

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

April 9, 2018

To: Committee on Energy and Commerce Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Hearing on “Facebook: Transparency and Use of Consumer Data”

On **Wednesday, April 11, 2018, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Committee on Energy and Commerce will hold a hearing titled “Facebook: Transparency and Use of Consumer Data.”

I. BACKGROUND

As online platforms have sought to increase advertising revenue, there has been exponential growth in the amount and detail of the information they collect on consumers and significant changes in how that information is used.¹ In the United States, privacy and data security regulation is sector specific with varying levels of protection for different entities and types of information and some sectors with no requirements at all.²

II. FACEBOOK-CAMBRIDGE ANALYTICA INCIDENT

Reports indicate that beginning in 2013, Aleksandr Kogan of Global Science Research (GSR) began collecting the Facebook data of users participating in a personality test app that Kogan developed.³ The 270,000 users of that particular app consented to the sharing of their

¹ Dennis D. Hirsch, *The Law and Policy of Online Privacy: Regulation, Self-Regulation, or Co-Regulation?*, 34 Seattle U. L. Rev. 439 (2011).

² Council on Foreign Relations, *Reforming the U.S. Approach to Data Protection and Privacy* (Jan. 30, 2018) (www.cfr.org/report/reforming-us-approach-data-protection).

³ *Revealed: 50 Million Facebook Profiles Harvested for Cambridge Analytica in Major Data Breach*, The Guardian (Mar. 17, 2018).

data.⁴ At the time, Facebook’s platform also allowed the app to collect personal data from tens of millions of those users’ friends on Facebook who were not notified and did not consent to their information being collected.⁵ Facebook estimates that 87 million of its users’ Facebook profiles were swept up by the app.⁶ GSR—Kogan’s firm—then sold that data for nearly \$1 million to a political consulting firm, Cambridge Analytica.⁷ Cambridge Analytica in turn used that data to micro-target political ads to U.S. voters in the 2016 election.⁸

Facebook stated that it became aware of the unauthorized sale of this data to a third party in 2015, at which time Facebook banned GSR’s app and demanded that Kogan and Cambridge Analytica delete the data.⁹ News reports indicate that Cambridge Analytica may not have deleted the data, although Cambridge Analytica denies those reports.¹⁰

III. PRIOR FTC ACTION AGAINST FACEBOOK

In 2011, the Federal Trade Commission settled charges against Facebook that it deceived consumers by failing to disclose when information its users designated as private was made public.¹¹ In addition, Facebook was charged with failing to properly inform users of how their information would be collected and used by third-party applications.¹² The settlement agreement barred Facebook from making deceptive claims about users’ privacy, required that the company get consumers’ approval before changing the way it shared their data, and required that it obtain periodic assessments of its privacy practices by independent, third-party auditors for 20 years.¹³

IV. WITNESS

Mark Zuckerberg
CEO
Facebook

⁴ *How Trump Consultants Exploited the Facebook Data of Millions*, New York Times (Mar. 17, 2018).

⁵ Comment on Mark Zuckerberg’s Facebook Page (Mar. 21, 2018, 3:36 PM) (www.facebook.com/zuck/posts/10104712037900071).

⁶ *Id.*

⁷ *See* note 1.

⁸ *Id.*

⁹ *See* note 3; Facebook, *Suspending Cambridge Analytica and SCL Group from Facebook* (Mar. 16, 2018) (press release).

¹⁰ *See* note 3.

¹¹ Federal Trade Commission, *Facebook Settles FTC Charges That It Deceived Consumers by Failing to Keep Privacy Promises* (Nov. 29, 2011) (press release).

¹² *Id.*

¹³ *Id.*