
June 14, 2022

Representative Frank Pallone, Jr., Chairman
Representative Jan Schakowsky, Subcommittee Chair
Representative Gus Bilirakis, Ranking Member
Representative Cathy McMorris Rodgers, Ranking Member
U.S. House Committee on Energy and Commerce
Subcommittee on Consumer Protection and Commerce of the Committee on Energy and Commerce

**Re: Hearing on "Protecting America's Consumers: Bipartisan Legislation to Strengthen Data Privacy and Security"**

Dear Chairman Pallone, Subcommittee Chair Schakowsky, Ranking Member Bilirakis, and Ranking Member McMorris Rodgers:

We the undersigned members of the Disinfo Defense League respectfully request that you accept this letter for the record of your June 14, 2022, hearing on "Protecting America's Consumers: Bipartisan Legislation to Strengthen Data Privacy and Security."

The Disinfo Defense League, or DDL, is a distributed national network of over 230 grassroots, community-based organizations that are building a collective defense against disinformation campaigns that deliberately target Black, Latinx, Asian American, and other communities of color.

We are deeply concerned by systemic problems posed by the complex set of digital tactics, extractive data practices, and manipulative designs that undermine confidence in our democracy, sow distrust among Americans in our public health institutions, disenfranchise voters, and chill engagement for our communities. Extractive data practices contribute to the weaponization of online narratives that target our communities.

We are encouraged by this Subcommittee's efforts to provide guardrails around the use of people's personal data and prevent digital civil rights violations. The American Data Privacy and Protection Act would prohibit data collection, use, selling and sharing in any way that violates civil rights. It would stop collection or use of sensitive data — like Social Security numbers, genetic information, biometric information and precise geolocation information — without individuals' express, informed and unambiguous consent to such practices. This is a strong start to blunting extractive data practices.

The draft bill would also take a meaningful step by requiring companies to make privacy policies and notices available in each language in which they provide a product or service. This is a welcome attempt to eliminate the gross disparity between what tech companies do and disclose in English versus what they convey in other languages. While the bill strengthens FTC enforcement and guidance by adding agency staff and providing rulemaking authority for the Commission to implement these new protections, the legislation also sets up an eventual private right of action for individuals to go to court.

While there's more work to be done on the discussion draft of the American Data Privacy and Protection Act, we write today to urge your continued consideration of principles codified in our Disinfo Defense League Policy Platform.[1] Those principles are designed to rein in technology companies' extractive data practices and to safeguard privacy and civil rights on social media platforms with comprehensive digital-privacy measures that protect digital civil rights by:

- *Limiting Big Tech's collection and use of our personal information.*
- *Establishing individuals' rights to control our own data.*
- *Enhancing data transparency.*
- *Preventing discrimination by algorithms.*
- *Enhancing platform transparency about the impacts of their business models.*
- *Protecting whistleblowers & external researchers.*
- *Setting a floor for consumer protection, not a ceiling.*
- *Enlisting the assistance of other federal agencies that protect the public with specialized expertise.*
- *Expanding Federal Trade Commission oversight*.

The bipartisan legislation before you today is a promising start to fulfilling these goals. We look forward to continued dialogue on these issues to ensure the inclusion of robust civil rights protections against abusive data practices as the bill advances through the legislative process.

[1] Disinfo Defense League, Policy Platform (Dec. 7, 2021), https://www.disinfodefenseleague.org/policy-platform.

Respectfully submitted,

Access Humboldt
Access Now
Asian Americans Advancing Justice -AAJC
Common Cause
Equality Labs
Free Press Action
Friends of the Earth
Kairos Action
MediaJustice
Muslim Advocates
New Georgia Project Action Fund
ReFrame Action
United Church of Christ Media Justice Ministry

# DISINFO DEFENSE LEAGUE POLICY PLATFORM

DECEMBER 2021

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# DISINFO DEFENSE LEAGUE POLICY PLATFORM

The Disinfo Defense League is a distributed network of grassroots, community-based organizations that are building a collective defense against disinformation and surveillance campaigns that deliberately target Black, Latinx, Asian Americans and Indigenous people, along with other communities of color.

Over the past year, disinformation campaigns built on the system of surveillance capitalism have disrupted the ability to organize and disseminate accurate information — leading to real-world harms such as voter suppression, an insufficient public-health response to the pandemic, hate crimes, violence, harassment and a deadly insurrection at the U.S. Capitol.

## Weaponized narratives targeting our communities are amplified through the toxic business models of Big Tech and Big Media.

Online platforms, cable channels and broadcasters alike have all shirked responsibility and accountability for their roles in spreading dangerous disinformation. Policymakers must examine how the corporate media ecosystem distorts facts and spreads lies — and move swiftly to redress the harms.

