

United States Senate

WASHINGTON, DC 20510

July 16, 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 recent reports about the Federal Trade Commission's (FTC) investigation and enforcement of Facebook's egregious violations of user privacy. While Facebook's infringements of the 2011 consent decree and its pattern of violating user trust have been both vast and brazen, reporting in the *Wall Street Journal* suggests that the Commission is poised to respond with a settlement that will fail to hold Facebook accountable for its actions and to effectively change the company's behavior.¹

¹ Emily Glazer, Ryan Tracy, & Jeff Horwitz, *FTC Approves Roughly \$5 Billion Facebook Settlement*, Wall Street Journal (July 12, 2019), <https://www.wsj.com/articles/ftc-approves-roughly-5-billion-facebook-settlement-11562960538?mod=searchresults&page=1&pos=2>.

We believe that the reported settlement is woefully inadequate. It is clear that a \$5 billion fine alone is a far cry from the type of monetary figure that would alter the incentives and behavior of Facebook and its peers. We are concerned that the FTC has failed to impose strict structural reforms and managerial accountability that would put an end to Facebook's privacy invasions. These steps should include instituting new rules to limit the amount of data that Facebook collects and uses, increasing the effectiveness and transparency of oversight into Facebook's privacy practices, instituting new rules to protect children and teens on Facebook, holding individuals accountable for their breaches of user privacy, and imposing a fine that corresponds with the significance of Facebook's violations.² Any forthcoming settlement that does not meet this standard will amount to an abdication of the Commission's obligations.

The public expects the Commission to put consumers first and to take all necessary steps in your power to remedy Facebook's privacy problems. We are highly disappointed to learn that the Commission has apparently failed to reach a strong, bipartisan agreement, sending the wrong message to tech companies. This result would amount to abandonment of the Commission's responsibility to serve American consumers and protect the public's privacy. No company should be able to escape scrutiny and avoid just repercussions for illegal activity.

In light of these concerns, we request responses to the following questions by Tuesday, August 6, 2019:

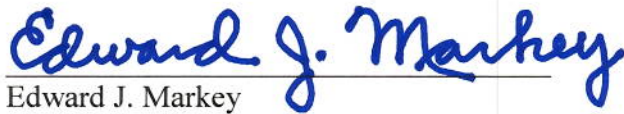
- What was the FTC's process for determining the size of the monetary fine in this settlement? Please describe in detail the FTC's method for determining the revenue Facebook was able to generate as a result of its violations of user privacy.
- Did the FTC interview Facebook CEO Mark Zuckerberg and require disclosure of documents from Mr. Zuckerberg during its investigation into Facebook's privacy practices? If not, why not?
- Will the FTC name Mr. Zuckerberg and any other member of Facebook management in its new settlement?
- Will the FTC impose new restrictions on how Facebook collects, uses, and discloses data about its users as part of this settlement? If not, why not?
- Will the FTC impose restrictions on Facebook's upcoming cryptocurrency offering, Libra, as part of this settlement? If not, why not?
- Will the FTC impose restrictions on Facebook's integration of messaging services offerings as part of this settlement? If not, why not?
- Will the FTC require Facebook to institute new rules and practices specifically designed to protect children and teens who use Facebook offerings? If not, why not?

² Letter from Senator Edward J. Markey (D-Mass) to Joseph Simons, Chairman, Maureen Ohlhausen, Commissioner, Noah Phillips, Commissioner, Rohit Chopra, Commissioner, and Rebecca Slaughter, Commissioner, Federal Trade Commission (May 3, 2018).

Letter from Senators Richard Blumenthal (D-CT) and Josh Hawley (R-MO) to Chairman Joseph Simons, Federal Trade Commission (May 6, 2019).

We are open to receiving your answers in a confidential setting, and thank you for your attention to these important matters.

Sincerely,



Edward J. Markey
United States Senator



Josh Hawley
United States Senator



Richard Blumenthal
United States Senator