



Written Testimony of

**Jessica J. González**  
**Co-Chief Executive Officer**  
**Free Press Action**

Before the

**United States Senate**  
**Committee on Science, Commerce, and Transportation**  
**Subcommittee on Communications, Media, and Broadband**

Regarding

**“Disrupting Dangerous Algorithms: Addressing the Harms of Persuasive Technology”**

December 9, 2021

Chairman Luján and Ranking Member Thune, Chairwoman Cantwell and Ranking Member Wicker, and other esteemed members of the Subcommittee: Thank you for inviting me to appear before you, and for seeking Free Press Action’s views on how to rein in online platforms’ harmful practices.

Today’s hearing calls us to address the harms of “persuasive technology.” Of course persuasive media is nothing new. For instance, as Free Press’ Media 2070 project has documented, there is a long history of the U.S. media system being used to spread racist propaganda that legitimized and advanced the subjugation of Black people.<sup>1</sup> Yet the U.S. media system has been used for persuasion in the public interest as well, like for suicide prevention, tobacco warnings and other public-service announcements that support public health and safety.

What’s unique about media persuasion in the digital age is how online platforms collect troves of private demographic and behavioral data about us all and then use it to target us with ads, recommendations, and other content based on our perceived interests and vulnerabilities. That data collection is pervasive, and may be invasive and extractive. Years of research, investigative journalism, activism and whistleblower revelations have illuminated that the companies collecting that data have little to no accountability to the American people. Indeed they have failed outright at fulfilling even the most basic requests for transparency about how their systems work and what they know about us. They haven’t even attempted to redress the

---

<sup>1</sup> See Joseph Torres, *et al.*, “Media 2070: An Invitation to Dream Up Media Reparations,” Free Press (Oct. 6, 2020), <https://mediareparations.org/wp-content/uploads/2020/10/media-2070.pdf>.

harms caused by their business models, which promote content to maximize engagement and profit handsomely from amplifying conspiracy theories and bigotry.<sup>2</sup>

Another novel aspect here is that, in part due to the sheer volume of clickbait pushed to users and the decimation of quality local journalism, people are consuming content not in ecosystems but largely in their own echo chambers. We each are seeing vastly different things — predicated on online platforms’ abusive data practices. The divide between us all in what we see (and when we are largely unaware of what others see) means that we simply don’t have the ability to fully ascertain who is being persuaded by what. Only platforms have the data about who sees what information and how much they engage with it. That gross imbalance is even more in focus now because platforms like Facebook have been shown to be aware of the negative impacts of their design and have failed to adapt it to prevent and mitigate harms.

Thus legislative and regulatory interventions ought to focus not on disrupting algorithms or shuttering persuasive technology *per se* but instead on mitigating its abuses and deterring the harms that companies employing it knowingly and negligently cause. This means prohibiting harmful data collection and use, including discriminatory algorithmic targeting, that runs afoul of civil and human rights, privacy rules, democratic norms, and public health and safety. Moreover, given how online platforms have polluted our information ecosystem, legislative approaches to invigorate local, independent journalism are ripe for examination.

---

<sup>2</sup> Jeremy B. Merrill and Will Oremus, “Five points for anger, one for a ‘like’: How Facebook’s formula fostered rage and misinformation,” *The Washington Post* (Oct. 26, 2021), <https://www.washingtonpost.com/technology/2021/10/26/facebook-angry-emoji-algorithm/>.

## **Tech Companies Are Undermining Public Health, Safety, Civil and Human Rights and Our Democracy - And They're Doing So By Extracting and Exploiting Our Private Data**

Nearly every day we learn about another tech company creating or exacerbating deep societal harms. Facebook's prioritization of profit at the expense of human rights and public safety — not to mention its now well-documented efforts to cover up its misdeeds — is too extensive to summarize here. The past few months of blockbuster revelations have confirmed, however, that Facebook is unwilling to self-govern effectively. And Facebook is not alone. Many other prominent and more obscure tech companies are similarly compromised by their own self-interests as they prioritize their profits over societal health.

