subcommittee, for
120 five minutes.

121 Ms. Schakowsky. Thank you, Mr. Chairman.

122 Ads are ubiquitous, often irritating, as you browse the
123 internet. Most of the time, we get a little thought to why those
124 ads are there.

125 But, as we touched on during the Facebook hearing earlier
126 this year, the ads that consumers see are often highly targeted.

127 I've certainly noticed them in my own experience that I am
128 being tracked online. I start to shop on a website and then next
129 thing you know an ad for the very same product I was looking for
130 turns up on a completely different website.

131 Companies may claim that consumers like targeted ads, and
132 some may. But consumers tell a different story often when they
133 are polled. In fact, most Americans report taking at least some
134 steps to block tracking.

135 Americans are realizing how little control they have over
136 their own information. You may not even be on Facebook, but
137 Facebook collects information about you.

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138 You can block cookies but you are still tracked. You are
139 tracked regardless of whether you're on a computer, smart phone,
140 or tablet, and the internet of things expands which devices can
141 collect your data even further.

142 The use of targeted digital ads can have serious
143 consequences. It's not just online shopping. We have learned
144 more and more in the past year about how Russia used targeted
145 ads to spread disinformation and meddle in our elections.

146 The grand jury in Special Counsel Robert Mueller's
147 investigation has indicted 13 Russian nationals and three
148 companies for waging information warfare on the United States.

149 Targeted ads can also be tools for discrimination. A
150 ProPublica investigation last year found that Amazon, Verizon,
151 UPS, and Facebook all posted jobs -- job ads that were targeted
152 specifically to specific age groups, excluding older Americans.

153 We have also seen ads for junk financial products that are
154 directed to communities of color. Facebook has now removed the
155 option to exclude certain ethnic groups for advertising. But
156 the potential for discrimination remains in the online ad market.

157 Congress has been woefully slow in responding to the risks
158 that online advertising practices pose to privacy, fairness, and
159 our very democracy.

160 The Federal Trade Commission does not have the resources
161 it needs to be an effective consumer watch dog. It does not have
162 close to enough staff to monitor anti-consumer practices online

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163 and it has weak enforcement tools.

164 The FTC has limited rulemaking authority. It cannot impose
165 civil penalties right away. When a company fails to protect
166 consumer privacy, instead it has to negotiate a consent order
167 and only if it later finds a violation of that consent order does
168 a company actually pay for misusing consumer data.

169 Perversely, the Republican majority tried the last Congress
170 to further restrict the FTC's authority. Fortunately, that
171 legislation was not passed.

172 Consumers deserve a real protection. We need rules of the
173 road for what information can be collected and stored on -- and
174 stored about consumers.

175 Consumers need real options when it comes to how their
176 information is used. The Facebook scandal and the many data
177 breaches in recent years have made consumers increasingly aware
178 of how much data is sitting out there -- how much of their own
179 data.

180 After the Equifax data breach, we had a witness describe
181 the steps a consumer could take to protect the information, and
182 she basically made protecting your privacy sound like a full time
183 job.

184 It shouldn't be that way. I am glad that we are having this
185 -- we are continuing to discuss the field of digital ads. My
186 question is what comes next.

187 Is the subcommittee finally going to take up legislation

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188 to strengthen consumer privacy protection? This is a complicated
189 issue.

190 But I believe that we are up to the challenge. Let's bring
191 our ideas to the table and hash out the solutions that are --
192 that our constituents deserve.

193 People are fed up with big corporations tracking their every
194 move online and controlling what they see. They are demanding
195 action and it is time for Congress, for this committee, to deliver.

196 I yield back.

197 Mr. Latta. Thank you very much. The gentlelady yields back
198 and I believe the chairman of the full committee has not arrived
199 yet. Is there anyone on the Republican side wising to claim the
200 chairman's time?

201 If not, at this time I will recognize the gentleman from
202 New Jersey, the ranking member of the full committee, for five
203 minutes.

204 Mr. Pallone. Thank you, Mr. Chairman.

205 Today's hearing will explore online advertising and its role
206 in society. In the early days of the internet, online advertising
207 was like other forms of advertising.

208 Advertisers would place ads aimed at broad audiences. But
209 that has all changed. Advertising is now directed to smaller
210 targeted categories of audiences, those most likely to purchase
211 their products and services.

212 Targeted advertising can provide more relevant advertising

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213 to consumers. It also provides revenue to advertisers.

214 For example it allows a small business selling boutique men's
215 razors to reach men, say, in their 40s and 50s who may be able
216 to afford a specialty product.

217 However, it also allows a scammer to reach women over a 65
218 in a particular zip code who have been duped in the past to give
219 their money to fake veterans charities.

220 Moreover, contrary to industry claims, it's not always
221 anonymous. Right now, anyone willing to pay can target
222 advertising to a list of 20 names and send a specialized adjust
223 to them.

224 Without explaining or justifying the list, an advertiser
225 could send an advertisement to 20 specific people who have a mental
226 health condition or are taking a particular medication.

227 And target advertising is possible because of the vast
228 amounts of information collected about individual consumers by
229 companies across the advertising ecosystem.

230 Beyond the websites, you go to the advertisers today to see
231 there are numerous middlemen, ad networks, ad agencies, data
232 brokers, and the like.

233 These companies lurk in the background, often unknown to
234 consumers, and not just collecting and storing data that would
235 choose to share. They track what websites we visit, what
236 purchases we make, and even the movement of your mouse on the
237 computer screen.

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238 And information collected about our online activity is
239 increasingly being merged with our offline identity to create
240 extremely detailed profiled.

241 Moreover, they can go beyond facts to include inferences
242 about our interests and demographic information. Targeted
243 advertising by its very nature separates people into categories
244 and shapes our choices.

245 We have shown limited options that are chosen for us by
246 automated processes based on our profiles. So what I see on the
247 internet may end up being very different from what you see, and
248 neither of us getting all the information that may help us make
249 our purchasing decisions.

250 Even if we seek out additional information we may get created
251 content, further limiting our choices.

252 In addition to the risks of scams, targeted ads can result
253 in blatant discrimination. It's been well documented than
254 targeted advertising systems have allowed housing ads to exclude
255 people of color and job ads to exclude older workers.

256 At this committee's hearing last year on the effect of
257 algorithms on consumers we discussed how bias can be built into
258 algorithms, resulting in bias results, and that problem does not
259 just apply to content and search results. It applies to
260 advertisement as well.

261 It is good that Google and Bing have now blocked ads for
262 predatory payday loans, but that's not enough. The American

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263 people rightfully feel like they've lost control.

264 One survey showed that 84 percent of people want more control
265 over what companies can learn about them online, yet 65 percent
266 of people are resigned to the fact that they have little control.

267 So we hear a lot about self-regulatory transparency, notice,
268 and choice but we all receive many updated privacy policies
269 spurred by the EU's new data privacy regulations. None of us
270 have time to read all of them, let alone actually understand and
271 remember what each company is doing with our data.

272 And what about the companies collecting our data that we
273 don't even know exist?

274 The Equifax breach brought that issue up front and center,
275 and people weren't just upset that their data was stolen. They
276 were upset that a company that may have never -- they've never
277 interacted with had all that data.

278 So I think we can do better and I think we must do better,
279 Mr. Chairman. It's time we all admit that the current system
280 just isn't working for consumers, and Congress needs to do a better
281 job and pass comprehensive privacy legislation so people can take
282 back control that they've lost.

283 And I yield back.

284 Mr. Latta. Thank you very much. The gentleman yields back
285 the balance of his time.

286 And that now concludes member opening statements. The chair
287 reminds members that pursuant to committee rules, all members'

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288 opening statements will be made part of the record.

289 Again, I want to thank our witnesses for being with us today
290 and taking time to testify.

291 Today's witnesses will have the opportunity to give a
292 five-minute opening statement followed by a round of questions
293 from the members.

294 Our witness panel for today's hearing will include Ms. Rachel
295 Glasser, who is the global chief privacy officer at Wunderman;
296 Mr. Mike Zaneis, president and CEO of Trustworthy Accountability
297 Group; Mr. Justin Brookman, the director of privacy and technology
298 policy at Consumers Union; and Dr. Howard Beales, professor of
299 strategic management and public policy at George Washington
300 University.

301 Again, we want to thank you all for being with us and taking
302 the time to testify and, again, Ms. Glasser, you're recognized
303 for five minutes for your opening statement. So just pull that
304 mic up close and press the button to get her on and we appreciate
305 hearing your testimony today.

306 Thanks very much.

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STATEMENTS OF RACHEL GLASSER, GLOBAL CHIEF PRIVACY OFFICER,
WUNDERMAN; MIKE ZANEIS, PRESIDENT AND CEO, TRUSTWORTHY
ACCOUNTABILITY GROUP; JUSTIN BROOKMAN, DIRECTOR, PRIVACY AND
TECHNOLOGY POLICY, CONSUMERS UNION; HOWARD BEALES, PROFESSOR OF
STRATEGIC MANAGEMENT AND PUBLIC POLICY, GEORGE WASHINGTON
UNIVERSITY

STATEMENT OF RACHEL GLASSER

Ms. Glasser. Thank you very much, Chairman Latta, Ranking
Member Schakowsky, and members of the subcommittee.

Good morning, and thank you for the opportunity to speak
at this important hearing. I am honored to have traveled from
New York to appear before you today to discuss how responsible
digital advertising supports innovative, diverse, and free
services that are the foundation of our online economy.

My name is Rachel Glasser. I am the global chief privacy
officer for Wunderman, who's the parent company of KBMG.

I am responsible for data privacy strategy and
implementation and ongoing process improvements for all of
Wunderman including KBMG.

KBMG is headquartered in Louisville, Colorado, with offices
in New York, Texas, and Brazil. We help brands, companies, and
nonprofit, large and small, use data as a strategic asset and
provide data-driven marketing engagement for improved marketing

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332 performance and a resident customer experience.

333 The internet has drastically improved the way people work,
334 consume content, learn, travel, access health care, spend leisure
335 time, and communicate with one another.

336 Many of these life changing benefits are available to
337 consumers for free because it's supported by digital advertising.
338 In short, digital advertising is the lifeblood of the internet
339 economy and connects business with consumers who are most likely
340 to value their products and services.

341 Data is at the center of this American success story and
342 is core to the marketing services that KBMG provides the clients.

343 Accordingly, the foundation of our business model is trust.
344 We work every day to earn and maintain the trust of both consumers
345 and companies with whom we work.

346 My job is to help ensure that privacy and respect for the
347 consumer are integrated into every initiative.

348 This message comes from the top. Respect consumer privacy,
349 be transparent about our data collection and use practices, offer
350 consumer choice, and honor those choices.

351 This trust allows us to innovate faster, provide more value
352 to clients, and create better experiences for consumers.

353 Digital advertising is a broad term used to describe the
354 paid advertising that publishers put on their websites or apps.

355 It enables these publishers to provide consumers with content
356 and services for free.

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357 Today, I am focusing on digital advertising tailored to
358 consumers' likely interests. This is generally known as
359 interest-based advertising, or IBA.

360 IBA is why consumers see ads that are relevant to their
361 interests. With this type of advertising, companies and
362 advertisers collect information across some of the sites and apps
363 that they visit.

364 This information is then used to predict what ads might be
365 the most interesting to consumers. IBA doesn't depend on
366 information that may be personally identifiable such as a
367 consumer's name or a phone number or postal address.

368 In fact, most ad tech companies do not want to know the
369 identity of a consumer for the purposes of IBA. They only want
370 to link an interest category to demographic data with the
371 consumer's browser so that they can serve up relevant ads.

372 Of course, different companies may use different methods
373 of IBA. To kind of level set, it's important to go over the fact
374 that there are several different players in the advertising
375 ecosystem.

376 We have the consumer, the publisher, the advertiser, and
377 the third party advertising company, and that's where my company
378 sits.

