

August 20, 2018

Joseph J. Simons  
Chairman

Rohit Chopra  
Commissioner

Maureen K. Ohlhausen  
Commissioner

Noah Joshua Phillips  
Commissioner

Rebecca Kelly Slaughter  
Commissioner

Re: Competition and Consumer Protection  
in the 21st Century

Dear Chairman Simons and Commissioners:

The undersigned 16 groups are pleased to submit this comment regarding the FTC's upcoming series of public hearings examining competition and consumer protection in the 21st century.

As it considers how to advance competition and consumer protection in the 21st century, the FTC must first and foremost grapple with emerging challenges presented by enormous technology companies that have rapidly expanded in size and power. Many of the services offered by these tech giants are dependent on data-driven practices that harm consumers – and society as a whole – in a multitude of ways. The tech giants also have grown so large that, hungry for further expansion, they have been able to expand rapidly both horizontally and vertically, edging out competition and further entrenching their power. Of particular concern to our communities, harms perpetrated and missteps made by tech giants disproportionately harm individuals in historically disadvantaged communities.

**Tech giants have become unwieldy in size and influence, and consumers effectively cannot avoid interacting with them.**

Tech giants have grown in size and power at a breakneck pace. The top five publicly traded companies in the U.S. are all tech companies, and together they now make up more than 11 percent of the S&P 500 index – nearly double what they represented in 2013.<sup>1</sup> Google has become one of the largest and most influential data-driven digital advertising companies in the world, and in many ways sets the agenda for how marketers engage with the public. YouTube in particular – used by 73% of

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<sup>1</sup> Rani Molla, *In Just Five Years, Facebook, Apple, Amazon, Netflix and Google Have Doubled Their Effect on the S&P 500*, Recode, Mar. 30, 2018, <https://www.recode.net/2018/3/30/17180932/facebook-apple-amazon-netflix-google-doubled-sp500-index>.

American adults,<sup>2</sup> with a booming product placement economy and net ad revenue approaching \$4 billion in the U.S. alone<sup>3</sup> – has forever changed how marketing is done around the world. Meanwhile, Facebook has billions of monthly users worldwide,<sup>4</sup> including 68% of adults in the U.S.,<sup>5</sup> and Facebook’s data collection model is so vast that it is able to track and collect an alarming amount of data even on Internet users who do not have accounts.<sup>6</sup> Amazon now has 310 million active user accounts,<sup>7</sup> 49% of the U.S. e-commerce market,<sup>8</sup> and an accumulation of economic power not seen since the Gilded Age.

These technology companies have been instrumental in realizing many of the benefits of the Internet, including 21st century democracy and social movements. Today, thanks to the power of the Internet – often leveraged by tools provided by these tech giants – not only do we build communities in cities and neighborhoods; we also build communities that leap across deserts and oceans, that cross borders and are not defeated by time zone shifts and language barriers. It is difficult to imagine the most successful movements of the past decade without the power of the Internet.

But as these tech giants have grown, expanded partnerships with other services, and become integrated with everyday communications, they have become an unavoidable part of consumers’ lives. Not only does this limit the opportunities presented by the Internet, it amplifies societal vulnerability to harms perpetrated by tech giants. Consumers now find that they effectively have no choice but to use services provided by – and share their data with – a handful of these large companies. For example:

- When selecting a smartphone, consumers must choose one with an operating system provided either by Google or Apple – and due to their higher price point,

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<sup>2</sup> John Gramlich, Pew Research Center, *5 Facts About Facebook Americans and Facebook* (Apr. 10, 2018), <http://www.pewresearch.org/fact-tank/2018/04/10/5-facts-about-americans-and-facebook/>.

<sup>3</sup> Statista, *Net Advertising Revenues of YouTube in the United States from 2015 to 2018* (in Billion U.S. Dollars), <https://www.statista.com/statistics/289660/youtube-us-net-advertising-revenues/> (last visited Aug. 20, 2018).

<sup>4</sup> John Constine, *2.5 Billion People Use at Least One of Facebook’s Apps*, TechCrunch, July 25, 2018, <https://techcrunch.com/2018/07/25/facebook-2-5-billion-people/>.

<sup>5</sup> Gramlich, *supra* note 2.

