

Full Color Future

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Assistant Secretary for Communications and Information

National Telecommunications and Information Administration (NTIA)

U.S. Department of Commerce

1401 Constitution Ave., NW

Room 4897

Washington, DC 20230

Re: Developing the Administration's Approach to Consumer Privacy

Docket No. 180821780-8780-01

Full Color Future (FCF) is a multicultural think tank and advocacy organization focused on driving visibility and inclusive policy making in the broad set of technology and innovation related policy issues that impact our communities. Led by people of color, we organize underrepresented communities, policymakers, entrepreneurs, creators, and cultural visionaries to drive a future that fully represents American diversity. We make sure that people of color are present and fully participatory at the tables where the decisions that impact our

communities are taking place.

I appreciate the opportunity to provide comments to the National Telecommunications and Information Administration as the agency explores how to best approach the ever growing list of challenges in the consumer privacy space. Others have moved aggressively to enact new laws on consumer privacy. On May 25, 2018, the European Union began enforcing sweeping privacy regulations that impact the entire internet. These regulations, the General Data Protection Regulations or GDPR, include fines of up to 4 percent of global revenue for those companies in violation of rules so difficult that the Los Angeles Times and the Chicago Tribune, at least initially, chose to make their sites inaccessible in Europe rather than risk non-compliance. California has also enacted some very comprehensive internet privacy laws. Both regulatory exercises, in our opinion, lacked the type of deliberation necessary to build systems that are effective, accountable and minimally disruptive. Therefore, we applaud the approach of NTIA and encourage continued thoughtful deliberation.

Protecting a Delicate Internet Ecosystem

It is critically important we determine whether the European privacy laws or proposed U.S. laws and regulations threaten the thriving internet ecosystem of small and minority businesses not well positioned to endure overly burdensome regulations. Negative impacts on small businesses and organizations inevitably

affect the consumers patronizing these businesses and organizations.

Following the GDPR going into effect, Senate Democrats introduced a non-binding resolution asking tech companies to extend GDPR protections to American users. Although these are good faith efforts to protect the privacy of users, we need a balanced and thoughtful debate about privacy to avoid unintended consequences. If media giants had difficulty complying with GDPR, where does this leave minority and small businesses and organizations that don't have the budget nor the compliance infrastructure to handle such a mandate? How do minority consumers fare when a thriving and relatively accessible internet ecosystem is replaced by a system where only major multinationals can safely navigate. Data sharing has allowed small businesses to access sophisticated marketing and targeting tools once reserved for only the wealthiest businesses using traditional advertising platforms. Let's not erode these gains.

Need for Research on Benefits and Impacts regarding Communities of Color

Internet privacy disputes represent society's latest struggle to find balance between innovation and appropriateness. For the foreseeable future, we will wrestle with questions on how data should be collected, shared and leveraged to reach potential customers. We should also be considering how data utilization impacts communities of color.

On the one hand, we have unprecedented opportunity to access information and reach the underrepresented. The potential to combat health disparities, to even the playing field in business, and to provide fingertip accessible information to billions is a positive advancement. On the other hand, there are bad actors, mistakes, and unintended consequences that will, at times, justifiably slow progress. Any analysis of proposed new rules should include a thorough review of the impacts these rules will have on minority enterprises, consumers and organizations. The Department's Minority Enterprise Development Agency, if properly resourced, would be an ideal agency to conduct this research. Other federal agencies with portfolios in education, healthcare, human services, business, and trade should also be engaged.

Small Business and Organization Impact Consideration

In many ways, the internet has become a great equalizer. Entrepreneurs, activists and creators are now able to compete on world stages without traditional gatekeepers or capital needs preventing their market entry. As marketing has become more affordable and effective, smaller companies are able to be much more significant players in global markets. Tech platforms and templates have enabled these companies to create sophisticated ecommerce and marketing functions that were inaccessible to all but the wealthiest companies only a few years ago. It is critically important that minority entrepreneurs continue to

encounter low barriers to market entry and success.

Unfortunately, policymakers, although with good intentions, have a tendency to legislate from a perspective of how their proposals will affect larger companies without always fully considering what may be very different and more significant effects on smaller companies and organizations. A seemingly insignificant regulatory change for a Fortune 500 company can be an extinction level event for a small operation. We urge proper consideration of how various proposals impact different sized companies.

Access to Privacy Protection benefits

Any structures developed to provide consumer privacy should be as accessible as possible to the broadest audience possible. Data portability is a key element of privacy protection and a critical component for minority consumers. If data access is provided but not easily and practically accessible, the data is constructively unavailable. Data portability rules, if done properly, are the type of public private partnership that has the potential to encourage both effective and sustainably deployed data privacy.

Conclusion

As the use of data expands exponentially, mistakes are inevitable. Communities

of color will need to make sure they are protected in both innovation and in reactions to innovation. Obviously, no data sharing scheme should further disparities in financial services, criminal justice, business or employment. We must, as we innovate, ensure that every step into our future is deliberately accompanied by work to ensure we are more inclusive.

Any policies intended to protect privacy rights must not disrupt the delicate ecosystem that empowers communities of color to participate as full partners in the digital world. Communities of color are able to participate in the internet when the internet is inexpensive, independent, and universally accessible. Often, proposed solutions are directed at large companies without much sensitivity to the plight of smaller minority companies and consumers that have no access to expensive fixes. Any equation providing solutions must amply weight these communities.

Fortunately, we can enjoy the benefits of data while significantly mitigating potential harms. Questions have to be asked and answered. Even in the ideal open and transparent process, we must accept that no one has all of the answers. Embarrassing mistakes will be made. Information will be disclosed that should not be disclosed. Communities will be targeted or ignored with intention and bias. The true measure of our collective success will be not be in our ability to avoid all mistakes but in our ability to recognize when one of us has fallen short and to quickly and impactfully correct the shortfalls. Maintaining privacy and

security will be more journey than destination. It is important for all stakeholders to do their part to ensure our destination reflects all people.

Submitted,

/s/

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