379 We are third party advertising company. As I mentioned,
380 KBMG, as a digital marketing company, places a high priority on
381 consumer privacy and reasonable use of data.

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382 We expect that participants in the online economy will honor
383 high standards regarding the collection and use of online data.

384 This supplies the publishers, platforms, social media, data
385 management companies, ad tech providers, commerce sites, and
386 more.

387 At a minimum, when data is collected and used to support
388 various activities such as online advertising or to create
389 personalized experiences, each player in the data life cycle has
390 a responsibility to be transparent, offer consumers appropriate
391 choices, and honor those choices with respect to data collection
392 and use.

393 We also expect every company to take reasonable measures
394 to secure that data prevent -- to secure that data and prevent
395 potential misuse.

396 This leads me to my final point this morning. Businesses
397 have a vested interest in acting responsibly and building user
398 trust on line. Recognizing the value of user trust and the
399 potential applications of data online, the digital ecosystem has
400 taken initiative and thorough measures to put in place a set of
401 codes and principles to reinforce these practices.

402 The NAI and the DAA are two self-regulatory groups committed
403 to maintaining and enforcing responsible privacy practices and
404 high standards for data collection.

405 These standards include providing consumers with enhanced
406 transparency and control and companies like mine voluntarily

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407 commit themselves to these organizations.

408 These companies demonstrate their desire to be good actors
409 and they are obliged to abide by the respective codes and
410 principles. This is a clear indication of the intent of companies
411 to act responsibly, build user trust, and help drive innovation
412 and grow the internet economy.

413 There is no question that data privacy is on everyone's minds
414 these days. But for our industry it's been on our mind for nearly
415 two decades.

416 While not to be downplayed by any means, we do not want the
417 recent events of recent to overshadow the extraordinary benefits
418 of the online advertising ecosystem and we are very pleased that
419 the Energy and Commerce Committee is taking the time to learn
420 more about this vibrant and exciting sector.

421 Thank you.

422 [The prepared statement of Ms. Glasser follows:]

423

424 *****INSERT 1*****

425 Mr. Latta. Well, thank you for your testimony this morning,
426 and Mr. Zaneis, you are recognized for five minutes.

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STATEMENT OF MIKE ZANEIS

Mr. Zaneis. Thank you, Chairman Latta, Ranking Member Schakowsky, distinguished members of the subcommittee, it's wonderful to be before you again today.

My name is Mike Zaneis. I am the president and CEO of the Trustworthy Accountability Group, or TAG, as it's known in the industry.

TAG is an industry not-for-profit organization whose mission is to fight criminal activity throughout the digital advertising supply chain.

It may come as a surprise to all of you that that's a necessary mission. But let me assure you it is. Our industry is fighting the same criminal networks that operate globally often to commit human trafficking, drug trafficking, and widespread digital identity theft.

Why is that? It's because digital advertising is the engine that drives America. Mr. Justin Brookman, Director, Privacy and Technology Policy, Consumers Union's digital data-driven economy.

This is an industry that contributed \$1.12 trillion to the domestic economy in 2016 and in so doing created 10.4 million jobs, and these are incredibly high quality jobs that pay very well, spread across the country in literally every congressional district.

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452 With that prosperity, though, comes added attention, as I
453 mentioned. The complexity then Ms. Glasser talked about with
454 the digital supply chain -- the fact that you may have dozens
455 of companies touching an ad from the marketer, the agency, the
456 tech firms, all the way down to the publisher before it ever
457 appears, hopefully, in front of a real consumer, creates sometimes
458 an opaque supply chain and that allows criminals to hide in the
459 dark murky corners and to infiltrate it.

460 It's estimated then that this criminal activity, as I
461 mentioned, causes more than \$8.2 billion in harm. But that's
462 just domestically, and the impact is greater globally.

463 The industry found a common chain of criminal activity a
464 few years ago. The first link in this chain is the theft of
465 digital content. Criminals don't take the time or the effort
466 to create content like our own homegrown creative community does.

467 Instead, they steal it. Maybe it's a blog posting, a local
468 news article, all the way up to the latest music and movies, and
469 they put this content on websites that they own, and that's because
470 domains are inexpensive and easily accessible.

471 Once they have a website with quality content on it, they
472 have to generate an audience to visit that's website. That's
473 very difficult to do.

474 Here, again, criminals, of course, cheat, as they always
475 do. They prefer to distribute malware onto consumers' computers
476 and devices.

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477 Once infected, that device can actually open up individual
478 browsers or even behind-the-scenes mobile apps, unbeknownst to
479 the consumer, and it visits websites.

480 We call this fraudulent nonhuman traffic. That's because
481 there's not a person on the other end of that screen. It's
482 estimated then to digital app at a cost to the industry \$4 billion
483 a year here in the U.S.

484 Finally, now that a criminal network has a website with great
485 content, they have what appears to be large engaged audience.
486 They're a perfect candidate to attract digital advertising
487 revenue.

488 Like any legitimate business, they can embed ads into that
489 site and begin to receive revenue into a matter of weeks a great
490 democratization tool for small businesses in this country.

491 TAG was created by the industry to solve these challenges.
492 And so we are often referred to as sort of the good housekeeping
493 seal of approval.

494 To date, the industry has rallied behind these efforts,
495 although we are only three years old. More than 680 companies
496 have applied to join TAG.

497 That's spread across 27 countries and six continents. Most
498 importantly, more than 100 companies have already achieved a TAG
499 certification.

500 What that means is that these companies are living up to
501 the highest standards using the best technology to fight fraud,

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to fight ad-supported piracy, to fight malware, and also we have an overarching goal of increasing transparency throughout the supply chain.

We've been very gratified to learn over the past year that these programs are working. Two pieces of independent research showed that in our anti-fraud program that if marketers worked with TAG-certified entities through what we call a TAG-certified channel, they could remove at least 83 percent of those fraudulent non-human impressions that they receive. It can save them billions of dollars a year.

With our anti-piracy efforts, a study by EY -- Ernst and Young -- found that industry efforts to keep ads off of sites and steal content and have illicit material on them had kept more than half of that revenue from flowing to these pirate sites.

I think most encouraging about that research is that the little revenue that does flow to pirate sites comes from nonpremium marketers, meaning the smaller, less reputable folks.

So I appreciate the opportunity to speak to you today and I look forward to answering your questions.

[The prepared statement of Mr. Zaneis follows:]

*****INSERT 2*****

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524 Mr. Latta. Well, thank you very much for your testimony.
525 Mr. Brookman, you are recognized for five minutes. Thank
526 you.

STATEMENT OF JUSTIN BROOKMAN

Mr. Brookman. Chairman Latta, Ranking Member Schakowsky, members of the committee, thank you very much for holding this hearing into the digital ad ecosystem and for the opportunity to testify here today.

I am here today on behalf of Consumers Union. We are the advocacy division of Consumer Reports. We are the world's largest independent testing organization, rating thousands of products and services for consumers every year.

I've been working on ad tech for a number of years now, dating back to suing adware companies in the 2000s for deceptive install practices.

I recognize the value of ad targeting. I also recognize that a lot of consumers really don't like it and they don't feel they've agreed to be tracked everywhere they go with everything they do in exchange for free content.

It used to be that online ad tracking was fairly straightforward. A lot of people didn't like it but it was simpler to understand. Advertising companies would put anonymous cookies in your browser and they serve you ads based on the sites you visited in your browser but not based on who you are, and you can control it by deleting or blocking cookies.

Today, however, the techniques companies use are a lot more sophisticated. Companies like Google and Facebook track you by

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552 real name, not just on their own services but on the majority
553 of other sites and apps that are out there across all of your
554 different devices.

555 Deleting cookies or using private browsing mode may not do
556 much good anymore if companies are using other technologies like
557 digital fingerprinting to monitor you instead.

558 And we are not just tracked on our computers anymore. It's
559 other devices as well. Consumer Reports looked at a bunch of
560 smart TVs earlier this year and all of them tried to use automated
561 content recognition to take snapshots of what was on our screens
562 to try to figure out what shows we are watching.

563 Ad companies also want to tie what we do online to the
564 physical world. So a couple days ago I was in New York City.
565 I bought a cup of coffee at a place I would never been before.

566

567 A day or so later, I got an email from them welcoming me
568 to their rewards program. I had never given them my email
569 address.

570 Now, I can see why companies might want to do some of these
571 things but I also see why consumers might want to make it stop.

572 Privacy is, at some level, a right to seclusion -- a right to
573 be left alone -- a right to autonomy over our own devices and
574 what they share about us, and it's getting harder and harder to
575 manage that personal information.

576 Now, in response to this constant creeping encroachment into

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577 our personal spaces, there are some companies who are pushing
578 back. Apple, for example, has done a lot to limit tracking and
579 apps on iPhones. Just this week, they announced further changes
580 to give users more control over cross-site tracking.

581 Mozilla, maker of the Firefox browser, has also taken a lot
582 of positive steps to limit tracking in their browsers, and we've
583 also seen a tremendous rise in the use of ad blockers like
584 Disconnect and Privacy Badger and uBlock and Brave by consumers
585 who are frustrated by aggressive ads or the underlying tracking.

586 Ad blocker penetration is expected to rise to 30 percent
587 of the market this year, showing that users really are not
588 satisfied with online ads' ecosystem.

589 In my organization, Consumer Reports -- long-time testing
590 lab -- we are starting to test products based on privacy and
591 security in response to consumer demand.

592 So I mentioned how we analyse privacy and security issues
593 with TVs earlier. We are looking to build those sorts of
594 evaluations into our everyday product testing.

595 And so far, though, all this pressure hasn't really been
596 enough to get industry to reform itself. There are
597 self-regulatory programs but they've always suffered from the
598 same problems -- they're too weak, they don't apply to all the
599 companies in the space, they don't really address the data
600 collection issue, the interfaces can be complicated and
601 confusing, and a lot of times the tools are just broken.

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602 Now, the online ad industry had agreed to address these
603 failings back in 2012 when they promised to honor do not track
604 instructions in browsers. These are the easy-to-use settings
605 in your web browser. You can signal to the world that you don't
606 want to be targeted and tracked.

607 Well, then a couple of years later the industry backtracked
608 on that promise. Now it's been over seven years since consumers
609 have been activating do-not-track in their browsers. The ad
610 industry still by and large just ignores those signals.

611 And so while we at Consumer Reports are working to improve
612 the market for privacy and security, ultimately, I do think we
613 probably need some basic legislative protections.

614 So we should have a discussion about what would work and
615 what wouldn't, because privacy laws are already happening around
616 the world.

617 Europe recently expanded their legal protections with the
618 GDPR that just went into effect and a lot of other nations around
619 the world are copying European models and those laws do affect
620 U.S. companies.

621 States continue to pass privacy and security laws. States
622 led the way on data breach notification laws and credit freeze
623 laws and a lot of other basic consumer rights. We are starting
624 to see them advance more comprehensive privacy and security
625 legislation as well.

626 So I would urge this committee not to leave the policy

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627 decisions entirely to Europe or to the states but to really dig
628 in and think about what sort of practical protections can empower
629 consumers to make their own decisions about their personal
630 information.

631 Thank you, again, for inviting me here today and I look
632 forward to your questions.

633 [The prepared statement of Mr. Brookman follows:]

634

635 *****INSERT 3*****

636 Mr. Latta. Well, thank you again for your testimony.
637 And Dr. Beales, you are recognized for five minutes. Thank
638 you.

639 STATEMENT OF HOWARD BEALES

640

641 Mr. Beales. Thank you, Chairman Latta, Ranking Member
642 Schakowsky, and members of the subcommittee. I thank you for
643 the opportunity to testify today.

644 I am Howard Beales. I am a professor of strategic management
645 and public policy at the George Washington School of Business.

