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Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

**Statement of Chair Lina M. Khan
Regarding the Social Media and Video Streaming Service Providers Privacy Report
Commission File No. P205402**

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hacks—leading to a range of harms from identity theft to stolen passwords—the ramifications of firms over-collecting data have become painfully real.

Two background factors shape the Report’s findings and analysis: the business models that the platforms have deployed and the relatively dominant market position that several of them enjoy. As enforcers and lawmakers consider how to tackle issues surfaced in the Report, grappling with these factors will be critical.

As the Report notes, the platforms generally monetize their services through the sale of advertising, including targeted advertising. The advent of behavioral advertising marked an inflection point in the evolution of the advertising business. Marketers have always sought to reach their desired audience, but digitization enabled an unprecedented degree of behavioral targeting. Whereas contextual advertising let marketers tailor ads based on the content of a webpage, behavioral advertising let marketers tailor ads based on the characteristics and past behavior of any given individual. This newfound ability to monetize people’s behavior, activity, and characteristics helped drive the creation of a multi-billion dollar industry specializing in tracking and collecting vast amounts of Americans’ personal data.

The behavioral ad-based business model seems to be a key driver of the platforms’ data practices. Recognizing this basic fact is important for enforcers and policymakers alike because any efforts to limit or regulate how these firms harvest troves of people’s personal data will conflict with their primary business incentives. To craft effective rules or remedies limiting this data collection, policymakers will need to ensure that violating the law is not more lucrative than abiding by it. By situating the platforms’ data practices against the backdrop of their behavioral ad-based business model, the Report usefully identifies this core dynamic.⁴

⁴ Commissioner Ferguson writes that a focus on targeted advertising is misplaced, as “the correct regulatory focus is one step earlier in the supply chain—the largely unregulated collection, aggregation, sale, and retention of consumers’ data that makes the targeted advertising possible.” Concurring and Dissenting Statement of Commissioner Andrew N. Ferguson (“Ferguson Statement”), at 6. But addressing these data practices effectively will require recognizing the financial incentives driving them. Failing to do so risks creating a regulatory regime where firms can treat consumer privacy violations as the cost of doing business. Commissioner Ferguson also suggests the Report takes the position that targeted advertising is overall harmful ignoring the “significant benefits to website operators, advertisers, and consumers.” Ferguson Statement, at 4. The Report does not state that targeted advertising is overall harmful. And when it does, it is only in the context of the overall business model. See, e.g., Report at 16, 44, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350.

A second background factor is market competition. Indeed, it is the relative dominance of several of these platforms that gives their decisions and data practices an outsized impact on Americans. When a single firm controls a market and is unchecked by competition, its policies can effectively function as private regulation. A consolidated market is also more susceptible to coordination with—or cooptation by—the government. Unchecked private surveillance by these platforms creates heightened risk of improper surveillance by the state. How these markets are structured can result in greater risks to—or greater protections of—people’s core liberties.

In the context of platforms that mediate speech and expressive content, market dominance can pose a unique danger—allowing a small number of executives to determine whose views are amplified or silenced. Corporate decisions to deplatform certain people or suppress certain viewpoints can effectively deny people access to our modern-day public square.

Commissioner Holyoak suggests that the Report somehow endorses or encourages the platforms to disfavor certain viewpoints.⁵ The Report does no such thing. Rather, the Report expressly notes that it does not “address or endorse any attempt to censor or moderate content based on political views.”⁶ Because the power to censor derives from centralized control, I hope