To date, we know that tech companies have facilitated, profited from and sometimes even participated in activities that harm our democracy and voting rights, public health and safety, and other civil and human rights. To cite a few of the most prominent examples:

- Dangerous COVID-19 and vaccine conspiracy theories have proliferated over social media, exacerbating the public health crisis, impacting our hospitals and leading to far more death and serious illness than might otherwise have occurred. On Facebook, African Americans, Native Americans, Latinx people and other people of color were less likely to be shown credible public health information than White people.<sup>3</sup>
- Facebook served discriminatory ads to Facebook users in violation of the Fair Housing Act, prompting the U.S. Department of Housing and Urban Development to bring a lawsuit. Documents show that Facebook allowed advertising to target users based on location and other identity markers that could be proxies for protected categories, resulting in Black users seeing less or no ads for affected housing. Research indicates that Facebook continued to run such ads on its platform more than a year after settling the initial complaint.<sup>4</sup>

---

<sup>3</sup> Corin Faife and Dara Kerr, "Official Information about COVID-19 Is Reaching Fewer Black People on Facebook," *The Markup* (Mar. 4, 2021), <https://themarkup.org/citizen-browser/2021/03/04/official-information-about-covid-19-is-reaching-fewer-black-people-on-facebook>.

<sup>4</sup> Tracy Jan and Elizabeth Dwoskin, "HUD is reviewing Twitter's and Google's ad practices as part of housing discrimination probe," *The Washington Post* (Mar 28, 2019), <https://www.washingtonpost.com/business/2019/03/28/hud-charges-facebook-with-housing-discrimination/>; Makena Kelly, "Facebook still runs discriminatory ads, new report finds," *The Verge*

- Twitter and Facebook have consistently failed to remove or flag as false content that discourages people from voting.<sup>5</sup> This content includes deception (lying about the time, place, and manner of voting); calls for boycott from individuals with alleged sponsorship ties to foreign state actors; and voter intimidation or threats, such as claims that people will show up to polling locations with guns.<sup>6</sup>
- Voter suppression campaigns over social media included surgical efforts to dissuade Black, Indigenous, and Latinx voters from turning out to the polls. False election and polling messages in non-English languages were much less likely to be taken down or flagged than similar messages in English.<sup>7</sup> Non-partisan organization Protect Democracy found that “[s]ocial media platforms were plagued by false content about various candidates for office, patently untrue information about electoral processes, systematic efforts to amplify bogus claims about voter fraud, and coercive political messaging tied to COVID-19 conspiracy theories. A great deal of this content targeted marginalized communities and, in particular, communities of color.”<sup>8</sup>
- Internal Facebook research from 2019 brought to light by whistleblower Frances Haugen found that there was a concerted effort to discourage Latinx people from participating in the U.S. Census.<sup>9</sup> The company’s research summarized posts “telling Hispanic[s] to not

---

(Aug. 20, 2020),

<https://www.theverge.com/2020/8/26/21403025/facebook-discriminatory-ads-housing-job-credit-hud>.

<sup>5</sup> See, e.g., Young Mie Kim, “Voter Suppression Has Gone Digital,” The Brennan Center for Justice (Nov. 20, 2018),

<https://www.brennancenter.org/our-work/analysis-opinion/voter-suppression-has-gone-digital>;

see also Ian Vandewalker, “Digital Disinformation and Vote Suppression,” The Brennan Center for Justice (Sep. 2, 2020),

<https://www.brennancenter.org/our-work/research-reports/digital-disinformation-and-vote-suppression>.

<sup>6</sup> See Kim, *supra* n.5.

<sup>7</sup> Samuel Woolley and Mark Kumleben, “At The Epicenter: Electoral Propaganda in Targeted Communities of Color,” Protect Democracy (Nov. 2021),

<https://protectdemocracy.org/project/understanding-disinformation-targeting-communities-of-color/#section-1>

(“In Georgia, African Americans and Hispanic Americans were on the receiving end of sophisticated microtargeting efforts erroneously claiming that then-Senate candidate Raphael Warnock “celebrated” Fidel Castro. In Arizona, Hispanic American and Native American communities faced a cascade of untrue digital messaging over Twitter about the voting process. In Wisconsin, multiple communities of color from Madison to Milwaukee were targeted with lies about mail-in ballot fraud and ballot dumping.” (internal citations omitted)).