646 I've written academic articles about privacy and from 2001 to
647 2004 I was the director of the Bureau of Consumer Protection at
648 the FTC at the time when the commission promulgated the National
649 Do Not Call Registry.

650 I want to make three essential points this morning. First,
651 internet content is a public good. Private market provisions
652 of such public goods has historically depended on revenue from
653 advertising, as does internet content today.

654 Second, the value of advertising depends critically on the
655 availability of information about the likely viewer. When
656 information is available, advertising prices are, roughly, three
657 times higher than when there's no information about the viewer.

658 Impairing the flow of information would significantly reduce
659 the revenues available to support internet content, an impact
660 that would be particularly problematic for smaller publishers.

661 Third, advertising actually benefits consumers, leading to
662 more competitive markets, lower prices, product improvements,
663 and smaller differences between demographic groups.

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664 To return to my first point, from an economic perspective,
665 internet content is a public good. Unlike private goods, public
666 goods are not used up in consumption.

667 Like free broadcast radio or television, any number of
668 consumers can enjoy the content without any additional cost of
669 providing it. The primary market mechanism for providing such
670 goods is advertising, which converts the public good of media
671 content into a private good of exposures to advertising.

672 Throughout history, advertising support has been a vital
673 revenue source for media companies. Although purer subscription
674 models exist, like satellite radio or premium cable TV, market
675 behavior makes clear that most consumers most of the time are
676 not willing to pay a premium price to avoid advertising.

677 Online content is not fundamentally different. Publishers
678 must cover their costs and advertising is critical to achieve
679 that objective. Given the long histories of
680 advertiser-supported media markets, that fact should not be
681 surprising and it's not likely to change.

682 Second, the value of advertising depends on information.
683 What advertisers are willing to pay for an advertising slot
684 depends critically on what they know about the viewer. However
685 attractive to an individual viewer, anonymity reduces the price
686 of the advertisement and therefore reduces the revenue available
687 to support the content the viewer is enjoying.

688 In short, anonymity is a subtle form of free riding on the

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689 contributions of others. In two separate studies I've examined
690 the impact of better information on the price of digital
691 advertising.

692 In a 2010 study, I surveyed advertising networks to determine
693 the impact of behavioral targeting which uses browsing behavior
694 data to categorize likely consumer interest in a particular
695 advertisement.

696 The price for behaviorally-targeted advertising was,
697 roughly, three times higher than the price of run of network
698 advertising sold without regard to audience characteristics, and
699 that's a substantial prices premium.

700 My 2013 study analysed data from automated advertising
701 exchanges. If there was a cookie available, the price of the
702 advertisement was, roughly, three times higher than if there was
703 no cookie. The longer the cookie had been in place, the more
704 it was worth. With a 90-day-old cookie, the price was between
705 3.7 and 7.1 times higher than the price with no cookie.

706 We also found that even the largest publishers sold about
707 half of their ad slots through third-party technologies like ad
708 exchanges while smaller long-tail publishers relied on these
709 approaches for up to two-thirds of their advertising sales.

710 Thus, regulatory requirements that impair the flow of
711 information will significantly reduce the revenue available to
712 online content producers, leading to a less vibrant internet.

713 The impact will be greatest on the smallest publishers.

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714 Many important participants in the online marketplace are
715 not consumer facing at all because they work with publishers or
716 advertisers to observe behavior across independent websites.

717 Consumers have never heard of most of them, for example,
718 33Across, Accuen, Acuity, and Adara, which happen to be the first
719 four names on the list of members of the national advertising
720 -- network advertising initiative.

721 More elaborate consent requirements could seriously
722 disadvantage these companies with the primary effect of
723 protecting the market shares of the current leaders in the online
724 advertising market.

725 As in any other market, regulatory barriers that protect
726 market leaders from competition are bad for consumers.

727 Finally, advertising is not evil. It provides important
728 benefits for consumers. Numerous economic studies have shown
729 that restrictions on advertising increase prices for consumers.

730 Advertising also facilitates innovation and narrows the
731 differences between demographic groups. Advertising the
732 relationship between fiber consumption and cancer, for example,
733 resulted in the greatest increases in fiber consumption in racial
734 minority and single parent households.

735 When eyeglass advertising was restricted, the least educated
736 paid the highest prices.

737 To summarize, the provision of internet content depends on
738 advertising revenue. That revenue, in turn, depends on the

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739 availability of information about the viewer, and online
740 advertising, like other advertising, benefits consumers.

741 Thank you again for the opportunity to testify today and
742 I look forward to your questions.

743 [The prepared statement of Mr. Beales follows:]

744

745 *****INSERT 4*****

746 Mr. Latta. Well, Dr. Beales, thank you very much for your
747 testimony today and, again, I want to thank all of our witnesses
748 for being here and we'll move into the question and answer portion
749 of our hearing.

750 I will begin the questioning and recognize myself for five
751 minutes.

752 Ms. Glasser, would you describe some of the tools that are
753 used to track consumers online and would you also tell what kinds
754 of information digital ad businesses have about consumers and
755 what they use it for?

756 Put that mic on, please. Thank you.

757 Ms. Glasser. Thank you. Thank you, Congressman, for your
758 question.

759 Sure, there are many different tools that you can use to
760 track users online. I think it really could depend on the
761 platform that you're using.

762 Persistent identifiers tend to be of the most common and
763 those would include things like cookies or advertising IDs. They
764 don't identify an individual personally so they're not personally
765 identifiable. Instead, it allows to -- it allows the advertiser
766 to make associations and inferences on the types of behavior and
767 the types of things that a consumer enjoys.

768 And can you repeat the second part of your question?

769 Mr. Latta. Yes, and would you tell us also what kind of
770 information the digital ad businesses have about consumers and

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771 how it's being used?

772 Ms. Glasser. Sure. Again, I think that also depends on
773 who you're speaking to in the supply chain. But, generally, for
774 a company like mine, the type of information that we usually hold
775 on the consumers would be things related to a cookie.

776 So that could include an IP address, cookie ID, browser
777 information. For example, if you're using a certain version of
778 Google Chrome or Internet Explorer, it might include a time stamp
779 and a date for verification purposes. It could really vary,
780 depending on how you set the cookie to collect information.

781 Mr. Latta. Thank you.

782 Mr. Zaneis, how significant of a problem are bots and fake
783 accounts in the digital ad ecosystem?

784 Mr. Zaneis. There's no question that it's a massive
785 challenge and a problem for the entire ecosystem. I think then
786 there's a recognition that no industry can be based off of this
787 high level of fraud.

788 The number that you quoted of 22 percent fraud in certain
789 display units -- you know, we used to have a discussion around
790 is fraud 20 percent of all inventory or 30 or 40 percent.

791 Over the last two years, we've sort of turned the corner
792 on that. We have not solved it. But now what we see, again,
793 working with reputable partners it's relatively easy to get your
794 fraud rate down well into, as I mentioned, less than 1.5 percent.

795

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796 I sometimes look at other industries like, you know, produce
797 shippers and manufacturers that have spoilage and breakage rates
798 around 15 to 20 percent and I look at where we are getting the
799 industry and think we are doing a good job.

800 Mr. Latta. Let me follow up on that. Is there a conflict
801 of interest in the industry if fake accounts are driving traffic
802 numbers higher?

803 Mr. Zaneis. No. I think that that's a common myth that
804 has been put out there by some advertising naysayer -- that because
805 there can be more revenue generated by more traffic, even
806 fraudulent traffic.

807 There's no question that some companies -- legitimate
808 companies -- could make more money from that. We always say in
809 the industry that there are crimes of omission and there are crimes
810 of commission, and sort of sitting back and maybe getting a little
811 extra revenue from a few fake hits on your website used to happen
812 all the time.

813 Nobody in our industry is committing commission crimes of
814 actually committing fraud, but I am happy to say that now the
815 respectable companies -- as I mentioned, 680 companies have sought
816 to join TAG -- now we've turned the corner on the crimes of
817 omission.

818 Mr. Latta. Okay. Thank you.

819 Ms. Glasser, in about my last minute that I have, if I wanted
820 to create a website today and sell advertising space, for example,

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821 a banner ad, and some ads along the side, how difficult would
822 that be and how much would it cost me to get started, especially
823 if I was a small business?

824 Ms. Glasser. I would not be able to comment on how much
825 it would cost because that could really depend on --

826 Ms. Schakowsky. Mic.

827 Ms. Glasser. Sorry. It's my first time doing this.

828 [Laughter.]

829 Mr. Latta. It's fine.

830 Ms. Glasser. I would not be able to comment on what it could
831 cost or even a range because that could really depend on the size
832 of the audience you're trying to market to or that you're trying
833 to attract to your website.

834 It could also depend on the type of the audience, right.

835 Mr. Latta. How about the difficulty, though? How
836 difficult would it be for somebody to go out there to do that
837 -- to get a banner?

838 Ms. Glasser. It's not very difficult. You would most
839 likely have to engage with either -- I think the easiest thing
840 to do would be engage with an ad agency because they could
841 basically do everything turnkey for you, or you could probably
842 approach some ad networks on your own.

843 I've really only worked with ad networks from an agency
844 perspective so I wouldn't know how it is personally to go and
845 do it. But I think some of the bigger companies and some of the

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846 companies who have been around a lot longer probably, you know,
847 have certain teams to handle the smaller businesses.

848 Mr. Latta. Okay. Well, thank you. My time has expired
849 and I will recognize the gentlelady from Illinois, the ranking
850 member of the subcommittee, for five minutes.

851 Ms. Schakowsky. Thank you.

852 Mr. Brookman, in your written testimony you say just last
853 week, Vice published a story purporting to prove that Facebook
854 listens to ambient conversation for the -- for ad targeting
855 purposes.

856 You acknowledge that privacy researchers cast doubt on the
857 story but the fact that leading authorities cannot even agree
858 on whether Facebook is mining personal audio conversations is
859 emblematic of the generalized confusion about privacy.

860 We do know, for example, that Samsung's smart TVs do record
861 everything. They have some sound -- some voice-responsive
862 feature. And I don't know what disclosure means, if it's in,
863 you know, some sort of tiny print thing that you can find when
864 you unbox the TV.

865 We also know that Vizio, also a TV, tracks second by second
866 viewing information. There is right now an FTC enforcement
867 action, or there was, against them because they did not disclose
868 that.

869 So, you know, what do consumers know and what don't they
870 know and how should they know, and should this be done even if

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871 they are informed?

872 Mr. Brookman. Yes. No, I think that's a good question.

873 You know, I think there's just a lot of understandable
874 uncertainty because there's so many sensors, right, all around
875 our house.

876 We have Echos. We have -- we have a microphone right now.

877 I mean, according to that Vice article, you know, any company
878 could be listening to it.

879 I do think that, you know, there are actually -- some
880 companies are kind of scared to go there. I know that Samsung
881 in their privacy policy reserved the right to listen to everything
882 you do. But they did, I think, fortunately, clarify that no,
883 we will only actually listen when the button is pressed down,
884 and I think that's the right choice.

885 Facebook has also tried to clarify, you know, we will only,
886 you know, listen, you know, if you -- we don't listen to what's
887 going on ambiently.

888 But I think that's the question. I mean, according to Dr.
889 Beales' testimony, it would actually probably be good if Facebook
890 were listening to every single thing that I say and not just
891 Facebook but also Google or Samsung or any of the 650 companies
892 that Mr. Zaneis mentioned because it could give us, you know,
893 more targeted ads.

894 I think consumers reject that and I do think it's actually
895 unfair to kind of try to put that burden on consumers to try to

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896 figure out, you know, what every single company is doing, which
897 is why I definitely support what you're saying -- that there should
898 be some basic rules of the road to empower consumers to kind of
899 take some control over all these devices.