<sup>6</sup> Alex Katrowitz, *Here's How Facebook Tracks You When You're Not on Facebook*, BuzzFeed News, Apr. 11, 2018, <https://www.buzzfeednews.com/article/alexkantrowitz/heres-how-facebook-tracks-you-when-youre-not-on-facebook>.

<sup>7</sup> Statista, *Amazon – Statistics & Facts*, <https://www.statista.com/topics/846/amazon/> (last visited Aug. 20, 2018).

<sup>8</sup> Wolf Richter, *Amazon Is Closing in on Owning Half of the E-commerce Market*, Bus. Insider, July 17, 2018, <https://www.businessinsider.com/amazon-is-closing-in-on-owning-half-of-the-e-commerce-market-2018-7>.

Apple phones are much less available to low-income consumers. This cost disparity drives many low-income consumers to Android-powered devices, subjecting them to greater tracking by Google and less privacy-enhancing encryption defaults.<sup>9</sup>

- On the web, consumers cannot avoid being tracked by Google’s pervasive analytics and advertising networks.<sup>10</sup>
- In some instances, employers require employees to have accounts through tech giants such as Facebook.<sup>11</sup>
- A Facebook account is also increasingly necessary for consumers who wish to access sites, services, and information connected to Facebook.<sup>12</sup>
- Amazon is putting local retailers and booksellers out of business, limiting offline options for consumers to purchase certain goods.
- Amazon also is positioning itself as the platform through which cities, counties, and schools purchase office and classroom supplies, library books, electronics, and more, leaving retailers with little choice other than to become sellers on the platform in order to reach government buyers.<sup>13</sup>

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<sup>9</sup> See Christopher Soghoian: *Your Smartphone Is a Civil Rights Issue*, Tiny Ted, [https://en.tiny.ted.com/talks/christopher\\_soghoian\\_your\\_smartphone\\_is\\_a\\_civil\\_rights\\_issue](https://en.tiny.ted.com/talks/christopher_soghoian_your_smartphone_is_a_civil_rights_issue).

<sup>10</sup> According to one report, Google Analytics is present on 56% of all websites. W3Techs, *Usage Statistics and Market Share of Google Analytics for Websites*, <https://w3techs.com/technologies/details/ta-googleanalytics/all/all> (last visited Aug. 19, 2018).

<sup>11</sup> Ladan Hayes, CareerBuilder, *Not Getting Job Offers? Your Social Media Could Be the Reason*, Aug. 9, 2018, <https://www.careerbuilder.com/advice/not-getting-job-offers-your-social-media-could-be-the-reason> (“Nearly half of employers (47 percent) say that if they can’t find a job candidate online, they are less likely to call that person in for an interview”); see Laura Fosmire, *Senate Moves Forward on Social Media and Employment Bill*, Statesman J., Mar. 4, 2015, <https://www.statesmanjournal.com/story/money/business/2015/03/04/senate-moves-forward-social-media-employment-bill/24359757/>; Kashmir Hill, *Beware, Tech Abandoners. People Without Facebook Accounts Are ‘Suspicious,’* Forbes, Aug. 6, 2012, <https://www.forbes.com/sites/kashmirhill/2012/08/06/beware-tech-abandoners-people-without-facebook-accounts-are-suspicious/#2d7072ca8f95>.

<sup>12</sup> Facebook is reportedly in talks with major U.S. banks to offer checking account services on its Messenger platform. Anna Hensel, *Facebook Reportedly in Talks with Major U.S. Banks to Offer Checking Account Services on Messenger*, VentureBeat, Aug. 6, 2018, <https://venturebeat.com/2018/08/06/facebook-reportedly-in-talks-with-major-u-s-banks-to-offer-checking-account-services-on-messenger/>.

<sup>13</sup> Olivia LaVecchia & Stacy Mitchell, *Amazon’s Next Frontier: Your City’s Purchasing* (2018), [https://ilsr.org/wp-content/uploads/2018/07/ILSR\\_AmazonsNextFrontier\\_Final.pdf](https://ilsr.org/wp-content/uploads/2018/07/ILSR_AmazonsNextFrontier_Final.pdf); Abha Bhattarai, *How Amazon’s contract to sell office supplies to cities could hurt local retail*, Wash. Post, July 10, 2018, <https://www.washingtonpost.com/business/2018/07/10/amazon-now-sells-office-supplies-books-thousands-cities-other-local-organizations/>.

