

United States Senate

WASHINGTON, DC 20510

January 17, 2019

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

The Honorable Noah Phillips
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rohit Chopra
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rebecca Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Christine Wilson
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson:

We write regarding the impact of the current government shutdown on the Federal Trade Commission's (FTC) investigation of Facebook. The FTC is the primary government agency with jurisdiction over privacy and consumer protection, and on March 26, 2018, the Commission confirmed that its Bureau of Consumer Protection had opened a non-public investigation into Facebook's privacy practices.¹ While we have repeatedly expressed concerns about the pace of this investigation, we fear that the current government shutdown further threatens the FTC's ability to complete this important investigation.²

¹Press Release, Federal Trade Commission, Statement by the Acting Director of FTC's Bureau of Consumer Protection Regarding Reported Concerns about Facebook Privacy Practices (March 26, 2018), <https://www.ftc.gov/news-events/press-releases/2018/03/statement-acting-director-ftcs-bureau-consumer-protection>.
²Brian Fung, *The Shutdown is About to Force the FTC to Suspend its Facebook Investigation, Former Officials Say*, Washington Post (December 28, 2018), https://www.washingtonpost.com/technology/2018/12/28/shutdown-is-about-force-ftc-suspend-its-facebook-investigation-former-officials-say/?utm_term=.77cd0c6f9947.

Last year, reports revealed that the consulting firm Cambridge Analytica obtained tens of millions of Facebook users' personal information without those users' knowledge and consent in order to target political messages online.³ Additional reports showed that "malicious actors" used the Facebook search function to collect data about and learn the identities of most of Facebook's two billion users.⁴ In response to these and other revelations, we have repeatedly voiced concern that Facebook ran afoul of its 2011 settlement with the Commission and have urged a fulsome investigation by the FTC.

As members of the Senate Commerce Committee, we believe that the FTC should have the resources and plans necessary to resume its investigation once the Commission is funded. When Americans' privacy is breached, they deserve a speedy and effective response. The government shutdown could have profound effects on the FTC's investigation beyond delays due to staff furloughs. Therefore, we strongly encourage the Commission to use every tool at its disposal in its investigation and we write to ensure that the FTC is able to address any detrimental impacts from the shutdown and conduct a fulsome investigation.

We request responses to the following questions:

- Does the FTC have a plan in place to efficiently and effectively resume its investigation into privacy violations at Facebook when the government reopens?
- Does the FTC require any additional resources or personnel, such as lawyers or technologists, in order to expedite the investigation or mitigate any detrimental effects of the shutdown?
- What steps should consumers take if they fall victim to a data privacy invasion while the FTC is shut down?

Thank you for your attention to these important matters.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator

³ Matthew Rosenberg, Nicholas Confessore & Carole Cadwalladr, *How Trump Consultants Exploited the Facebook Data of Millions*, N.Y. Times (March 17, 2018), <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html>.

⁴ Craig Timberg, Tony Romm, and Elizabeth Dwoskin, *Facebook: 'Malicious Actors' Used its Tools to Discover Identities and Collect Data on a Massive Global Scale*, Washington Post (April 4, 2018), https://www.washingtonpost.com/news/the-switch/wp/2018/04/04/facebook-said-the-personal-data-of-most-its-2-billion-users-has-been-collected-and-shared-with-outsiders/?noredirect=on&utm_term=.3ede52a719e7.