900 Ms. Schakowsky. Thank you.

901 What do you mean by rules of the road? Should we be passing
902 legislation?

903 Mr. Brookman. Yes. So there's a few things that could be
904 done, like just better transparency for first, right. I mean,
905 right now privacy policies -- if you -- if you look at them --
906 you know, I review privacy policies as part of my job. I can't
907 make heads or tails of them, and that's my job, right. They don't
908 actually say what companies are doing. They reserve really broad
909 rights to do stuff.

910 Actually requiring disclosure kind of like SEC filings
911 would, I think, will probably have some degree of accountability
912 for consumers who should not be affected, read those but for
913 regulators and for folks like me who, like, try to rate products
914 based on these sorts of things, there should be easier kind of
915 global choices. I talked about do not track, which is a thing
916 that I worked on for a long time. You should be able to, you
917 know, opt out of everything at once. I mean, maybe it should
918 be opt in for some things, right, or maybe some things that just
919 shouldn't be happening.

920 You know, principles like data minimization -- don't just

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921 collect every single thing, like, through the microphone just
922 because it might be interesting one day. You know, security --
923 well, we don't have baseline security legislation in this country.

924

925 The FTC has done a pretty good job of trying to interpret
926 the statutes to require it. But they've run into some roadblocks.

927 You know, access to your information -- if the company has the
928 information about you they should tell you about it.

929 And so, I mean, there's been proposals floating around I
930 think there are some good elements to, there's some bad element
931 too, but, certainly, where we are right now where there's very
932 little law, right, the basic privacy law is Section 5 of the FTC
933 Act, which just says don't lie. And don't lie is a good principle
934 but it's not enough, right. I mean, don't lie -- if it's why
935 I have these privacy policies I can't figure out what they're
936 saying.

937 Ms. Schakowsky. In the few seconds I have, how common is
938 it that there's discrimination in terms of -- and maybe that's
939 a loaded word -- but in terms of hiring ads that do, particularly,
940 age discrimination?

941 Mr. Brookman. Yes. So I am familiar with the ProPublica
942 work that was pointed out -- you know, targeted ads for age but
943 also, you know, you are allowed to target ads based on racist
944 terms, right.

945 And part of the problem is, you know, Facebook is, like,

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946 a \$500 billion company, or whatever -- they make a lot of money
947 -- but they don't have a lot of staff, right.

948 They don't review all these things. It's all automated.
949 It's all programmatic, which is efficient in some ways, but it's
950 harder to snake out the fraud and the discrimination.

951 And I have a lot of respect for the work that Mr. Zaneis
952 does to try to tackle that. But by and large, I mean, you look
953 at the sort of ads that you see online. A lot of times they're
954 a bad experience for consumers.

955 Ms. Schakowsky. Thank you. I yield back.

956 Mr. Latta. Thank you. The gentlelady yields back.

957 The chair now recognizes the gentleman from Illinois, the
958 vice chair of the subcommittee, for five minutes.

959 Mr. Kinzinger. Well, thank you, Mr. Chairman. I thank you
960 all for being here today.

961 Professor Beales, we want the internet to continue to thrive
962 but we also don't want consumers to lose faith in the internet
963 because their information is being used in an unanticipated or
964 even a harmful way.

965 Aren't there some baseline protections that would balance
966 both innovation and consumers' trust in the privacy of their
967 sensitive online information?

968 Mr. Beales. Well, I think the approach you're trying to
969 get consumers to understand the gory details of how this works
970 and make choices on a provider by provider basis is just hopeless.

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971

972 It's like trying to understand -- trying to ask consumers
973 to understand all of the code that's on your computer and how
974 it works and what it does. It's not going to happen.

975 It shouldn't be used -- the information, however it's
976 collected and by whoever it's collected, should not be used in
977 ways that are harmful to consumers.

978 But you need to figure out what harm you're worried about
979 and figure out what's the best way to stop that harm specifically.

980 It's not an information problem. It's what people are doing
981 with the information and if there's specific things that they're
982 doing that are bad that's what you ought to address.

983 But targeted advertising isn't one of those.

984 Mr. Kinzinger. Yes, and so that you basically answered my
985 second question, which is shouldn't the privacy protections be
986 based on the potential for consumer harm and I think --

987 Mr. Beales. Absolutely. Absolutely.

988 I mean, that -- I think it's always been telling to me that
989 in Europe it's about data protection and in the U.S. we do privacy
990 through a consumer protection agency.

991 Mr. Kinzinger. More people now access the internet from
992 a device -- phone, tablet, or IOT product -- than from desktops
993 or laptops. Knowing the geolocation of a consumer is
994 increasingly important to these companies. Not only can
995 companies target ads based on location but companies like Google

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996 and Facebook can assemble profiles and patterns of life about
997 consumers.

998 I would like to hear your opinions about as to whether precise
999 geolocating information should be considered sensitive
1000 information, meaning consumers should have to affirmatively opt
1001 in for tracking and collection of their location.

1002 So Mr. Zaneis, can you explain to me how consumers are tracked
1003 between devices and how is it that ads on one device might be
1004 seen on another?

1005 Mr. Zaneis. Sure. Thank you for the question.

1006 Just to be clear, TAG does not work on consumer privacy
1007 issues. But I certainly have a lot of experience here and have
1008 testified in front of the subcommittee in the past on privacy
1009 issues and data issues. So I am happy to elaborate a little bit.

1010 Certainly, there are technologies -- desktop and mobile
1011 browsing is technologically different than mobile apps, and
1012 cookies don't generally exist in the mobile app space. So you
1013 have different types of identifiers such as device identifiers
1014 for a mobile phone or a tablet that can be used.

1015 But the concept is the same, which is advertising requires
1016 an identifier. Whatever it is is less important. The technology
1017 that empowers it is less important than what it is, and we've
1018 proven, as an industry -- Ms. Glasser mentioned the Digital
1019 Advertising Alliance and the Network Advertising Initiative to
1020 wonderful self-regulatory programs not dissimilar from TAG that

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1021 have been able to put in place consumer protections even in the
1022 mobile space.

1023 Really, the key is to be technology agnostic but to set policy
1024 and self-regulatory principles based on principles and standards
1025 that everybody must meet. I think that's the effective method.

1026 Mr. Kinzinger. Thank you.

1027 Back to you, Professor. There's been a lot of debate about
1028 the concept of selling data, which culminated with the Facebook
1029 hearings recently.

1030 These large online businesses often assert that they don't
1031 sell their consumers' private -- personal information to anyone.

1032 Yet, five data companies -- Google, Facebook, Apple, Microsoft,
1033 and Amazon -- represent a combined market share of nearly \$4
1034 trillion.

1035 So regardless of ownership of the data, they're well
1036 compensated for their commodities through the transactions that
1037 they conduct. What do you think of their claim that they don't
1038 sell consumer data and is it really as nuanced as they -- as they
1039 say?

1040 Mr. Beales. Well, the way I've seen it in the context of
1041 ad exchanges for -- you know, for the purchase and sale of the
1042 advertising is there's not data that's bought and sold but there
1043 are cooperators in that process who are sharing data.

1044 For example, an ad comes up that General Motors might be
1045 interested in. The publisher sends some information about what

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1046 it knows about me based on the cookies that are on my machine
1047 to the ad exchange.

1048 Somebody who's a potential bidder, like General Motors, who
1049 knows something else about me matches that information and now
1050 they know more than either party knew in the first place and they
1051 use that information in deciding on whether to bid on the ad.

1052 But people think -- companies in this space tend to think
1053 their data is their lifeblood and they're not going to give it
1054 to somebody else. I mean, they hold on to it as closely as they
1055 can is the experience I've seen.

1056 Mr. Kinzinger. And just -- with 10 seconds, because I am
1057 going to just get yes or no -- consumer privacy laws and policy
1058 makers have regularly complained about the length and complexity
1059 of consumers facing privacy policies.

1060 Do any of you believe consumers have a clear understanding
1061 of what's contained in a privacy policy? And so a quick yes or
1062 no from each of you would be great.

1063 Ms. Glasser. No.

1064 Mr. Beales. No.

1065 Mr. Brookman. No.

1066 Mr. Zaneis. No.

1067 Mr. Kinzinger. Thanks. I yield back.

1068 Mr. Latta. The gentleman yields back and the chair now
1069 recognizes the gentlelady from California for five minutes.

1070 Ms. Matsui. Thank you, Mr. Chairman, and thank you very

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1071 much for our witnesses here today.

1072 As we discuss here today and in previous hearings a
1073 fundamental tenet of digital advertising is explaining to
1074 consumers what data is being collected and for what purpose --
1075 in other words, providing meaningful and robust transparency.

1076 But that, of course, is more complex than a list of the
1077 information on the types of data collected and whether that data
1078 is sold.

1079 Specifically, companies are able to take user data and sell
1080 ads based on the data users provide to those platforms without
1081 having to ever sell that data to a third party, and the more data
1082 that platforms have access to and, importantly, the more they
1083 can use that data to create inferences to target these users,
1084 the better these platforms can target advertisements.

1085 Entire panel -- so even if data isn't so-called sold, how
1086 do we work towards meaningful transparency with both more clarity
1087 and nuance about data usage that don't make distinctions without
1088 differences?

1089 Anyone want to start?

1090 Ms. Glasser. Sure. I think, plain and simple, we just need
1091 to be better at describing what we do. It is a complicated space.

1092 It does get very technical and I think the easiest way to explain
1093 what we do is to provide an example. Explain to the user what
1094 happens when they go to Facebook or why they're seeing a certain
1095 ad.

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1096 I think in addition to that, the self-regulatory groups have
1097 made a tremendous effort toward that end by creating an icon that's
1098 supposed to indicate when certain types of advertising is
1099 happening or a certain type of data collection is happening for
1100 interest-based advertising which I talked about earlier.

1101 Ms. Matsui. Right.

1102 Ms. Glasser. I think we just need to be more clear and we
1103 need to write these policies much better.

1104 Ms. Matsui. Do you agree?

1105 Mr. Zaneis. I do. I mean, we all just agreed that privacy
1106 policies are not understandable by consumers just because you
1107 have to tell the truth but that's all you have to say and you
1108 have to disclose everything. It's not a -- it's not an effective
1109 mechanism for disclosure, which is why programs such as industry
1110 self-regulatory ones -- the DAA and NAI -- are so important.

1111 A lot of these third-party entities don't have a consumer
1112 touch point. So having a very simple policy disclosure outside
1113 of a privacy policy is key, and I will just add I think then the
1114 platforms that do have a consumer touch point have done a fantastic
1115 job of developing things like privacy centers and communicating
1116 with their users clearly.

1117 Ms. Matsui. Okay. Okay.

1118 Mr. Brookman. Yes. I mean, I think you're right that
1119 companies like Facebook or AT&T they make a big deal of the fact
1120 that they don't sell the data, right, but then it goes down to

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1121 the question of excess data collection.

1122 You know, I give Facebook a lot of information about me on
1123 plenty of stuff -- pictures of my kids, things I like, my religious
1124 and political affiliation.

1125 But that's not good enough, right. I mean, they actually
1126 -- and this was I thought a fascinating part of the Cambridge
1127 Analytica hearings -- a lot of the questions were not about
1128 Cambridge but how Facebook watches what I do in all my other apps
1129 and websites, and that's the thing I think a lot of folks object
1130 to.

1131 So, really, you know, AT&T is like a service provider for
1132 me. They never used to listen to my phone calls to try to target
1133 ads to me. Do they have a -- should they be able to watch
1134 everything I do online where I have no control because they're
1135 my pipe in order to target ads.

1136 I think that's the sort of out of context data collection
1137 and use that I think consumers object to. I think they're
1138 surprised by that. I think that there should be maybe more
1139 prohibitions but very much at least some sort of rights.