- Google’s and Amazon’s cloud computing services power a huge portion of online sites and tools, meaning consumers often share their data with these companies even when they are not aware.

And once a consumer has established an account with a tech giant, it can be extremely difficult to leave the platform because of the amount of information the individual has created and stored using the service – information that often is not made portable to enable the consumer to take it elsewhere. Powerful network effects also keep users from leaving even when they want to. Many of these tech giants reinforce the network effects problem by limiting or altogether precluding interoperability as it relates to their services, and strive to construct walled gardens that ultimately will shrink, rather than expand, people’s opportunities in their daily lives. Even when fed-up users do manage to leave tech giants’ platforms, they often lack a way to request that companies delete data about them, or verify that deletion has taken place.

**Tech giants repeatedly have failed to protect and respect internet users’ data, precipitating a multitude of consumer harms.**

Many of these tech giants have had ongoing conversations with civil rights, civil liberties, and public interest groups, but nevertheless they have repeatedly failed to respect and protect data relating to millions – and at times billions – of consumers. For example, despite repeated assurances to regulators, the public, and advocates that it would protect consumer privacy, Facebook revealed last year that data miners, chief among them Cambridge Analytica, successfully used its platform to learn private information about many more than 87 million Facebook users.<sup>14</sup> Facebook also recently revealed that “malicious actors” had exploited search tools on its platform to harvest profile details of most of its two billion users.<sup>15</sup> Despite Google’s past promises to stop scanning the inboxes of Gmail users for information to target marketing, it was reported in July that the company continues to let hundreds of third-party companies scan the inboxes of millions of Gmail users, doing little to police what those third parties do with users’ information.<sup>16</sup> Google also revealed that it still tracks users’ location through use

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<sup>14</sup> Alex Hern, *Far More than 87m Facebook Users Had Data Compromised, MPs Told*, The Guardian, Apr. 17, 2018, <https://www.theguardian.com/uk-news/2018/apr/17/facebook-users-data-compromised-far-more-than-87m-mps-told-cambridge-analytica>.

<sup>15</sup> Craig Timberg, Tony Romm, & Elizabeth Dwoskin, *Facebook: 'Malicious Actors' Abused Its Search Tools to Collect Data on Most of Its Two Billion Users*, The Independent, Apr. 5, 2018, <https://www.independent.co.uk/news/world/americas/facebook-hackers-personal-data-collection-users-cambridge-analytica-trump-mark-zuckerberg-latest-a8289816.html>

<sup>16</sup> Douglas MacMillan, *Tech’s ‘Dirty Secret’: The App Developers Sifting Through Your Gmail*, WSJ, July 2, 2018, <https://www.wsj.com/articles/techs-dirty-secret-the-app-developers-sifting-through-your-gmail-1530544442>.

of its services even after users have disabled the “Location History” feature.<sup>17</sup> Meanwhile, Amazon’s has aggressively used consumers’ data to undercut its competitors,<sup>18</sup> and has begun supplementing its vast stores of data with information collected from its own brand of surveillance products (in at least one instance resulting in a personal conversation being recorded in someone’s home and sent to people on their contact list).<sup>19</sup> In 2018, Amazon has also been plagued with worker strikes and boycotts.<sup>20</sup>

Of particular concern to our communities, missteps by tech giants disproportionately harm individuals in historically disadvantaged communities. Black and Brown users also tend to over-index on social media platforms, including on Facebook, Instagram and WhatsApp (both owned by Facebook), and YouTube (owned by Google).<sup>21</sup> This leaves Black and Brown communities more susceptible to harms flowing from misuses of consumer data on those platforms. People who are low-income, teenagers, and people of color also rely more on their smartphones than others as their primary device to use online sites and services – meaning they may share detailed information about their whereabouts, their contacts, and their communications with tech giants that provide mobile operating systems and applications.<sup>22</sup>

Tech giants also have sometimes used consumers’ and communities’ data – often without explicit consent – in ways that harm our communities by facilitating the targeting of ads and content in biased ways, potentially excluding entire communities from certain opportunities. Facebook made assurances in 2017 to tackle discriminatory advertising on its platform after facing public outrage and pressure from advocates regarding its “ethnic affinity” advertising clusters, but the Washington State Attorney

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<sup>17</sup> Chaim Gartenberg, *Google Updated its Site to Admit It Still Tracks You Even if You Turn Off Location History*, The Verge, Aug. 17, 2018, <https://www.theverge.com/2018/8/17/17715166/google-location-tracking-history-weather-maps>.

