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June 28, 2018

Joseph J. Simons  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Dear Chairman Simons:

I write to ask the Federal Trade Commission (FTC) to investigate whether certain data collectors improperly collected and shared consumers' viewing information or other personal information with Cambridge Analytica in violation of Section 5 of the FTC Act and whether Cambridge Analytica misused such data in violation of Section 5 of the FTC Act.

In April 2018, I wrote to Federal Communications Commission (FCC) Chairman Ajit Pai asking the FCC to investigate whether entities subject to FCC jurisdiction sold or otherwise provided subscriber data to Cambridge Analytica in violation of the Communications Act.<sup>1</sup> In his response, Chairman Pai seemed to both diminish the FCC's current authority to investigate even entities otherwise regulated by the FCC and to praise the FTC as the agency with premier privacy expertise.<sup>2</sup> He stated that he forwarded my request to you for further examination.

Although I am disappointed in Chairman Pai's abdication of his duties to protect Americans under the Communications Act, I agree that the FTC should investigate whether data collectors engaged in unfair or deceptive practices with regard to the collection of consumers' viewing data. It should also consider whether Cambridge Analytica engaged in unfair and deceptive practices by acquiring and misusing such data.

Many entities outside the jurisdiction of the FCC occupy the television ecosystem and can collect and share much of the same personal information about consumers that is available to FCC-regulated entities. Smart televisions, some set-top boxes, streaming devices, and advertising and analytics companies, among others, may not be subject to the Communications Act, but they are subject to the FTC's section 5 authorities.

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<sup>1</sup> Letter from Rep. Debbie Dingell, to Ajit Pai, Chairman, Federal Communications Commission (Apr. 6, 2018).

<sup>2</sup> Letter from Ajit Pai, Chairman, Federal Communications Commission, to Rep. Debbie Dingell (Apr. 27, 2018).

The FTC has also recognized that in some cases, the collection, use, and sharing of viewing history violates Section 5. In 2014, the FTC brought charges against smart TV manufacturer and seller VIZIO because it collected viewing histories of millions of users without their consent.<sup>3</sup> VIZIO smart TVs captured second-by-second information about video displayed on the smart TV, including video from consumer cable, broadband, set-top box, DVD, over-the-air broadcasts, and streaming devices. The viewing history was combined with demographic information and sold to third parties. These practices were found by the FTC to be deceptive and unfair acts or practices in violation of Section 5 of the FTC Act. VIZIO settled with the FTC in 2017.

The FTC already publicly acknowledged that it is investigating Facebook's privacy practices over Cambridge Analytica's use of Facebook users' personal data.<sup>4</sup> The FTC should also investigate how Cambridge Analytica collected information about Americans in unscrupulous ways and potentially with the aid of other data collectors. Such an investigation should not be limited to the much-discussed personality-test app but to all of Cambridge Analytica's and others' tactics, including whether data on Americans was obtained by smart televisions, set-top boxes, streaming services, or other companies in the television ecosystem and whether that supplied data to Cambridge Analytica committed unfair and deceptive practices in their collection, use, and sharing of that data.

I appreciate your attention to this matter. Please provide a response to this letter within three weeks of receipt. Should you have any questions regarding this request, please contact Kevin Dollhopf in the Office of Congresswoman Debbie Dingell at (202) 225-4071 or at [kevin.dollhopf@mail.house.gov](mailto:kevin.dollhopf@mail.house.gov)

Sincerely,



Debbie Dingell  
Member of Congress

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<sup>3</sup> Federal Trade Commission, *VIZIO to Pay \$2.2 Million to FTC, State of New Jersey to Settle Charges It Collected Viewing Histories on 11 Million Smart Televisions without Users' Consent* (Feb. 2017) (press release).

<sup>4</sup> Federal Trade Commission, *Statement by the Acting Director of FTC's Bureau of Consumer Protection Regarding Reported Concerns about Facebook Privacy Practices* (Mar. 26, 2018) (press release).