1140 Ms. Matsui. Do you think the public is more aware of this
1141 today based upon what's happening -- the coverage?

1142 Mr. Brookman. I think -- I think there's a generalized
1143 awareness that our privacy is under siege. This kind of goes
1144 to the questions from Ranking Member Schakowsky. I think people
1145 feel like, I am being listened to all the time by everyone --

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1146 what do I do about it -- what's happening now. And I think there's
1147 just a lot of paralysis and a lot of confusion and a lot of, like,
1148 upset, right. I mean, we talked about the poll numbers. People
1149 don't like it but they don't know how to --

1150 Ms. Matsui. They don't know what to do.

1151 Mr. Brookman. They don't know what to do. That's exactly
1152 right.

1153 Ms. Matsui. Okay. How about you?

1154 Mr. Beales. Well, as I said, I think -- I think the key
1155 is to think about what it is that we are worried about would happen
1156 as a result of this information and then think about ways we can
1157 keep that from happening.

1158 The information is out there. It can be observed in a lot
1159 of different ways using a lot of different technologies, and new
1160 ones will be invented if not every day every year.

1161 Ms. Matsui. Right. The horse has left the barn, to a
1162 degree, so we have to figure out what we could do about it and
1163 try to explain it to everybody so people understand it, and then
1164 it's more of sense of how we deal with our own data and
1165 understanding as we click on things what could happen, right?

1166 Yes. Okay. Well, I am running out of time so I yield back.
1167 Thanks.

1168 Mr. Latta. Thank you. The gentlelady yields back the
1169 balance of her time.

1170 The chair now recognizes the gentleman from Michigan, the

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1171 chairman of the Subcommittee on Energy and the former chair of
1172 the full committee for five minutes.

1173 Mr. Upton. Well, thank you, Mr. Chairman.

1174 Ms. Glasser, I want to follow up a little bit on what Ms.
1175 Matsui said. In your testimony, you stated, quote, "Using and
1176 sharing a consumer's name or similarly identifiable information
1177 is not necessary in many cases to provide rich, personalized,
1178 and relevant advertising."

1179 So what's your thoughts as to why Facebook does in fact
1180 collect so much information along those lines like phone numbers
1181 and location and calling histories? What information -- what
1182 are they doing with that if they don't really need it and to tee
1183 up that interest-based ad?

1184 Ms. Glasser. Thank you for your question.

1185 Mr. Upton. If you want to comment. I don't --

1186 Ms. Glasser. Yes. I can't speak specifically to the
1187 motives behind Facebook for doing it. Just simply, I don't have
1188 that insight.

1189 However, my perception of the reason why they collect it
1190 is when you sign up for their platform, you have to provide this
1191 information so you can create your actual profile page.

1192 Now, as I understand it, I don't think you actually have
1193 to give your phone number but in that case if you decide to it's
1194 a way that they can -- they use it for a means to text you certain
1195 sort of updates or they can use your phone number to identify

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1196 that particular device and be able to provide you continuity of
1197 services. Maybe you get a new phone but, you know, the phone
1198 number is the same. The device is different. It's a way for
1199 them to keep linking it.

1200 Facebook is sort of a unique case in the broader ecosystem
1201 because they are a subscription-based platform. When you go to
1202 Facebook you provide your email, your name, and all of that
1203 information as a condition of signing up.

1204 I think when you are looking on a website just like New York
1205 Times, for example, or the Washington Post, unless you have a
1206 subscription -- let's assume you don't -- you're not providing
1207 any of that information.

1208 You're not giving your name, your phone number, your email
1209 address, and you don't need to in order to get advertising placed
1210 on that site that's relevant to your interests or things that
1211 you might have looked at before.

1212 Mr. Upton. So you mentioned a little bit earlier about the
1213 icons and I know that the Digital Advertising Alliance launched
1214 last month an industry-wide initiative including a political ad
1215 icon for consumers.

1216 Are you aware of any political ads currently branded with
1217 that new icon?

1218 Ms. Glasser. I don't, but I just haven't seen them myself.

1219 I am sure I will start seeing them after this conversation because
1220 it always comes up after you talk about it. But I have not myself

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1221 seen them yet.

1222 Mr. Upton. Great.

1223 Mr. Zaneis, can you explain how the third-party validation
1224 processes exist and how they work?

1225 Mr. Zaneis. Third-party validation as far as our
1226 certifications are concerned? Thanks for asking the question.

1227 You know, any certification program is only as strong as
1228 the validation process behind it. So we work with a number of
1229 independent audit firms and the majority of our members actually
1230 go through a third-party audit, which is very significant and
1231 they literally are on the site, kicking the tires, looking under
1232 the hood to make sure that the companies are complying with our
1233 standards, and I will take it one step further, because if you
1234 go up the supply chain a little bit a lot of our efforts to fight
1235 criminal activity are supported by really niche technically
1236 sophisticated companies -- what we call vendor companies -- an
1237 anti-fraud vendor, for example -- which they also go through an
1238 independent accreditation from the Media Ratings Council. So
1239 they may go with EY or somebody like that and go through a very
1240 extensive certification process.

1241 It's really key to raise the bar.

1242 Mr. Upton. Well, I just want to say as a native Michigander
1243 I really appreciate your testimony. Thank you.

1244 Mr. Zaneis. I appreciate it. Thank you.

1245 Mr. Latta. The gentleman yields back and the chair now

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1246 recognizes the gentlelady -- oh, I am sorry, I think Mr. Green
1247 just walked in.

1248 Mr. Green is recognized for five minutes.

1249 Mr. Green. I want to thank the chairman and the ranking
1250 member for holding this hearing. The two biggest online privacy
1251 scandals in the past year has come through this subcommittee --
1252 the Equifax breach and the Facebook Cambridge Analytica issue
1253 -- and I hope we can soon see some legislation on the books to
1254 protect Americans online.

1255 Mr. Brookman, we know that small businesses as well as larger
1256 corporations sometimes benefit from consumer data since it allows
1257 them to show their ads to customers who are mostly likely to want
1258 their product.

1259 Do you know -- do we know how common it is for small to
1260 medium-sized businesses to use tracking technology as compared
1261 to larger businesses?

1262 Mr. Brookman. I don't have that information. But I will
1263 grant the point -- that it's small businesses, large businesses.

1264 Lots of companies rely -- use behavioral targeting ad tracking
1265 to reach their customers.

1266 I will also concede Dr. Beales' point that in some cases
1267 those ads may be more valuable. I do think the vast majority
1268 of ads are not in fact behavioral and I do know that leading
1269 publisher trade associations like Digital Content Next -- they
1270 used to be the Online Publishers Alliance -- have been one of

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1271 the more aggressive forces calling for actually privacy
1272 protection. Even though -- and we are a member too, right --
1273 I mean, even though those companies use targeting, they think
1274 it would be better for the ad ecosystem if there were some more
1275 protections in place.

1276 It would be partly just for confidence in the ecosystem,
1277 partly because a lot of the excess consumer surplus is just flowing
1278 to companies, to Facebook, and to Google and also because, I mean,
1279 they're seeing companies or users deploy ad blockers because the
1280 self-regulatory efforts that have happened so far haven't been
1281 sufficient to address a lot of these concerns.

1282 Mr. Green. Okay. Any -- do you have any thoughts on whether
1283 there are any way for any potential online privacy law at the
1284 federal level to balance potential benefits to businesses along
1285 with better consumer privacy?

1286 Mr. Brookman. Yes, absolutely.

1287 I mean, it's a thing that I've worked on for a number of
1288 years. The United States is kind of an outlier around the world
1289 and most countries have some sort of basic privacy laws on the
1290 books to give folks control.

1291 United States is one of the rare exceptions so they don't.
1292 The default law is just don't lie to folks, which has not been
1293 sufficient to really safeguard privacy.

1294 So yeah, having something on the books that provides better
1295 information -- again, I don't want all the onus to be on consumers

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1296 to try to figure out, you know, every single thing so I think,
1297 you know, a lot of this out of context data collection, data usage,
1298 may be, you know, should be prohibited in some cases, right.

1299 At the very least, though, there should be some more -- at
1300 least a stronger ability to say no, right. A lot of folks just
1301 -- you know, they feel like they want control. They feel like
1302 they're being monitored. They wish they could do more. They
1303 don't have the information or ability to do so today.

1304 Mr. Green. Well, and after our hearing with Facebook, we
1305 realized that, you know, somewhere along the way you can't
1306 accumulate this data without marketing it and that's the reason.

1307 But like you said, and I hear, you know, the balance of the
1308 consumer privacy, I really want to get permission for it. I don't
1309 want them taking it from me without the -- without knowing.

1310 Can you discuss ways to balance the consumer privacy which
1311 polling shows is extremely the high priority for Americans with
1312 any benefit that may sometime come from these ads?

1313 Mr. Brookman. Yes. I mean, Facebook has a lot of
1314 information about me. They have -- like, they know where I live.
1315 They can serve me plenty of targeted ads.

1316 What I object to is them watching every place I do online,
1317 you know, in order to monitor me in ways I don't expect.

1318 They started doing that back in 2011 or so when they started
1319 rolling out like buttons and people would see a like button --
1320 oh, I can press this, I can click like.

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1321 What it didn't realize is that meant Facebook was watching
1322 them whether they clicked the button or not, right. And so that's
1323 the sort of thing I think folks object to. That's the sort of
1324 thing I think -- that's all that members are objecting to when
1325 -- during the Cambridge Analytica hearings.

1326 That's the sort of thing I think consumers, like, don't
1327 expect and that there should be stronger rules in place for whereas
1328 today there really aren't.

1329 Mr. Green. Well, I even have a staff member who said he
1330 was planning to get married so he was looking for wedding rings
1331 and all of a sudden he saw these adds all pop up on his handheld.

1332 So, I mean, it's a problem but how do we deal with it? While
1333 you were at the FTC you worked on a commissions cross-device
1334 tracking report. Can you tell us some of your concerns about
1335 companies following people across these multiple platforms?

1336 Mr. Brookman. Yes, absolutely. So I think it's just
1337 unexpected in ways that folks, you know, don't necessarily think
1338 that just because I am on my phone I will suddenly -- if I am
1339 searching for wedding ring on my phone suddenly on my desktop
1340 computer which, by the way, I share with my live-in girlfriend
1341 suddenly she starts seeing pop-up ads over there for the wedding
1342 rings I was looking at.

1343 I think a lot of folks don't necessarily expect that and
1344 I think they --

1345 Ms. Schakowsky. You better get married.

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1346 [Laughter.]

1347 Mr. Brookman. Exactly. It's a lot of pressure.

1348 But I think, I mean, the information is used in ways that
1349 are surprising. So online tracking used to be fairly anonymous
1350 but now if you go a publisher you type in -- if you log in on,
1351 you know, Justin at Gmail, you know, that website might then spew
1352 out to a bunch of ad networks hey, that's Justin, right. And
1353 so they are now tracking by real name in ways that they hadn't
1354 done before.

1355 And so I think these are the sorts of things that are
1356 unexpected and I think when people know about them they're up
1357 in arms. They're controversial, and they wish there were more
1358 limitations or at least controls around.

1359 Mr. Green. Mr. Chairman, just briefly, I heard that if I
1360 have a smart TV and I have my handheld, my iPhone, they can actually
1361 know what they're doing and together is there any solution there?
1362 Should we just turn it off?

1363 Mr. Brookman. Yes, it's tricky.

1364 Mr. Green. I really don't like the appliances talking about
1365 me.

1366 [Laughter.]

1367 Mr. Brookman. It's a big conspiracy and I wish they would
1368 knock it off.

1369 You know, things like -- most of these companies do offer,
1370 like, opt out. So there are controls but they're kind of hard

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1371 to find.

1372 And so, I mean, one thing we try to do in Consumer Reports
1373 is like, say hey, if you want to knock this off, you know, here's
1374 how to do it.

1375 It's just, like, a lot of labor, right. I mean, we all have
1376 -- we all got a lot going on. We don't want to have to spend,
1377 like, half an hour configuring our smart TV to, like, not talk
1378 to the toaster, right.