<sup>18</sup> Spencer Soper, *AmazonBasics House Brand Flatters Competitors, but They’re Not Fans*, The Seattle Times, Apr. 23, 2016, <https://www.seattletimes.com/business/amazonbasics-house-brand-flatters-competitors-but-theyre-not-fans/>.

<sup>19</sup> Hamza Shaban, *An Amazon Echo Recorded a Family’s Conversation, then Sent It to a Random Person in Their Contacts, Report Says*, Wash. Post, May 24, 2018, <https://www.washingtonpost.com/news/the-switch/wp/2018/05/24/an-amazon-echo-recorded-a-familys-conversation-then-sent-it-to-a-random-person-in-their-contacts-report-says/>.

<sup>20</sup> Chavie Lieber, *Amazon employees are using Prime Day to push for better working conditions*, Vox, July 16, 2018, <https://www.vox.com/2018/7/16/17577614/amazon-prime-day-strike-boycotts>.

<sup>21</sup> Aaron Smith & Monica Anderson, Pew Research Center, *Social Media Use in 2018: Appendix A: Detailed Table of Use of Different Online Platforms by Demographic Groups*, Mar. 1, 2018, <http://www.pewinternet.org/2018/03/01/social-media-use-2018-appendix-a-detailed-table/>; see Sara Fischer, *Social Media Platform Use by Race*, Axios (Mar. 6, 2018), <https://www.axios.com/social-media-platform-use-by-race-1520348162-f134bd21-5704-4746-bc42-57e9ec0d2e69.html>.

<sup>22</sup> Pew Research Center, *Mobile Fact Sheet*, Feb. 5, 2018, <http://www.pewinternet.org/fact-sheet/mobile/>.

General found that it was still possible to exclude people from seeing advertisements based on protected class membership.<sup>23</sup> In addition, Facebook collects a sweeping amount of data that can serve as proxies for race and be used to construct a detailed picture of users' private lives, including geo-location, group membership, cultural interests, and many others. When used by marketers and third-party mining companies, details relating to these proxies have been used to perpetuate predatory marketing practices.<sup>24</sup> The systematic targeting and exclusion of communities can also be a byproduct of algorithmic content and ad distribution that optimizes for cost-effectiveness and user "engagement," which can lead to distribution that is discriminatory in impact, if not intent.<sup>25</sup>

**Many of the practices of tech giants are harmful to society as a whole, and consumers are calling for change.**

In addition, the public is increasingly critical of many additional ways in which the practices of tech giants may be harmful to society, including:

- **Supporting the dissemination of propaganda, misinformation, and disinformation.** Social media platforms spread a large amount of false user-generated information, including state-sponsored propaganda, careless or low-quality reporting, and false information designed and intended to undermine democracy.<sup>26</sup> As false information proliferates, consumers are rapidly losing trust in journalism.

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<sup>23</sup> Sam Machkovech, *Facebook Bows to WA State to Remove "Discriminatory" Ad Filters*, Ars Technica, July 25, 2018, <https://arstechnica.com/information-technology/2018/07/facebook-bows-to-wa-state-pressure-to-remove-discriminatory-ad-filters/>.

<sup>24</sup> For example, targeted marketing has featured predatory payday loan, bail bond, and addiction treatment ads. See Kevin Wack, *Payday Lenders Are Finding Ways Around Google's Ad Ban*, American Banker (Oct. 11, 2017), <https://www.americanbanker.com/news/payday-lenders-are-finding-ways-around-googles-ad-ban>; Anna Hubbel, *Facebook Has New Restrictions for Addiction Treatment Center and Bail Bond Ads*, AdvertiseMint, Aug. 16, 2018, <https://www.advertisemint.com/facebook-has-new-restrictions-for-addiction-treatment-center-and-bail-bond-ads/>.

<sup>25</sup> See Anja Lambrecht & Catherine E. Tucker, *Algorithmic Bias? An Empirical Study into Apparent Gender-Based Discrimination in the Display of STEM Career Ads* (Mar. 9, 2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2852260](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2852260) (finding that because younger women are an expensive demographic to show ads to, "An algorithm which simply optimizes cost-effectiveness in ad delivery will deliver ads that were intended to be gender-neutral in an apparently discriminatory way, due to crowding out."); Latanya Sweeney, *Discrimination in Online Ad Delivery*, Communications of the ACM, May 2013, at 44, <https://cacm.acm.org/magazines/2013/5/163753-discrimination-in-online-ad-delivery/>.