We are calling for policymakers to enact a strategic set of solutions to quell disinformation and build a media ecosystem that serves the public interest by promoting accurate news and information, protecting civil and human rights, and fostering an informed, equitable electorate across all languages.

# LEGISLATIVE ACTION

## Congress should adopt comprehensive digital-privacy legislation* that protects digital civil rights by:

**1**

### LIMITING BIG TECH'S COLLECTION AND USE OF OUR PERSONAL INFORMATION.

Users should be able to control how apps use our data. We may want to share our data to receive services we sign up for, but apps should be prohibited from collecting more information than they need from us and from surreptitiously tracking us across the web. For example, the information we hand over for one reason — like providing a phone number for security purposes — shouldn't be shared or sold to third party companies.

**2**

### ESTABLISHING INDIVIDUALS' RIGHTS TO CONTROL OUR OWN DATA.

We should have rights to easily access, correct, delete or download our personal information and take it with us when we leave an online service. Making data portable by law would let people free themselves from a corporate walled garden and easily use other services. These rights should apply equally to users across languages.

*** We support this legislative language for a digital-privacy and civil-rights bill drafted by Lawyers' Committee for Civil Rights Under Law and Free Press Action.**

# LEGISLATIVE ACTION

3

## ENHANCING DATA TRANSPARENCY.

We deserve to know what kinds of information companies and data brokers are collecting about us and there need to be strict safeguards on what is off limits. Data brokers gather incredibly private details like individuals' sex, age and gender, geolocation, health information; they can also collect internet-search histories that can reveal even more sensitive information like a visit to a mental-health facility or religious site. Companies need to disclose not just what information they collect, but where they get the information; who shares data with them, and with whom they share data; how they analyze data to profile us; how they use our information; how they make decisions about what content, goods or services to offer us; and how they secure our data.

Congress should close loopholes in existing privacy law by banning law enforcement from purchasing information from data brokers without a warrant and companies must conduct routine audits for bias, including an opportunity for independent analysis of algorithmic bias, as well as privacy assessments to determine the risks of this collection. And companies should be required to convey all of this information in two different ways: in an easy-to-understand format proactively notifying users, and in an exhaustive and detailed format for regulators, advocates and researchers for regular review.

*** Passing The Fourth Amendment Is Not for Sale Act would be an excellent start.**

# LEGISLATIVE ACTION

## 4

### PREVENTING DISCRIMINATION BY ALGORITHMS.

Everything we do online generates data and every bit of that data can be tracked and used — no matter how innocuous it may appear in isolation — to create dangerous and invasive online profiles. Data feeds powerful algorithms to deliver personalized ads, recommendations and other services. There are some beneficial and harmless uses of these mechanisms when robust transparency and user control are present. But Congress should ban algorithms that profile users and target content to them in ways that constitute age, racial and sex discrimination in employment, housing, lending, and e-commerce. Congress should investigate voting and other civil rights violations that flow from abusive data practices.

## 5

### ENHANCING PLATFORM TRANSPARENCY ABOUT THE IMPACTS OF THEIR BUSINESS MODELS.

Reporting over the past several years has demonstrated that — just as the tobacco companies knew that their products were killing people long before the public was made aware — social-media companies knew about how their business models were harming people and communities long before the details came to light. Companies should be required to provide access to researchers and to immediately disclose when they learn their platform algorithms are being used to discriminate against or otherwise harm people; and the companies should actively and in an ongoing manner mitigate those harms and be held accountable for any persisting harms.

# LEGISLATIVE ACTION

6

## PROTECTING WHISTLEBLOWERS AND EXTERNAL RESEARCHERS.

We must protect whistleblowers who come forward to expose unethical, immoral and discriminatory behaviors, algorithms and practices inside of tech companies. Protection from retaliation, labor violations, baseless lawsuits, and targeted harassment are critical to guaranteeing the rights of whistleblowers. We must also set out explicit protections for external researcher access to platform data.

7

## EXPANDING FEDERAL TRADE COMMISSION OVERSIGHT.

The FTC should have the power and resources to conduct rulemakings and effectively enforce against and prevent data abuses and other unfair or deceptive practices. Congress cannot anticipate and legislate against all future uses and abuses of data that companies may engage in, so lawmakers should enable the FTC to oversee and respond to future violations. For instance, users shouldn't have to waive our privacy, quality of service, or other rights just to access a given service when there's no need for that data to deliver the promised goods.

# LEGISLATIVE ACTION

8

## ENLISTING THE ASSISTANCE OF OTHER FEDERAL AGENCIES THAT PROTECT THE PUBLIC WITH SPECIALIZED EXPERTISE.

Federal agencies such as the Consumer Financial Protection Bureau, Department of Education, Department of Labor, Department of Justice and Department of Veterans Affairs, among others, should study how personal information is used in their fields, identify disparities and risks for discrimination, and issue public reports to Congress on a regular basis with special focus on the discriminatory effects on communities of color and non-English speaking groups.