<sup>8</sup> *Id.*

<sup>9</sup> Brian Contreras and Maloy Moore, “What Facebook knew about its Latino-aimed disinformation problem,” *LA Times* (Nov. 16, 2021),

fill out the form; telling Hispanics not to participate in answering questions about citizenship; saying that people would be in danger of being deported if they participated; implying the government would ‘get’ immigrants who participated; and discouraging ethnic groups from participating.”<sup>10</sup>

- Facebook has allowed alleged discriminatory employment ad targeting on the basis of gender and age.<sup>11</sup>
- Google’s algorithms drive discriminatory search results, pushing users to image search results that under-represent women and women of color.<sup>12</sup> Research from 2018 showed its search terms related to Black girls mostly led to pornography, even when terms like “‘porn,’ ‘pornography,’ or ‘sex’ were not included in the search box.”<sup>13</sup>
- In Free Press Action’s statement for the record for this subcommittee’s hearing “Shot of Truth: Communicating Trusted Vaccine Information,” we documented how online platforms and broadcasters have both shirked their responsibility to the public and failed to mitigate harms for their roles in spreading dangerous disinformation that is designed to target Black, Latinx, AAPI, Indigenous, and other communities of color, as well as non-English speakers.<sup>14</sup>

As startling as these examples are, Free Press Action finds just as troubling the recent revelations that Facebook and other tech companies have long known exactly the extent to which their products were harming specific users and groups, and the lengths to which they have gone

---

<https://www.latimes.com/business/technology/story/2021-11-16/facebook-struggled-with-disinformation-targeted-at-latinos-leaked-documents-show>.

<sup>10</sup> *Id.* (internal quotation marks omitted).

<sup>11</sup> Noam Scheiber, “Facebook Accused of Allowing Bias Against Women in Job Ads,” *New York Times* (Sep. 18, 2018),

<https://www.nytimes.com/2018/09/18/business/economy/facebook-job-ads.html>.

<sup>12</sup> Xavier Harding, “Breaking Bias: Search Engine Discrimination? Sounds About White,” Mozilla Foundation (Sep. 28, 2021),

<https://foundation.mozilla.org/en/blog/breaking-bias-search-engine-discrimination-sounds-about-white/>.

<sup>13</sup> Dr. Safiya Noble, “Google Has a Striking Bias Against Black Girls,” *TIME* (Mar. 26, 2018), <https://time.com/5209144/google-search-engine-algorithm-bias-racism/>.

<sup>14</sup> See Carmen Scurato and Jessica J. González, Written Testimony for the Record, “Shot of Truth: Communicating Trusted Vaccine Information,” U.S. Senate Committee on Commerce (Apr. 15, 2021),

[https://www.freepress.net/sites/default/files/2021-04/free\\_press\\_action\\_written\\_testimony\\_shot\\_of\\_truth\\_hearing.pdf](https://www.freepress.net/sites/default/files/2021-04/free_press_action_written_testimony_shot_of_truth_hearing.pdf).

to cover up these harms rather than acknowledging and addressing them. We now know that Facebook refused to heed countless warnings from its own employees.<sup>15</sup> Facebook’s top decision makers have brazenly and routinely lied to or withheld the full truth from me and other civil rights leaders, in meetings between company executives and leaders from the Stop Hate for Profit campaign, Change the Terms coalition, and Spanish-Language Disinformation coalition. Facebook has done the same to researchers, the U.S. Congress, and the American public. Facebook spent vast amounts of time and money running public relations campaigns to obfuscate the truth and pretend to fix its problems, instead of just investing to improve the integrity of its systems. And Facebook is far from the only bad actor here. In a meeting last year with Change

---

<sup>15</sup> For example, the L.A. Times reported that the

leaked documents reveal substantial disagreement among staff about all sorts of issues plaguing the firm, with misinformation prominent among them.

The 2020 product risk assessment indicates one such area of dissent. After noting that Spanish-language misinformation detection remains “very low-performance,” the report offers this recommendation: “Just keep trying to improve. Addition of resources will not help.”

Not everyone was satisfied with that answer. “For misinfo this doesn’t seem right ... curious why we’re saying addition of resources will not help?,” one employee asked in a comment. “My understanding is we have 1 part time [software engineer] dedicated on [Instagram] detection right now.”