<sup>26</sup> David McCabe, *Facebook Finds New Coordinated Political Disinformation Campaign*, Axios, July 31, 2018, <https://www.axios.com/facebook-finds-misinformation-campaign-4c5910b3-021a-45b7-b75c-b1ac80cbce49.html>; Dipayan Ghosh & Ben Scott, *Disinformation Is Becoming Unstoppable*, Time, Jan. 24, 2018; April Glaser & Will Oremus, *The Shape of Mis- and*

- **Amplifying hate speech.** Social media platforms also provide fast and efficient avenues for hateful and racist rhetoric and calls to violence to be spread.<sup>27</sup> Tech giants have made some progress recognizing and removing hate speech, but the problem persists, including in places grappling with ethnic strife, political violence, or other conflict.
- **Driving political polarization.** By promoting hyper-partisan content more likely to stimulate user engagement, tech giants that offer algorithmic content distribution are exacerbating political polarization.<sup>28</sup>
- **Devastating local and small retailers.** When services offered by tech giants supplant functions previously served by local and small businesses, the effects can be devastating. For example, Amazon is widely considered to be the single greatest threat to brick-and-mortar retailers everywhere.<sup>29</sup> According to one estimate from the Institute for Local Self-Reliance, Amazon was responsible for 150,000 net job losses by the end of 2015.<sup>30</sup> And in response to a survey of small

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*Disinformation*, Slate, July 26, 2018, <https://slate.com/technology/2018/07/claire-wardle-speaks-to-if-then-about-how-disinformation-spreads-on-social-media.html>; Alice Marwick & Rebecca Lewis, *Media Manipulation and Disinformation Online* (2017), [https://datasociety.net/pubs/oh/DataAndSociety\\_MediaManipulationAndDisinformationOnline.pdf](https://datasociety.net/pubs/oh/DataAndSociety_MediaManipulationAndDisinformationOnline.pdf).

<sup>27</sup> See Ariana Tobin, Madeleine Varner, & Julia Angwin, *Facebook's Uneven Enforcement of Hate Speech Rules Allows Vile Posts to Stay Up*, ProPublica, Dec. 28, 2017, <https://www.propublica.org/article/facebook-enforcement-hate-speech-rules-mistakes>; Swathi Shanmugasundaram, Southern Poverty Law Center, *The Persistence of Anti-Muslim Hate on Facebook* (May 5, 2018), <https://www.splcenter.org/hatewatch/2018/05/05/persistence-anti-muslim-hate-facebook>.

<sup>28</sup> See Matt Karolian, *Hyper-Partisan Pages Still Outperforming Mainstream Media on Facebook*, Medium, Feb. 1, 2018, <https://medium.com/@karolian/hyper-partisan-pages-still-outperforming-mainstream-media-on-facebook-4fcbd036ced3>; Rob Faris, Hal Roberts, Bruce Etling, Nikki Bourassa, Ethan Zuckerman, & Yochai Benkler, *Partisanship, Propaganda, and Disinformation: Online Media and the 2016 U.S. Presidential Election* (Aug. 16, 2017), <http://cyber.harvard.edu/publications/2017/08/mediacloud>.

<sup>29</sup> See Matt Egan, *Rise of Amazon Leaves Even More Retailers in Intensive Care*, CNN Money, Mar. 9, 2017, <https://money.cnn.com/2017/03/06/investing/retail-stress-great-recession-amazon/index.html>; Kate Taylor, Mary Hanbury, & Dennis Green, *Amazon's Growth Could Threaten These 10 Industries*, Bus. Insider, June 28, 2018, <https://www.businessinsider.com/amazon-is-killing-these-7-companies-2017-7>; Kerry Close, *12 Major Retailers Closing Stores Like Crazy*, Money, June 30, 2016, <http://time.com/money/4386499/retail-stores-closing-locations/>; Bespoke, *Bespoke's "Death By Amazon" Index Makes 4-Year Low* (Apr. 13, 2017), <https://www.bespokepremium.com/big-tips/bespokes-death-by-amazon-index-makes-4-year-low/>; Olivia Solon & Julia Carrie Wong, *Jeff Bezos v. the World: Why All Companies Fear 'Death by Amazon,'* The Guardian, Apr. 24, 2018, <https://www.theguardian.com/technology/2018/apr/24/amazon-jeff-bezos-customer-data-industries>; Alana Semuels, *A Small Town Kept Walmart Out. Now It Faces Amazon.*, The Atlantic, Mar. 2, 2018, <https://www.theatlantic.com/business/archive/2018/03/amazon-local-retail/554681/>.