9

## SETTING A FLOOR FOR CONSUMER PROTECTION, NOT A CEILING.

A federal law must refrain from preempting the work that states are doing to build their own consumer-protection or privacy regimes. Many state consumer-protection laws are used to protect marginalized communities. A federal data-privacy law that broadly preempts state laws and weakens these kinds of protections would jeopardize civil rights.

# LEGISLATIVE ACTION

## Congress should pass legislation to tax digital advertising and direct those monies to support high-quality noncommercial and local journalism.

Local news can be a powerful antidote to the spread of disinformation. To fully combat the problems of disinformation, hate and other malign practices online, we must fund high-quality, local journalism and urge Congress to create a small percentage tax on the online advertising revenues of the largest online platforms.

For example, a 2% tax, could yield more than $2 billion for a national endowment to support local news and information, including journalism by and serving people of color, non-English speakers, and other minority groups.*

*** Free Press' *Beyond Fixing Facebook* paper offers ideas on how Congress could institute a platform-advertising tax to support local journalism.**

# EXECUTIVE ACTION

## The Biden administration should leverage existing authorities to rein in disinformation.

**The administration should appoint a White House official** to coordinate interagency study and action on tech companies' civil-rights violations and other harmful data practices.

**The Federal Trade Commission should initiate a rulemaking** on harmful data and algorithmic practices and prosecute discriminatory data practices and data-related abuses.

**The FCC should issue guidance pursuant to the broadcast-hoax rule** warning broadcasters to refrain from airing inaccurate claims about the pandemic, a public-health emergency. The FCC's broadcast-hoax rule prohibits broadcasters from knowingly airing false information about a catastrophe if it's foreseeable that doing so would cause substantial harm.

The FCC should use this authority to stop the spread of deadly health disinformation. Before renewing broadcasters' licenses, the agency should evaluate whether licensees are adhering to their public-interest mandates.

**The Justice Department, FTC and other federal and state enforcement agencies should apply antitrust law** to stop tech giants' never-ending acquisition of new firms.

Agencies should stop the dominant platforms' monopoly abuses, collusion and other anti-competitive practices when and where they happen. Congress should ensure that the agencies are well funded.

# INTERNATIONAL ACTION

## The United Nations should document and analyze the harms that disinformation has caused to historically-oppressed populations around the world, and set in place the building blocks for repair.

The U.N. should investigate the harms of disinformation across the world and the unique harms to Black, Indigenous, and brown people. Building on the 2021 report on disinformation by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression made to the U.N. Human Rights Office of the High Commissioner, the U.N. should issue a full report on the harms caused by disinformation, with particular focus on the harms to Black, Indigenous, immigrant, and brown communities around the world.

In consultation with expert organizations, the full report should be accompanied by a set of recommended state policies for governments to consider adopting to stop the spread of disinformation. It should also suggest remedies for the harms people have already experienced.

# POLICY PLATFORM SIGNATORIES

The following organizations* have signed on to the Disinfo Defense League policy platform:

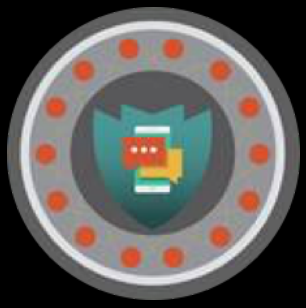
Access Humboldt
Access Now
Arab American Institute
Asian Americans Advancing Justice - AAJC
Asian Pacific American Labor Alliance, AFL-CIO
Common Cause
Cybersecurity For Democracy
Demos
Detroit Community Technology Project
Equality Labs
Facebook Users Union
Fight For The Future
Free Press Action
Global Exchange
Greenlining Institute
Indian American Impact
Instituto di Geopolitica Digitale
Japanese American Citizens League
Kairos
Media Alliance
MediaJustice
Miami Workers Center
Mijente
National Council of Asian Pacific Americans (NCAPA)
New Georgia Project
Noticias Para Inmigrantes
OpenMIC
People's Action
ProgressNow New Mexico
Public Good Projects
ReFrame
Rural Organizing Project
Ultraviolet
United We Dream
Women's March

* *as of December 6, 2021*

The Disinfo Defense League (DDL) is a distributed national network of organizers, researchers and disinformation experts disrupting online racialized disinformation infrastructure and campaigns that deliberately target Black, Latinx, Asian American / Pacific Islander and other communities of color. DDL was created by and for these communities and is supported by services and insight provided by expert partners and organization.

Launched in June 2020, DDL uses coordinated strategy, disinformation training, and research to support member organizations with resources to fortify and scale current inoculation efforts and increase cohesion and collaboration in targeted communities.

DDL features over 230 organizational members who work across geography, generation, and gender to equip communities with tools, training, and tactics needed to combat racialized disinformation and win.



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