A second comment added that targeted misinformation “is a big gap. ... Flagging that we have zero resources available right now to support any work that may be needed here.” (Redactions make it impossible to tell whether the same employee was behind both comments.)

In communications with the outside world, including lawmakers, the company has stressed the strength of its Spanish-language content moderation rather than the concerns raised by its own employees.

*See Contreras & Moore, supra n.10.*

the Terms coalition leaders, many YouTube executives showed an appallingly shallow grasp of civil and human rights.

### **Where Do We Go From Here?**

Given the substantial challenges outlined above, how do we reset our information ecosystem to advance democracy, to prevent discrimination and abuse, and protect public health and safety? We need a comprehensive approach. Fortunately, there are solutions to the challenges we collectively face, and at least three of them have been introduced in legislation before this body already: The Fourth Amendment is Not for Sale Act (S. 1265), the Algorithmic Justice and Online Transparency Act (S. 1896), and the Consumer Online Privacy Rights Act (S. 3195).

### **Data Privacy and Civil Rights Legislation**

Two days ago, in collaboration with three dozen other non-profit organizations – including Access Now, Common Cause, Demos, Cybersecurity for Democracy, and MediaJustice – that comprise the Disinformation Defense League, Free Press Action released a policy platform<sup>16</sup> designed to rein in technology companies’ abuses. Our main proposal for Congress is to adopt a comprehensive privacy and civil rights bill,<sup>17</sup> which ideally would enshrine nine key concepts.

---

<sup>16</sup> Disinfo Defense League, Policy Platform (Dec. 7, 2021), <https://www.disinfodefenseleague.org/policy-platform>. 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.

<sup>17</sup> See Free Press Action and Lawyer’s Committee for Civil Rights Under Law, “The Online Civil Rights and Privacy Act of 2019” (Mar. 14, 2019), [https://www.freepress.net/sites/default/files/2019-03/online\\_civil\\_rights\\_and\\_privacy\\_act\\_of\\_2019.pdf](https://www.freepress.net/sites/default/files/2019-03/online_civil_rights_and_privacy_act_of_2019.pdf).

**1. Congress should limit online platforms' and data brokers' collection and use of our personal data.** 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. Congress should establish individuals' rights to control our own data.** Everyone should have rights to easily access, correct, delete or download their personal information and take it with them when they 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.

**3. Congress should enhance 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, gender, geolocation, and health information; they can also collect internet-search histories that reveal even more sensitive information like a visit to a mental-health facility or house of worship. 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 else 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 this information from data brokers without a warrant,<sup>18</sup> and companies should conduct routine audits for bias, including opportunities for independent analysis of algorithmic bias, as well as privacy assessments to determine the risks of their data 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 a detailed format for regulators, advocates and researchers for regular review.

**4. Congress should prevent 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, especially when robust transparency and user control are present. But Congress should ban algorithms that profile users and target content in ways that constitute unlawful discrimination in employment, housing, lending, and e-commerce on the basis of age, race, sex and other protected categories. Congress and relevant federal agencies should investigate voting and other civil rights violations that flow from abusive data practices too.

**5. Congress should increase platform transparency about known harmful impacts of their business models.** Reporting over the past several years has demonstrated that — just as the

---

<sup>18</sup> Passing [The Fourth Amendment Is Not for Sale Act](#) would be an excellent start on preventing platforms and data brokers from selling people’s personal information to law enforcement and intelligence agencies without a warrant or any other court oversight. This bipartisan bill led by Sens. Wyden and Paul was co-sponsored by eighteen Senators at introduction in April, including members of this subcommittee Sens. Lee, Markey, Baldwin, Schatz, Tester, Blumenthal, and Commerce Committee Chairwoman Cantwell.

tobacco companies knew that their products were killing people long before the public was made aware — social-media companies knew 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 the harm when they learn that a platform’s 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.