1379 I mean, there should be some things that by default just
1380 don't happen.

1381 Mr. Green. Thank you, Mr. Chairman.

1382 Mr. Latta. The gentleman's time has expired and yields
1383 back, and the chair now recognizes the gentleman from New Jersey
1384 for five minutes.

1385 Mr. Lance. Thank you, Mr. Chairman.

1386 I want the panel to know I've been happily married for a
1387 generation and none of these matters pop up on my computer.

1388 This subcommittee had Mr. Zuckerberg testify before us two
1389 months ago. As others on the panel have indicated, reports last
1390 week revealed that Facebook has data assuring partnerships with
1391 many device makers, including Chinese firms that U.S.
1392 intelligence agencies have labelled national security threats.

1393 Following these reports, I sent Mr. Zuckerberg a letter
1394 indicating my continued frustration with Facebook's handling of
1395 users' data.

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1396 I reiterated a statement I made at our April hearing that
1397 I believe Facebook may have violated its 2011 consent agreement
1398 with the Federal Trade Commission.

1399 I believe Facebook's issues are interrelated with the
1400 subject of this hearing, digital advertising, as the company makes
1401 the vast majority of its profits from advertising, reporting \$40
1402 billion in revenue from advertising alone in 2017.

1403 Another issue I am concerned about is the increase in fake
1404 news advertisements and foreign interference in our electoral
1405 process.

1406 I am one of the co-sponsors of the bipartisan Honest Ads
1407 Act, which enhances disclosure requirements and transparency for
1408 online political advertisements.

1409 I was pleased that Facebook pledged its support to the bill
1410 and I thank the panel for being with us this morning.

1411 To the panel in general, from your expertise, how do
1412 companies balance the need to protect privacy while also offering
1413 the most effective advertising platforms to their clients?

1414 Ms. Glasser.

1415 Ms. Glasser. Thank you. I -- there is a lot of things that
1416 we do before we engage with a company for advertising or analytic
1417 services.

1418 To us, it's of paramount importance to make sure that we
1419 are working with companies who behave appropriately and who do
1420 the right thing. It's our reputation on the line, and if we get

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1421 caught up in things like misuse of data or data collecting --
1422 being collected improperly, you know, that's a clear black mark
1423 on us.

1424 At the same time, we can't obviously control other companies.

1425 However, we have some expensive due diligence that we put in
1426 place, whether it starts with reading a company's privacy policy,
1427 ensuring they offer opt-out, ensuring they're actually describing
1428 how their services work, if they just describe data collection
1429 on their own website that doesn't necessarily get us where we
1430 need to be because consumers are using their services and their
1431 platforms and not necessarily their website.

1432 So we go through some extensive efforts to make sure that
1433 the companies we are working with are at least taking an effort
1434 to do the right thing, whether it's members of industry
1435 associations such as TAG or the NAI and DAA, it provides a level
1436 of comfort to know that they too recognize a lot of the issues
1437 and that they too are obliged to put certain protections in place.

1438 Mr. Lance. Thank you. Others on the panel?

1439 Mr. Zaneis. Yes. I think Ms. Glasser nailed it as far as
1440 every company really has to take privacy very seriously because
1441 it impacts their reputation in his market and it's a very fluid
1442 market. It's a very diverse market, and consumers can go to any
1443 of your competitors with one click.

1444 In my experience, it's been companies -- early adopters in
1445 self-regulatory programs -- it's a good signal that they care

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1446 about it and in working it helps establish both the Digital
1447 Advertising Alliance almost a decade ago and now TAG three years
1448 ago. Facebook has always been an early adopter and a good
1449 participant.

1450 Mr. Lance. Mr. Brookman.

1451 Mr. Brookman. Yes. I mean, I will ultimately grant that,
1452 you know, I have friends that -- who work at privacy companies
1453 and they do a lot.

1454 I just think that the balance is off -- that there's always
1455 this wide-eyed enthusiasm that big data will save everything while
1456 folks tend to be very dismissive that things might go wrong.

1457 And I think, you know, the consequences if they go wrong,
1458 there really isn't enough risk. There's not any -- Ranking Member
1459 Schakowsky talked about how the Federal Trade Commission -- you
1460 know, even if a company does violate the fairly weak laws that
1461 we have can't get penalties in most of the cases. They have a
1462 limited staff to police -- like, again, all these things that,
1463 again, leading academic experts can't even figure out.

1464 When I was at the FTC, you know, I worked in their division,
1465 their office of technology, research, and investigations designed
1466 to try to help bring more tech expertise to the FTC. But we were
1467 understaffed. And so I think, you know, there's just not enough
1468 reason to try to safeguard privacy in the existing legal
1469 framework.

1470 Mr. Lance. Thank you. My time has expired but I look

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1471 forward to working with all of the distinguished panel members.

1472 Thank you very much, Mr. Chairman.

1473 Mr. Latta. Thank you. The gentleman's time has expired,
1474 and the chair now recognizes the gentlelady from Michigan for
1475 five minutes.

1476 Mrs. Dingell. Thank you, Mr. Chairman.

1477 I am not calm like anybody here. I listened to all of you
1478 this morning. I've listened to my colleague, Ms. Schakowsky.

1479 I don't have an Alexa in my house. I don't want anybody
1480 listening.

1481 We've seen examples of people knowing that we are being
1482 listened to and, you know, in the past we've been told to just
1483 trust companies that hold our personal information, and that our
1484 information was used in a transparent process.

1485 We, obviously, now know that that's not the case and I think,
1486 quite frankly, the trust is wearing thin. You say, well,
1487 consumers are kind of worried about it but what can you do about
1488 it.

1489 Consumers don't understand how much that data is being used
1490 and how it can be used.

1491 Dr. Beales, I didn't sleep last night. I was up all night
1492 for two reasons. One, I pulled out my paper from my graduate
1493 school on public good, and I think that what we are talking about
1494 today in the internet is not a public good and I am going to write
1495 a paper.

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1496 I was up until 3:00 a.m., and you're going to be the first
1497 copy to get a -- first person to get a copy of it.

1498 And two, Michael Chertoff has a new book out on privacy and
1499 was talking about how the Chinese are using all of this data to
1500 actually -- we think it's innocent.

1501 The Chinese are looking at who does these searches and
1502 compiling them and grading them, and how people get jobs, et
1503 cetera, and that's what's happening here.

1504 How do we know that this data, viewed alone, thousands of
1505 data points collected on each of us, don't paint a picture other
1506 than our, you know, our interests, curiosities, or preferences?

1507 But when they're combined together, they create a vivid
1508 mosaic of both our online and offline who we are, and we don't
1509 know who that's being shared with, and trust me, I don't trust
1510 you to say it's not being shared with lots of people.

1511 It should raise concerns for consumers. We've got laws that
1512 protect people at work, on the streets, and in their homes, and
1513 with the lines continually blurring between online and offline.

1514 I think we have to address these issues and we need to be
1515 doing a lot more to protect consumers and educate them. They think
1516 there's nothing they can do and what does it matter -- it could
1517 matter a lot.

1518 So, Dr. Beales and Ms. Glasser, what are the market
1519 incentives for companies to not collect as much information as
1520 possible? There are none, I would like to say that.

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1521 Mr. Beales. I think -- I mean, collecting information has
1522 some cost. It's usually not very big, and so the incentive tends
1523 to be to collect more of it, and we'll see whether it is good
1524 for something.

1525 There's an incentive not to collect, I think, information
1526 -- that people are going to be reluctant to give you. I mean,
1527 if you do survey research you always ask questions about income
1528 at the end because a lot of people will stop answering question
1529 when you ask that question and you don't want to lose the data.

1530 There's not a lot of incentive.

1531 Ms. Glasser.

1532 Ms. Glasser. Sure. I think that there is definitely a lot
1533 of -- a lot of reasons why companies would want to limit the data
1534 that they're collecting, first of all, for legal reasons, right.

1535 I mean it depends on which sector you're in and, as we all know,
1536 there are different sectoral logs here in the U.S. that protect
1537 different types of information, particularly CAPA.

1538 Now, I don't want to collect personally identifiable
1539 information by children, which includes cookies and personal
1540 identifiers.

1541 Same thing goes for health care or finance. I, as a company,
1542 have a vested interest to limit the data on collecting for several
1543 reasons.

1544 I don't want to risk a lawsuit. I don't want to risk
1545 enforcement by the FTC, not even from a legal perspective -- of

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1546 course, that's terrible, but -- I mean, depending on whose side
1547 you are, but also because I don't want the press and I don't want
1548 people to know that I got caught doing something I shouldn't have
1549 been doing.

1550 I think the other reason is, if I am collecting all of this
1551 data that I don't necessarily need, I run the risk of collecting
1552 bad data, and when I am collecting bad data and it comes to be
1553 found out that it's bad data, then I have to go and purge all
1554 of my data that might be connected to that bad data and that comes
1555 at a tremendous cost to my company, literally, in money what it
1556 costs to have engineers and people go through the systems and
1557 do that. It also comes at a reputational cost as well and it
1558 could slow down business because we have to now remove this entire
1559 data set.

1560 So for me and for our company, there's, clearly, a vested
1561 interest to collect only what's needed.

1562 Mrs. Dingell. So I am almost out of time. So I am going
1563 to do more questions for the record. But I will give you all
1564 another example.

1565 I was prepping for a committee hearing. I stay up nights.
1566 They call me Dr. Google. But was doing opioid research and by
1567 the next morning was getting drug rehabilitation centers to check
1568 myself into, and I didn't want anybody to think that I was a drug
1569 user.

1570 But that's the kind of data that's being collected and then

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1571 a potential employer can buy that from somebody. People don't
1572 think about it. I hope we can get them to.

1573 Thank you.

1574 Mr. Latta. The gentlelady's time has expired and the chair
1575 now recognizes the gentleman from Kentucky for five minutes.

1576 Mr. Guthrie. Thanks a lot, and thanks for being here. And
1577 this is serious and really trying to figure out where we draw
1578 the line in public policy in this.

1579 I've said before that, you know, I am from Kentucky. I love
1580 college basketball. The most frustrating thing is every four
1581 minutes you get a TV time out.

1582 But I get to watch it for free because I got to watch the
1583 ad. And so -- and we are talking about free content. I think
1584 people Mr. Brookman said people don't want to trade free content
1585 for the violation of privacy.

1586 And what will be interesting in some of these apps would
1587 have a subscription so you can subscribe and you get no ads
1588 whatsoever and see what people choose. That would be interesting
1589 to see where people move forward with that.

1590 But and I was in Ms. Schakowsky's district trying to figure
1591 out how to get around Monday -- trying to get around traffic to
1592 get from Sheridan Road to Lake Shore Drive.

1593 And the app I was using popped up an ad right when I needed
1594 to make a critical turn. So that was -- so there's a difference
1595 in frustrating -- but I was in your wonderful district. Might

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1596 ever trying to get me lost so I would stay in Chicago.

1597 Great city, by the way. And so we are trying to figure out
1598 what's, like, just nuisance and stuff you have to fool with and
1599 pop-ups and then really what gets into what some of the things
1600 that Mr. Brookman has talked about and where we need to draw a
1601 line.

1602 So just kind of the process of this. So, Ms. Glasser, first,
1603 so how do the -- these target audiences are created by additional
1604 ad companies.

1605 I mean, just kind of how is that -- I think we've kind of
1606 gotten into it. They look at all the different ways that you
1607 move forward. Can you kind of describe how a target audience
1608 from a digital ad company is created for -- generically for
1609 somebody who's wanting to create an audience?

1610 Ms. Glasser. Sure, I would be happy to.

1611 So, basically, what happens is we talk about intra space
1612 advertising. Typically, we'll used intra space advertising to
1613 build these profiles and target audiences and what we do then
1614 is we actually will see what websites you have gone to over the
1615 course of time.