<sup>30</sup> Stacy Mitchell & Olivia LaVecchia, *Statement on Amazon's Small Business Impact Report* (2018), <https://ilsr.org/amazons-small-business-report-may-2018/>.

businesses conducted by Advocates for Independent Business, nearly 90 percent of respondents reported a negative impact from Amazon on their revenues.<sup>31</sup> Amazon poses a major threat to workers' rights, local economies, and the survival of small businesses both on- and offline.

- **Damaging public health.** Tech giants generate revenue by maximizing use of their products in any way they can, including by intentionally designing products to be addictive and inescapable.<sup>32</sup> This leads to a cascade of other problems, including heightened rates of depression, suicide, and sleep deprivation among young people.<sup>33</sup>
- **Stifling competition.** Tech giants have grown so large so quickly that they have completely overtaken vital institutions and industries, leaving little room for anyone to compete who is not an already-established dominant corporate actor. These companies have gained their dominance in part through anti-competitive practices such as acquiring emerging competitors and taking advantage of the power of network effects to cement their positions.<sup>34</sup>
- **Amassing stores of consumer data that could be susceptible to breach or abuse.** Tech giants are building massive troves of consumer data, intensifying the threat of consumer financial injury in the event of a major breach. Large consumer

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<sup>31</sup> Advocates for Independent Business, *Independent Retailers and the Changing Retail Landscape* (2017), [https://ilsr.org/wp-content/uploads/2017/11/2017\\_SurveyFindings\\_ChangingRetailLandscape.pdf](https://ilsr.org/wp-content/uploads/2017/11/2017_SurveyFindings_ChangingRetailLandscape.pdf).

<sup>32</sup> Center for Humane Technology, *The Problem*, <http://humanetech.com/problem/> (last visited Aug. 19, 2018) (explaining that operators of online services competing for users' attention are constantly learning how better to "hook" their users, and designing products intentionally to addict users).

<sup>33</sup> Recent studies have linked the use of platforms like Facebook, Snapchat, and Instagram to depressive symptoms in young adults caused by negatively comparing oneself to others on social media platforms. Brian A. Feinstein, et al., *Negative Social Comparison on Facebook and Depressive Symptoms: Rumination as a Mechanism*, 2 *Psych. Pop. Media Culture* 161 (2013). <http://psycnet.apa.org/record/2013-25137-002>. Experts have also found that teens who spend three hours a day or more on electronic devices are 35 percent more likely to have a risk factor for suicide and 28 percent more likely to get less than seven hours of sleep. Jean M. Twenge, *Have Smartphones Destroyed a Generation?*, *The Atlantic*, Sept. 2017, <https://www.theatlantic.com/magazine/archive/2017/09/has-the-smartphone-destroyed-a-generation/534198/>.

<sup>34</sup> See Lina M. Khan, *Amazon's Antitrust Paradox*, 126 *Yale L. J.* 564 (2017) (explaining anticompetitive aspects of Amazon's structure and conduct, including a willingness to forego profits and an extremely aggressive expansion strategy); Joel Kotkin, *Godzillas: How a Few Monster Tech Firms are Taking Over Everything from Media to Space Travel and What it Means for the Rest of Us*, *Daily Beast*, Feb. 9, 2014, <https://www.thedailybeast.com/how-a-few-monster-tech-firms-are-taking-over-everything-from-media-to-space-travel-and-what-it-means-for-the-rest-of-us>.

databases also are more likely to contain information about consumers' closely guarded secrets – secrets that, if revealed, would be devastating to consumers.<sup>35</sup>

