

Congress of the United States

Washington, DC 20515

July 31, 2020

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons:

We write to urge the Federal Trade Commission (FTC) to investigate widespread privacy violations by companies in the advertising technology (adtech) industry that are selling private data about millions of Americans, collected without their knowledge or consent from their phones, computers, and smart TVs.

In response to complaints by privacy advocates, privacy regulators in several European countries have, over the last year, opened investigations into an adtech practice known as real time bidding (RTB). RTB is the process by which the digital ads we see every day are curated. For each ad, an auction takes place milliseconds before it is shown in an app or browser. The hundreds of participants in these auctions receive sensitive information about the potential recipient of the ad—device identifiers and cookies, location data, IP addresses, and unique demographic and biometric information such as age and gender. Hundreds of potential bidders receive this information, even though only one—the auction winner—will use it to deliver an advertisement.

Few Americans realize that companies are siphoning off and storing that “bidstream” data to compile exhaustive dossiers about them. These dossiers include their web browsing, location, and other data, which are then sold by data brokers to hedge funds, political campaigns, and even to the government without court orders.

Unregulated data brokers have access to bidstream data and are using it in outrageous ways that violate Americans' privacy. For example, media reports recently revealed that Mobilewalla, a data broker and a buyer of bidstream data, used location and inferred race data to profile participants in recent Black Lives Matter protests. Moreover, Mobilewalla's CEO revealed, in a podcast recorded in 2017, that his company tracked Americans who visited places of worship and then built religious profiles based on that information.

The identity of the companies that are selling bidstream data to Mobilewalla and countless other data brokers remains unknown. However, according to major publishers, companies are participating in RTB auctions solely to siphon off bidstream data, without ever intending to win the auction and deliver an ad. In a June 16, 2020, open letter of concern to the digital advertising industry, a group of major publishers, whose websites and apps supply the bidstream data to the RTB industry, wrote that “the current system allows for a significant data breach by companies

gaining access to the real-time bidding (RTB) infrastructure (i.e. the 'bid stream') for the sole purpose of harvesting both publisher-specific and audience-specific data."

Americans never agreed to be tracked and have their sensitive information sold to anyone with a checkbook. Furthermore, there is no effective way to control these tools absent intervention by regulators and Congress. Technological roadblocks, such as browser privacy settings and ad blockers, are routinely circumvented by advertising companies. This outrageous privacy violation must be stopped and the companies that are trafficking in Americans' illicitly obtained private data should be shut down. Accordingly, we urge the FTC to use its authority to conduct broad industry probes under Section 6(b) of the FTC Act to determine whether adtech companies and their data broker partners have violated federal laws prohibiting unfair and deceptive business practices. The FTC should not proceed with its review of the Children's Online Privacy Protection Act (COPPA) Rule before it has completed this investigation.

We appreciate your attention to this important matter.

Sincerely,



Ron Wyden
United States Senator



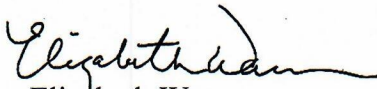
Bill Cassidy, M.D.
United States Senator



Maria Cantwell
United States Senator



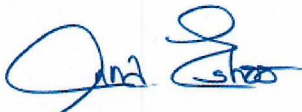
Sherrod Brown
United States Senator



Elizabeth Warren
United States Senator



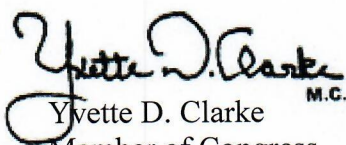
Edward J. Markey
United States Senator



Anna G. Eshoo
Member of Congress



Zoe Lofgren
Member of Congress



Yvette D. Clarke
Member of Congress



Ro Khanna
Member of Congress