**6. Congress should protect whistleblowers and external researchers.** We must protect whistleblowers who come forward to expose unethical, immoral, illegal and discriminatory behaviors, algorithms and practices inside of tech companies. Protecting whistleblowers from retaliation, labor law violations, baseless lawsuits, and targeted harassment is critical. We must also set out explicit protections for external researcher access to platform data to guard against what is now a documented pattern of targeted efforts by platforms to deny external researchers the opportunity to investigate platform practices.<sup>19</sup>

---

<sup>19</sup> Platform efforts to cut external researcher access to their data have been well-documented. Documentation includes recent testimony by NYU’s Cybersecurity for Democracy initiative before the Subcommittee on Investigations and Oversight, U.S. House Science, Space, and Technology Committee. See “Testimony of Laura Edelson, NYU Cybersecurity for Democracy,” *Hearing on “The Disinformation Black Box: Researching Social Media Data,”* Sept. 28, 2021. (“Unfortunately, researchers have been severely hampered not just by lack of such data, but also outright hostility from platforms toward our research. Indeed, this summer, Facebook cut off my team’s access to their data. We used that very data to support [the finding](#) in our recent study that posts from misinformation sources on Facebook got six times more engagement than factual news during the 2020 elections, to identify multiple security and privacy vulnerabilities that we have reported to Facebook, and to audit Facebook’s own, public-facing Ad Library for political ads.”), <https://medium.com/cybersecurity-for-democracy/testimony-of-laura-edelson-nyu-cybersecurity-for-democracy-e0b7e046eb8>.

**7. Congress should expand 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 by surrendering unnecessary data just to access a given service when there's no need for that extraneous data to deliver the promised service.

**8. Congress should encourage collaboration across agencies that hold 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. Congress should set a floor for consumer protection, not a ceiling.** A federal law must refrain from pre-empting 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.

Fortunately, two solid legislative vehicles that address many of these core concepts have already been introduced. Free Press Action endorses S. 1896, Senator Markey's Algorithmic Justice and Online Transparency Act. We're particularly interested in this approach because it:

- Defines as places of public accommodation "any commercial entity that offers goods or services through the internet to the general public," then prohibits algorithms that

discriminate based on race, age, gender, disability status and other protected characteristics.

- Establishes safety and effectiveness standards for algorithms.
- Mandates that platforms provide simple explanations of algorithmic processes and the data they collect to power them.
- Requires that platforms submit detailed records about their algorithmic processes for review by the FTC to ensure compliance with key privacy practices.
- Compels platforms to publish transparency reports about their content moderation efforts.
- And creates an inter-agency task force to investigate algorithmic discrimination across sectors.

Free Press Action also endorses S. 3195, the Consumer Online Privacy Rights Act, introduced by Senator Cantwell and co-sponsored by Senators Schatz, Klobuchar and Markey.

We're supportive of this approach because it:

- Penalizes platforms that abuse people's personal data.
- Restricts internet companies and data brokers from processing or transferring data based on an individual's or group's "actual or perceived race, color, ethnicity, religion, national origin, sex, gender, gender identity, sexual orientation, familial status, biometric information, lawful source of income, or disability" in ways that violate people's civil rights and access to economic opportunities.
- Allows people to see the personal information that companies have collected on them.
- Establishes a federal private right of action.
- And sets a floor, not a ceiling, for consumer protection.

### **Reforms to Section 230, If Any, Should Be Narrow and Targeted**

While Senators on both sides of the aisle have proposed changes to Section 230 as a way to reform platforms' harms both real and perceived, Free Press Action believes that any changes

to this law should be narrow and targeted, ideally focused on clarifying the portions of the statute that courts have interpreted too broadly to preclude consideration of platform liability even for their own bad conduct.

The Senate bill that feels closest to hitting the mark in our view is S. 797, Senators Schatz and Thune's PACT Act. The transparency provisions in that bill are especially strong. Important too is the bill's language suggesting that platforms could be liable for the harms that their continued distribution of harmful material causes once they have actual knowledge of those harms, even if we preserve as we should these online intermediaries' initial protection against being treated as publishers for making user-generated content available to the public in the first instance.