Consumers are outraged and consistently are calling for greater oversight and accountability of tech giants.<sup>36</sup> Consumers should be able to trust that when they go online, their information will not be used to harm them. Employees of the tech giants themselves are also unhappy. According to a survey of 2,000 tech workers who recently left their companies, sexism, racism and bullying is pushing diverse talent out of the tech industry, with many former employees describing the culture as toxic.<sup>37</sup> And recently the employees of tech giants have begun organizing against the deployment of surveillance, artificial intelligence, censorship, and drone technology.<sup>38</sup>

### **The FTC can and should do more to address harms perpetrated by the actions of tech giants.**

The Commission must do more to protect consumers from the harmful behaviors of tech giants. Tech giants have been allowed to grow to their current size and power due to a relative lack of scrutiny and oversight by regulators, but regulators can step in now to help correct the course. The Commission should wield its competition authority with strength, leverage violations of existing consent decrees to obtain meaningful equitable relief for consumers, and interpret its authority to prohibit unfair and deceptive trade practices to protect consumers, communities, and society as a whole

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<sup>35</sup> Paul Ohm, *Don't Build a Database of Ruin*, Harv. Bus. Rev. (Aug. 23, 2012), <https://hbr.org/2012/08/dont-build-a-database-of-ruin>.

<sup>36</sup> According to a March 2018 poll conducted by Reuters/Ipsos, only 41 percent of Americans trust Facebook to obey laws that protect their personal information, 66 percent trust Amazon, and 62 percent trust Google. Chris Kahn & David Ingram, *Americans Less Likely to Trust Facebook than Rivals on Personal Data: Reuters/Ipsos Poll*, Reuters, Mar. 25, 2018, <https://www.reuters.com/article/us-usa-facebook-poll/americans-less-likely-to-trust-facebook-than-rivals-on-personal-data-reuters-ipsos-poll-idUSKBN1H10K3>.

<sup>37</sup> Kapor Center, *The 2017 Tech Leavers Study* (2017), <https://www.kaporcenter.org/tech-leavers/>; see Sam Levin, *Sexism, Racism and Bullying Are Driving People Out of Tech*, U.S. Study Finds, The Guardian, Apr. 27, 2017, <https://www.theguardian.com/technology/2017/apr/27/tech-industry-sexism-racism-silicon-valley-study>.

<sup>38</sup> See, e.g., Mike Snider, *Google Workers Want to End Work on Defense Department Drone Project, Cite 'Don't Be Evil' Motto*, USA Today, Apr. 5, 2018, <https://www.usatoday.com/story/tech/talkingtech/2018/04/05/google-workers-want-work-ended-defense-dept-drone-project/488670002/>; Maya Kosoff, *Google Employees Quit to Protest Company's Role in Killing Machines*, Vanity Fair, May 14, 2018, <https://www.vanityfair.com/news/2018/05/google-employees-quit-to-protest-companys-role-in-killing-machines>; Paresh Dave, *Google Bars Uses of Its Artificial Intelligence Tech in Weapons*, Reuters, June 7, 2018, <https://www.reuters.com/article/us-alphabet-ai/google-bars-uses-of-its-artificial-intelligence-tech-in-weapons-idUSKCN1J32M7>; Sheera Frenkel, *Microsoft Employees Protest Work With ICE, as Tech Industry Mobilizes Over Immigration*, N.Y. Times, June 19, 2018, <https://www.nytimes.com/2018/06/19/technology/tech-companies-immigration-border.html>.

from the wide range of harms perpetrated by tech giants. The Commission must look with a careful eye not only at the largest companies, but also the ecosystem that supports and perpetuates the harmful data-driven practices on which tech giants thrive, including data brokers and consumer reporting agencies.

### **Conclusion**

The Commission's examination of these topics through public comments and a series of hearings constitutes an important first step. As the Commission proceeds, we encourage the Commission to examine the above issues, and above all to consistently center in this proceeding questions about how harms flowing from the outsized influence of today's tech giants disproportionately impact historically disadvantaged communities.

Respectfully submitted,

18MillionRising.org  
Berkeley Media Studies Group  
Campaign for a Commercial-Free  
Childhood  
Center for Digital Democracy  
Center for Media Justice  
Center on Privacy & Technology at  
Georgetown Law  
Color Of Change  
Consumer Watchdog  
Demand Progress Education Fund  
Digital Intelligence Lab at Institute for the  
Future  
Media Alliance  
Media Mobilizing Project  
National Hispanic Media Coalition  
Oakland Privacy  
United Church of Christ, OC Inc.  
Workplace Fairness