1616 So maybe one day you're visiting MapQuest to get directions.
1617 Another day you're on a gardening website. Then you're on the
1618 New York Times and then you're looking to buy dog food, and
1619 algorithmically and using modelling and science they are able
1620 to sort of piece these things together and, you know, put you

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1621 in a certain age range -- say, you're male, you live in Kentucky
1622 and you have an interest in gardening and dogs. Simple enough,
1623 right?

1624 That's basically an interest category. We then provide that
1625 data to other partners for them to target the specific audiences
1626 but we'll use the data collected over different websites over
1627 time to build up these profiles and to get a sense of the different
1628 interests so that we can build these --

1629 Mr. Guthrie. And then you build up ads that I want to see.
1630 That's the kind of the things instead of generic, like, when
1631 I do the basketball whatever comes on I got to watch but ads I
1632 want to see.

1633 So I don't have an issue with that but just trying to figure
1634 out where we draw the line.

1635 So, Professor Beales, you talk about or it's been suggested
1636 that online advertising market can operate like an financial
1637 exchange where people bid on the ads and people -- I heard you
1638 talk about that earlier today.

1639 How does that work? I mean, how does that kind of -- I didn't
1640 realize that happened.

1641 Mr. Beales. Yes, there's an --

1642 Mr. Guthrie. Usually, like here's a group of dog lovers
1643 from Kentucky so here's an ad that -- and so somebody will bid
1644 on to get the ad --

1645 Mr. Beales. Well, you go to a website and the website will

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1646 say here's an ad -- here's the limited information that website
1647 has, other than you're on that website. That may be all it knows
1648 but it may be part of the network that knows something more.

1649 It passes that information to the ad exchange, which passes
1650 it on to potential bidders, which are typically advertisers or
1651 advertising agencies who have other information about you.

1652 Mr. Guthrie. Well, I will go to the -- going to a website
1653 and boom, all this starts taking place instantaneously?

1654 Mr. Beales. Yes. Absolutely. Absolutely.

1655 There's a fascinating video that I think is 70 milliseconds
1656 or something like that, which is about how long it takes to
1657 actually serve the ad.

1658 Different advertisers bid. You know, I've got this great
1659 dog food that I know you're really going to like so I will bid
1660 a lot for your exposure. I win the auction, and the you get the
1661 dog food ad.

1662 But there may be dozens and dozens of advertisers that bid
1663 for that particular availability, each of who has a little bit
1664 information about what -- about you, about what you might be
1665 interested in, and the one who thinks you're most valuable is
1666 the one --

1667 Mr. Guthrie. And, obviously, the more information I have
1668 the more valuable I become to that -- whoever's bidding,
1669 obviously. The more they know my likes, the more they're going
1670 to bid on what I -- and so therefore, to get me on somebody's

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1671 website they're going to provide better content.

1672 So I will use their -- so they kind of -- it works that way,
1673 but it just gets into the -- but they have to have so much
1674 information on you so that -- are there things that you think
1675 need to be protected in that or people just need to know, going
1676 in, and that it's an open process?

1677 Mr. Beales. Well, I think it's a more going in -- a known
1678 going in and I think it's more think about --

1679 Mr. Guthrie. The thing is if everybody's a good actor we
1680 are -- I mean, the problem is the bad actor. If everybody's a
1681 good actor, then it makes me more valuable to that advertising.

1682
1683 It makes somebody want me on their website. They're going
1684 to provide better content that I will then enjoy using. That's
1685 why I go there. And so it all works. But how do you protect against
1686 the bad actors in that?

1687 Mr. Beales. I think you got to think about what I means
1688 to be a bad actor and then try to restrict that particular conduct.

1689 It's not that -- it's not that a lot of people know something
1690 about you from your various online behavior.

1691 It's what bad do we think might happen. I mean,
1692 Congresswoman Dingell's example of what China's doing -- I mean,
1693 the problem there is the government has got that data, and to
1694 the extent that that's a problem, that's a problem we can address
1695 directly by making it harder for the government to get that data.

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1696 But it's what are -- and I think we need to ask what are
1697 the bad actors doing with that information that could be harmful,
1698 because we need to try to address the bad things that could happen
1699 to consumers.

1700 But it's not the information collection that itself is the
1701 bad thing. The bad thing is what somebody does with that.

1702 Mr. Guthrie. Okay. Thanks. I am out of time. I yield
1703 back.

1704 Mr. Latta. The gentleman's time has expired and the chair
1705 now recognizes the gentleman from California for five minutes.

1706 Mr. Cardenas. Thank you, Mr. Chairman, also Ranking Member
1707 Schakowsky for having this hearing, and I would like to thank
1708 the panellists for answering our questions and helping us make
1709 sense of all of this, and there's a lot of all of this involved
1710 here. It's very, very new to the human psyche and the human
1711 element.

1712 You know, this is on the heels of the Facebook scandal and
1713 the hearings that we've had here. But at the same time, I think
1714 that it's important to note that that's just the tip of the
1715 iceberg.

1716 There's a lot going on out there and a lot that we don't
1717 hear about, and I think that Mrs. Dingell brought up some good
1718 points about just getting online and all of a sudden the next
1719 day, you know, you get certain pop-ups and like she said, who
1720 knows in the future if people are going to use that against someone

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1721 saying, hey, are you really an opioid addict because we got some
1722 information on you and you spent a heck of a lot of time looking
1723 at this stuff.

1724 But then again, she's just doing research, but at the same
1725 time, people are going to use that data as they wish, and what
1726 is unfortunate is that we have a lot of small businesses out there
1727 who are benefiting from this, who are able to compete now in an
1728 environment like never before with larger businesses, that are
1729 creating jobs.

1730 In my district alone, for example, it's come to my attention
1731 that thousands of jobs have been created just in my district alone
1732 because of this new technology and these new efforts.

1733 And when it comes to the economic boon as well, there is
1734 economic pluses. When you talk about thousands of jobs, you're
1735 talking about hundreds of millions of dollars of money that's
1736 coming into my community.

1737 So there is positive to all this as well. But where is the
1738 balance? And in that comes my first question is what data is
1739 collected from consumers and also what kind of data do companies
1740 pay for the most and what information about consumers is most
1741 valuable to them.

1742 If anybody can give me some perspective on that.

1743 Ms. Glasser. I would be happy to try.

1744 Mr. Cardenas. Sure. Thank you.

1745 Ms. Glasser. I think the answer is really it depends. I

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1746 think it depends on what your end goal is as far as what data
1747 will be most valuable.

1748 I think it also depends on who you're trying to reach and
1749 what type of company you are. Again, I think all of us at least
1750 up here -- I can't speak for everyone else -- are true believers
1751 in data minimization, transparency, and principles along those
1752 lines.

1753 So as far as data minimization you only collect what you
1754 need and that would not typically fall into the area of egregious
1755 practices.

1756 Mr. Cardenas. Anybody else?

1757 Mr. Zaneis. Yes, I would be happy to answer that, and it
1758 relates very well to Congressman Guthrie's question just a second
1759 ago.

1760 Obviously, some of your web browsing behavior is going to
1761 be collected and so if you go to another website and we are talking
1762 about the real-time bidding, somebody then thinks since you want
1763 to buy dog food may think that you're worth, you know, 20 cents
1764 for that impression -- somebody then knows that you just went
1765 to a -- to autodealer.com or something like that -- may think
1766 you're worth \$20. And so that kind of information is very
1767 valuable.

1768 But I also want to make sure we don't lose focus and get
1769 too myopic just on advertising because this kind of information
1770 is collected for all sorts of purposes.

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1771 At TAG, we collect from our member companies' IP addresses
1772 and we use them to fight fraud. We have something called a data
1773 center IP list and it has 40 million IP addresses that generate
1774 fraudulent nonhuman traffic.

1775 This is an incredibly valuable tool to fight criminal activity
1776 globally and it only comes from companies. So if companies are
1777 restricted from collecting that kind of information, perhaps
1778 under GDR-like restrictions or the California privacy initiative,
1779 that's going to harm law enforcement and industry's efforts to
1780 fight crime.

1781 Mr. Cardenas. Yes, go ahead.

1782 Mr. Brookman. Yes. So the question of, you know, what
1783 information is collected, I mean, I think my main thing would
1784 be that more and more information is collected from more and more
1785 devices in confusing and often in transparent ways.

1786 So if I am with Congressman Guthrie watching a basketball
1787 game I think I am likely to expect some ads targeted to the content
1788 to what I am watching, right. I am going to see ads for trucks
1789 and for beer, and that's contextual and that's fine. I think
1790 people appreciate that.

1791 What I might not expect is then for my ISP to then tie what
1792 I do on a connected computer, right, and maybe I am looking for
1793 wedding rings and suddenly I am watching the game and a big ad
1794 for wedding rings comes up based on what I did on a different
1795 device and watching the game with my girlfriend.

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1796 This is the thing I think people are confused by and it's
1797 increasingly capable, rights. I mean, TV ads used to be not
1798 targeted to individuals. Increasingly, they can do that, right,
1799 and tie it to your behavior online or they can tie it to the email
1800 address that you give them, and that's the sort of thing that
1801 I think people -- we are all kind of grappling with.

1802 You know, how do you put in place, you know, because it is
1803 valuable, right. I mean, yeah, I suddenly need to pay -- spend
1804 a lot of money on the diamond ring right now.

1805 But I think people still wish they had autonomy and control
1806 over the things they own.

1807 Mr. Cardenas. Thank you. My time has expired.

1808 I yield back. Thank you, Mr. Chairman.

1809 Mr. Latta. I thank you very much. The gentleman's time
1810 has expired.

1811 The chair now recognizes the gentleman from Indiana for five
1812 minutes.

1813 Mr. Loeb sack. Thank you, Mr. Chairman.

1814 I guess this could be one of those things, be careful what
1815 you wish for.

1816 I remember 25, 30 years ago, you know, people thought this
1817 would be great. And it is. It really is. It's Transformational
1818 to our world, but also there some down sides. It's a serious
1819 issue.

1820 And Mr. Zaneis, you point out it's not only about ads, it's

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1821 about national security. It's about all kinds of law
1822 enforcement. And so that's why we have to really strike a very
1823 good balance here about what we do regulatory wise or
1824 legislatively as it relates to this issue.

1825 I also think do you -- does any -- do we think that there's
1826 a generational difference in concern over this? Because I have
1827 some sons who are in their 20s and my son has an Alexa.

1828 You know, I went to this apartment and he had it. I am,
1829 like, don't you -- they just don't seem to be concerned about
1830 it. Do you think that's a problem? Do we need to -- do we need
1831 more education maybe of people who are now -- have never grown
1832 up with the internet?

1833 I mean, anyone -- Mr. Zaneis -- about why this is actually
1834 a legitimate serious question that it's just not about -- just
1835 not about turning on some jazz music, which he did, which was
1836 really cool.

1837 You see what I am saying?

1838 Mr. Zaneis. Absolutely, and I will say that there are --
1839 of course, there are generational differences. Without a doubt,
1840 folks that are, you know, digital natives and folks are not.

1841 I will say this. Everybody cares about privacy, and
1842 sometimes you hear folks say, oh, young people don't care about
1843 privacy.

1844 It's not that they don't care about privacy. It's that they
1845 understand the trade-off a little bit better in order to get

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1846 services and they are more willing to trade off certain privacy
1847 and data in order to receive the services that they are sort of
1848 entrenched in.

1849 So there are studies. I will just say that I am sure Mr.
1850 Brookman has some great numbers. Anybody can show you a study
1851 that says either 90 plus percent of people are really concerned
1852 about privacy or, you know, 90 percent of people love the digital
1853 services they get and are willing to trade off.