As Free Press Action testified in a hearing before the U.S. House of Representatives last week, lawmakers should account for six precepts in any legislative discussions about Section 230:

1. Any Section 230 reforms should strike a balance by preserving low barriers to the distribution of benign and beneficial content, yet allowing platforms to be held accountable for their own bad acts, such as knowing distribution of content adjudicated to be unlawful or otherwise actionable, as well as other conduct, content, or defective design and distribution choices of the platform's own making.
2. Congress should reject any suggestion of a full repeal or effective evisceration of Section 230. A repeal would raise barriers to speech and chill expression by promoting excessive takedowns, possibly shuttering entire sites and services, and disproportionately shutting out people of color and other already-marginalized speakers.
3. Section 230 reforms should apply across the board, not just to "big tech" companies, because much harmful and abusive activity happens on smaller platforms too.
4. The best path for Section 230 reform, in our view, would be to clarify that the plain text of Section 230 does not immunize "interactive computer services" for their own actions beyond liability for "publishing" information others provide, or removing or restricting access to such information that the platform considers objectionable. Platforms' use of algorithms to distribute content when they have knowledge of its harms, or their

monetization of engagement with that content, would be factors in determining ultimate knowledge and liability but would not automatically turn off 230's protections.

5. Even if Congress significantly altered Section 230, much of the speech the members are (legitimately) concerned about would still be protected by the First Amendment and otherwise unactionable on the basis of existing tort law.
6. That means Section 230 reform is not the only or even the most effective way to stem the tide of harm that online platforms are facilitating, and the types of privacy law enhancements and enforcement of existing laws described above, and efforts to rebuild our media system described below, are essential components for holding big tech accountable and combatting the harms that platforms pose to society.<sup>20</sup>

### **Building The Media System We Need To Protect Democracy In A 21st Century Society**

Privacy and civil rights legislation is a critical part of mitigating the harms caused and perpetuated by social media platforms' failures. But we also must invest in alternatives to the current media system that create healthy pathways for online users to access information. Local news can be a powerful antidote to digital harms such as disinformation, further reinforcing the need to build up local, noncommercial media to correct course on these systemic and compounding crises. Research spanning the last decade underscores that local journalism is essential, a public good in fact, for a thriving democracy.<sup>21</sup> And as the presence of local journalism withers in communities, research has shown an increase in corporate malfeasance and a decrease in civic engagement and voting. Meanwhile, Americans are desperate for local media.

---

<sup>20</sup> See Matthew F. Wood, Written Testimony for the Record, "Holding Big Tech Accountable: Targeted Reforms to Tech's Legal Immunity" (Dec. 1, 2021), [https://www.freepress.net/sites/default/files/2021-12/matthew\\_wood\\_written\\_testimony\\_holding\\_big\\_tech\\_accountable.pdf](https://www.freepress.net/sites/default/files/2021-12/matthew_wood_written_testimony_holding_big_tech_accountable.pdf).

<sup>21</sup> See, e.g., PEN America, "Losing the News: The Decimation of Local Journalism and the Search for Solutions," (Nov. 20, 2019) ("According to one analysis, the act of reading a newspaper alone can effectively encourage 13 percent of non-voters to vote."); see also Meghan E. Rubado and Jay T. Jennings, "Political Consequences of the Endangered Local Watchdog: Newspaper Decline and Mayoral Elections in the United States," 56 *Urban Affairs Review* 1327 (2019), doi.org/10.1177/1078087419838058; Danny Hayes and Jennifer L. Lawless, "As Local News Goes, So Goes Citizen Engagement: Media, Knowledge, and Participation in US House Elections," 77 *The Journal of Politics* 447 (2015), dx.doi.org/10.1086/679749.

In the COVID-19 era, people in the U.S. have turned to local news and local TV more than ever. Twenty-three percent of Americans prefer local media over national,<sup>22</sup> and most American adults trust local media more than national outlets.<sup>23</sup>

Senator Cantwell’s 2020 report, *Local Journalism: America’s Most Trusted News Sources Threatened*, found that “local journalism is essential for healthy communities, competitive marketplaces, and a thriving democracy.” I wholeheartedly concur. Yet, we find ourselves in a local journalism crisis. For instance, in the past fifteen years the newspaper industry has lost 55% of its reporting jobs, leaving us with a “reporting gap.”<sup>24</sup>

Yet even in its heyday the corporate media structure never sufficiently met the information needs of all people in the United States. The industry has a long and sordid history of racism and exclusion. Indeed in 1969 the DOJ’s Community Relations Service identified that “[f]ew American institutions have so completely excluded minority group members from influence and control as have the news media. This failure is reflected by general insensitivity and indifference and is verified by ownership, management, and employment statistics.”<sup>25</sup> As Free Press’ Media 2070 project has documented, the “white dominant press has used the power

---

<sup>22</sup> Pew Research Center, “Local news is playing an important role for Americans during COVID-19 outbreak” (July 2, 2020), <https://www.pewresearch.org/fact-tank/2020/07/02/local-news-is-playing-an-important-role-for-americans-during-covid-19-outbreak/>.

<sup>23</sup> Pew Research Center, “For Local News, Americans Embrace Digital but Still Want Strong Community Connection” (March 26, 2019), <https://www.pewresearch.org/journalism/2019/03/26/for-local-news-americans-embrace-digital-but-still-want-strong-community-connection/>.

<sup>24</sup> See S. Derek Turner, “How Big is the Reporting Gap?,” Free Press (June 2020), [https://www.freepress.net/sites/default/files/2020-06/free\\_press\\_reporting\\_gap\\_analysis\\_report.pdf](https://www.freepress.net/sites/default/files/2020-06/free_press_reporting_gap_analysis_report.pdf).

<sup>25</sup> *1969 Annual Report of the Community Relations Service*, Department of Justice, U.S. Government Printing Office, at 22 (1969).

of racist narratives to subjugate, punish and control Black bodies and perpetuate white supremacy — both intentionally and unintentionally. Controlling narrative is about maintaining power. And that power has been wielded against Black and other Indigenous and colonized people to launch disinformation media campaigns from colonial times to the present."<sup>26</sup> Today many of these problems persist. This past summer, Reps. Jamaal Bowman, Yvette Clarke, Brenda Lawrence, and twenty-two other members of the House of Representatives wrote in a letter to FCC Chairwoman Jessica Rosenworcel that

Today, people of color own and control just 6 percent of our nation's full-power TV stations, 7 percent of commercial FM radio stations and 12 percent of commercial AM radio stations despite making up more than 40 percent of the U.S. population. As of 2017, Black Americans owned or controlled less than 1 percent of television stations. Although many journalists and artists of color have used their talent to ensure critical stories about their communities are being told, our nation's big media companies nevertheless continue to stereotypically depict people of color as being a threat or a burden to society. Historic federal policies are a primary reason why structural inequities exist in our nation's media and telecommunication systems today. FCC policies, license decisions and inaction have had the result of effectively excluding people of color from media ownership opportunities. Our nation's first radio and TV licenses were awarded by the Federal Radio Commission and then its successor, the FCC, during an era of Jim Crow segregation. The previous administration's efforts to consolidate the media marketplace limited ownership opportunities for people of color and women.<sup>27</sup>

In sum, there are multifaceted causes for this reporting gap, and traditional media and now social media alike have been used to exclude, marginalize, and harm people of color in particular. But while these problems are not new to platforms nor wholly traceable to them, Free

---

<sup>26</sup> See, e.g., Torres, *et al.*, *supra* n.1, at 24.

<sup>27</sup> Letter from Rep. Jamaal Bowman *et al.* to Acting FCC Chair Jessica Rosenworcel (June 28, 2021), [https://bowman.house.gov/\\_cache/files/6/5/65b9a1a7-3553-4d5b-9d69-b8a92c0e628d/3290E56EAC603E81B4CFE58A5DAEBEF1.0628-congressional-letter-on-fcc-racial-equity-assessment-final.pdf](https://bowman.house.gov/_cache/files/6/5/65b9a1a7-3553-4d5b-9d69-b8a92c0e628d/3290E56EAC603E81B4CFE58A5DAEBEF1.0628-congressional-letter-on-fcc-racial-equity-assessment-final.pdf).

Press Action has proposed, and the Disinformation Defense League has endorsed, that Congress pass legislation to tax digital advertising and direct those monies to support high-quality noncommercial and local journalism. To fund local journalism, Congress could levy a small tax on the online-advertising revenues of large online platforms. For example, a 2% tax would yield more than \$2 billion annually 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.<sup>28</sup>

Thank you and I look forward to your questions.

---

<sup>28</sup> Free Press's [Beyond Fixing Facebook paper](#) offers ideas on how Congress could institute an online-advertising tax to support local journalism.