1854 Mr. Loeb sack. Sure. I understand.

1855 Briefly, Mr. Brookman, because I've got several questions.

1856 Mr. Brookman. I think -- I think young people actually do
1857 probably care about privacy just as much. They tend to be a little
1858 more tech savvy so they --

1859 Mr. Loeb sack. Do you think they're just resigned to the
1860 fact that it's not going to happen?

1861 Mr. Brookman. I actually don't because, like, for example,
1862 you think about who uses ad blockers, right. It tends to be
1863 millennials and younger people.

1864 Mr. Loeb sack. Okay.

1865 Mr. Brookman. They have the ability -- they feel they have
1866 more control to take back their privacy, I think.

1867 Mr. Loeb sack. This is a general question. You know, so
1868 I don't generally quote from the media but there was media person
1869 here in town that walked around town with a couple of smart phones.

1870 One phone had all the things that was, like, on airplane

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1871 mode, all the wifi and Bluetooth was off, and the other phone
1872 was hard turned off. I mean, it wasn't just -- you know, they
1873 had it completely turned off.

1874 Walked all around to different locations around D.C. -- this
1875 is actually very fascinating -- then went back to studio and then
1876 turned these phones back on, and had a tech person be able to
1877 monitor what happened once they turned them back on.

1878 And all this meta data from everywhere they had been on both
1879 devices, by the way, even the one that was hard turned off, was
1880 -- showed up on the screen and was jettisoned out to the world.

1881 And so location -- I think the location stuff is really
1882 important, because they had stopped at a park bench by the
1883 cathedral and went to a Starbuck's and all that, and all that
1884 was known.

1885 Do we know -- Consumer Reports would maybe answer this --
1886 do we know -- was this a media -- was this just the media that
1887 did it or do we know that phones do this?

1888 Because it becomes a hardware issue, right. It's not a --
1889 this is a national security thing, because some of our -- we have,
1890 you know, hardware that's been imported from all around the world
1891 that's in some of our devices and our devices are made in other
1892 parts of the world.

1893 I mean, do we know that this can happen?

1894 Mr. Brookman. So I've seen reports that Android phones,
1895 when location services are turned on, do collected a lot of

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1896 information which I would personally find surprising -- collect
1897 barometric information, seem to know what floor you're on and
1898 they guess whether you're on a train or on a bike or walking around
1899 -- in ways that I think that a lot of people would object to.

1900 I don't know that they do that when the phone is hard turned
1901 off. I think that would be bad, if that were the case, because
1902 it is an issue of security. Location information is very
1903 sensitive.

1904 I get Google uses location for, like, really useful things
1905 like Maps, which I use all the time, right, and I believe they
1906 probably have some protections on the back end to anonymize it.

1907 But, I mean, as a user, like, how do you know, and it is
1908 disturbing when you do find out the raw feed that does get
1909 uploaded, I don't know if it is quite as extensive as what you're
1910 talking about but it is extensive and surprising.

1911 Mr. Loeb sack. Yes. I mean, I just want to bring that point
1912 up that, you know, we are talking about apps and websites and
1913 everything. But for all the other reasons that Mr. Zaneis talked
1914 about other than advertising, we have to be concerned, I think,
1915 also about whether our hardware is that's in our devices and
1916 computers.

1917 You know, we can turn everything -- they turned everything
1918 off and it didn't matter. And whether that's true or not I don't
1919 know because it was a media report, but it's concerning.

1920 I yield back.

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1921 Mr. Latta. Thank you. The gentleman's time has expired
1922 and yields back.

1923 The chair now recognizes the gentlelady from California for
1924 five minutes.

1925 Mrs. Walters. Thank you, Mr. Chairman.

1926 Mr. Beales, this first question -- it's a three-part
1927 question. It's actually for you.

1928 What steps can be taken to enhance competition in the market
1929 for online advertising and what are some of the advantages and
1930 disadvantages of the way the market and the ad tech works today?

1931 And are reports that Google and Facebook control 90 percent
1932 of the market true?

1933 Mr. Beales. Let me start at the end. I don't really know
1934 what the markets shares are but I don't think 90 percent is
1935 remotely right.

1936 I would think it's more like 50 or 60 percent. But that's
1937 a fairly well establishable number that is not hard to find out.

1938 I think we don't know the -- and one of the interesting
1939 things about the online ecosystem is we don't know what's the
1940 most efficient way to organize this and people are trying lots
1941 of different things and it's changing on a very regular basis.

1942 I mean, the whole idea of ad exchanges is probably not 10
1943 years old yet as a way to -- as a way to distribute this content,
1944 and people are finding out the pros and cons of different
1945 approaches and then trying alternatives because it's a very

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1946 innovative space and that is the engine of competition.

1947 What got Google and Facebook to where they are was better
1948 mousetraps, if you will -- different mousetraps in each case --
1949 and the competitive pressure in this market is in part from the
1950 third-party providers that don't have sign-in but do get some
1951 of the same information in indirect ways, and it's really
1952 important to preserve that competition.

1953 Mrs. Walters. Okay. Ms. Glasser, as someone who went to
1954 law school and studied privacy, do you believe that there's an
1955 adequate understanding or amount of training on data privacy by
1956 entrepreneurs, engineers, coders, and et cetera who build these
1957 products?

1958 Ms. Glasser. I can really only speak from some of my
1959 experience and what I've seen, and I don't think that there's
1960 enough education.

1961 I am very fortunate where I kind of fell into privacy by
1962 accident where I was a law student at night working full time
1963 so I had to take what was available to me, and that was typically
1964 the privacy stuff because I guess no one else was interested in
1965 it.

1966 But it turned out to be quite fruitful for me so I am grateful.

1967 I've always said that I am a firm believer in education and even
1968 if it's education about privacy or how to code or how computers
1969 work, I think education on how the internet literacy period is
1970 also extremely important, whether it comes to children,

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1971 advertising, you know, how to help elderly people recognize scams
1972 or fraud.

1973 Absolutely, I don't think -- I don't think that we could
1974 do ourselves wrong if we encourage more education in this field.

1975 Mrs. Walters. Okay. Thank you, and I yield back the
1976 balance of my time.

1977 Mr. Latta. Thank you. The gentlelady yields back.

1978 The chair now recognizes the gentleman from Florida for five
1979 minutes.

1980 Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate it.

1981 Professor Beales, you mentioned in your testimony that
1982 advertising is particularly important to less advantaged groups,
1983 particularly minorities and single parent households.

1984 I am also curious as to your perspective on the senior
1985 population. How would regulation in the advertising space affect
1986 these particular groups?

1987 Mr. Beales. Well, the -- what the academic research shows
1988 about the impact of advertising is there are some people who are
1989 better at either using information or have more time to use
1990 information, and that's where those people who are good at
1991 information and have the time use information that's available
1992 from other sources and they're less dependent on advertising.

1993 The people who don't have those advantages need the
1994 information in an easily digestible form and that's what
1995 advertising does is it boils it down to a very simple proposition

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1996 of buy my serial, and I don't know where the elderly would fit
1997 on that.

1998 On the one hand, they got a lot of market experience and
1999 that would tend to mean they're not going to be all that dependent,
2000 and on the other hand, they also have a lot of time in many cases
2001 and can use other information sources in ways where they're less
2002 dependent on advertising.

2003 I don't know of anybody that's looked at that question
2004 specifically.

2005 Mr. Bilirakis. Okay. Fair enough.

2006 You talk about the importance of transparency in digital
2007 advertising. This question is for Ms. Glasser. You talk about
2008 the importance of digital -- importance of transparency in digital
2009 advertising but suggest that a choice mechanism I snot always
2010 required.

2011 Yet, one of the reasons we were holding this hearing is due
2012 to our constituents' concerns and the need to raise awareness
2013 about privacy.

2014 Do you believe that the FTC has the tools it needs to
2015 effectively protect privacy and do you have suggestions for my
2016 constituents to prevent websites from collecting information
2017 about them?

2018 Again, personal information -- how do we protect personal
2019 information? And then, Mr. Guthrie mentioned that particular
2020 example but also Mrs. Dingell mentioned the example of the

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2021 opioids.

2022 Give me another example of a bad thing that can happen. I
2023 think our constituents need to know. So this question is for
2024 Ms. Glasser, please.

2025 Ms. Glasser. I think -- that's correct. Not every instance
2026 requires and opt out. So what I meant by that, for example, if
2027 I own a website and I want to know how the behavior of users is
2028 on my website specifically, I want to know what features of my
2029 website users like to interact with.

2030 I like to know what content they like to interact with, and
2031 this helps me build a better website. This helps me build a better
2032 platform for users to come to.

2033 And I am not necessarily using this data for advertising
2034 or marketing purposes. It's really to help me understand the
2035 behavior of my business, essentially, and in those instances an
2036 opt-out is not always required.

2037 However, I do think that transparency is absolutely key to
2038 all of this, whether you -- whether you're using tracking pixels
2039 for analytics or you're using it for more engaged advertising
2040 and more engaged data collection.

2041 I think it's absolutely critical that these things are
2042 explained to the end user and the consumer so that they do
2043 understand, okay, I see a tracking pixel on this website, but
2044 they're not using it for advertising -- it's being used for
2045 analytics -- I don't have to worry. Or if it's being used for

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2046 advertising, I can expect to see the red shoes I am looking for
2047 show up on the next website I go to.

2048 Only through our transparency can we even begin to expect
2049 consumers to understand what's happening.

2050 Mr. Bilirakis. Again, link this back, for example, Mrs.
2051 Dingell's situation with the opioids, doing her research -- and
2052 I commend her for it, doing the research late at night because
2053 I do it, too -- and then maybe years down the road they might
2054 link her personal information to possibly being a drug addict
2055 or what you.

2056 Is that the case? Can that happen?

2057 Ms. Glasser. I mean, anything is really possible, right.

2058 Mr. Bilirakis. Yes.

2059 Ms. Glasser. It absolutely can happen. But I think it's
2060 also important to point out that within the industry -- and we've
2061 talked a lot about responsible actors, legitimate companies, the
2062 self-regulatory groups -- there are restrictions on using that
2063 type of information for targeting and behavioral advertising.

2064 The NAI, for example, has very specific provisions on whether
2065 you can use health-related data -- sensitive health-related data
2066 about sensitive categories -- thing like drug abuse, drug
2067 addiction, mental health issues, cancer, sexually transmitted
2068 diseases, reproductive issues, all of those things are really
2069 off limits unless you have opt-in consent, which I don't know
2070 anybody who even actively goes after those types of segments just

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2071 because of the sensitivity of it.

2072 And I think when we put ourselves in our consumer shoes,
2073 none of us want to be targeted with those types of ads either.

2074

2075 So, again, I think it comes back to some of the points that
2076 Dr. Beales made and Mr. Brookman made about making sure that,
2077 you know, we hold the bad actors accountable and we continue to
2078 push these standards forward and we continue to try to enforce
2079 these standards so that we are using the right type of data to
2080 target the right type of advertising -- the right type of people.

2081 Mr. Bucshon. All right. Very good.

2082 Thank you, Mr. Chairman. Thanks for holding the hearing
2083 as well.

2084 Mr. Latta. Well, thank you very much. The gentleman's time
2085 has expired.

2086 And seeing that there are no other members here wishing to
2087 ask questions, I again want to thank our panel for being here
2088 today and presenting before us very, very informative.

2089 But before we do conclude, I would like to include the
2090 following documents submitted for the record by unanimous
2091 consent: two documents from Oxford BioChronometrics, two
2092 documents from Interactive Advertising Bureau, a blog post from
2093 MPAA, and pursuant to committee rules, I remind members that they
2094 have 10 business days to submit additional questions for the
2095 record. I ask that the witnesses submit their responses within

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2096 10 business days upon receipt of the questions.

2097 And without objection, the subcommittee will stand
2098 adjourned.

2099 Thank you very much.

2100 [Whereupon, at 12:02 p.m., the committee was adjourned.]

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