

# THREE ARENAS OF CONGRESSIONAL OVERSIGHT OF ONLINE PLATFORMS: COMPETITION, PRIVACY, AND CONTENT

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I. INTRODUCTION .....	193
II. BACKGROUND ON CONGRESSIONAL OVERSIGHT.....	198
III. ANALYSIS OF SOCIAL MEDIA OVERSIGHT .....	201
<i>A. Anti-Competitive Behavior</i> .....	201
<i>B. Privacy</i> .....	207
<i>C. Content Control</i> .....	211
IV. DISCUSSION AND CONCLUSION .....	216
APPENDIX ONE: ANTITRUST/NET NEUTRALITY .....	221
APPENDIX TWO: ONLINE PRIVACY .....	225
APPENDIX THREE: CONTENT REGULATION .....	230

## I. INTRODUCTION

At this time, policy discussions regarding social media companies center on three primary issues: first, the real or potential anti-competitive behavior of key internet gatekeepers; second, the commodification of personal information and ubiquity of privacy intrusions; and third, the explosion of “fake news” and other inaccurate or biased information on social media sites. The debate on the first issue was initially focused on the policy solution of net neutrality and later on anti-trust rules. The debate on the second issue in the U.S. has focused on rethinking a sectoral approach of self-regulation of fair information practice principles (FIPPS). The debate on the third issue raises questions of censorship and First Amendment conflicts. Each of these issues has been the topic of numerous recent congressional hearings in both the House and Senate, but, in each case, agreement on a policy course has not yet been reached.

The first issue involves the real or potential anti-competitive behavior of key internet gatekeepers. These gatekeepers include internet service providers (ISPs) and also what are sometimes referred to as “edge players/platforms,” which include major social media companies like

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Google, Facebook, and Amazon.<sup>1</sup> These two sets of actors are currently regulated by different agencies: the Federal Communications Commission (FCC) has jurisdiction over ISPs but not over platforms, and the Federal Trade Commission (FTC) has jurisdiction over “unfair and deceptive trade practices” of platforms but not over ISPs.<sup>2</sup> Much of the debate about anti-competitive behavior has focused on the policy solution of “net neutrality”—the idea that providers of internet content should not be discriminated against and that users should have equal access to any legal content they choose.<sup>3</sup> Evidence of horizontal and vertical consolidation of large online platforms and consolidation of internet service providers has generated concern about possible blocking or discriminating among customers.<sup>4</sup> For example, among ISPs, AT&T and Direct TV merged, Time Warner Cable merged with Charter Communications, and Verizon with XO Communications merged.<sup>5</sup> Among internet platforms, Google has acquired YouTube, Doubleclick, ITA Software, Waze, and AdMob; Facebook acquired Instagram and WhatsApp, among others; and Amazon has acquired Whole Foods and Zappos.<sup>6</sup> As market concentration among online companies increased and received more public and media attention, many raised the need for more vigorous enforcement of anti-trust rules as a policy solution.<sup>7</sup>

Net neutrality principles require ISPs to charge all content providers similarly and not to privilege large providers or customers to the detriment of smaller providers.<sup>8</sup> In the U.S., debate over net neutrality has been contentious and partisan, with the FCC adopting a form of net neutrality or non-discrimination guidelines in 2005, Congress unsuccessfully considering a number of net neutrality rules from 2006 to 2009, and a Circuit Court ruling in 2010 that “the FCC did not have the authority to

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1. Clare Y. Cho, *Competition on the Edge of the Internet*, EVERYCRSREPORT.COM (Jan. 30, 2020), <https://www.everycrsreport.com/reports/R46207.html> [<https://web.archive.org/web/20200201213547/https://www.everycrsreport.com/reports/R46207.html>].

2. Gigi B. Sohn, *A Policy Framework for an Open Internet Ecosystem*, 2 GEO. L. TECH. REV. 335, 345–48 (2018).

3. *See id.* at 344–48 (discussing implications of the FCC’s repeal of net neutrality).

4. *See id.* at 335–37.

5. *Id.* at 337 n.5.

6. *Id.* at 338–39.

7. *See id.* at 348 (“[C]urrently, the nation’s antitrust laws fall short of what is needed to address consolidation, vertical integration, and anticompetitive behavior in the [] market and for online platforms”).

8. *See generally What Is Net Neutrality?*, CONSUMER REP. (July 7, 2017), <https://advocacy.consumerreports.org/research/what-is-net-neutrality/> [<https://web.archive.org/web/20200601195001/https://advocacy.consumerreports.org/research/what-is-net-neutrality/>].

regulate [ISPs].”<sup>9</sup> In 2015, the FCC approved net neutrality rules that were later upheld by the U.S. Court of Appeals for the D.C. Circuit as within the FCC’s jurisdiction.<sup>10</sup> However, in December 2017, the FCC repealed the 2015 rules.<sup>11</sup> On April 10, 2019, the House, on a party-line vote, reinstated net neutrality rules, but the Senate is unlikely to pass them.<sup>12</sup> California passed a net neutrality law in October 2018, which was challenged by the U.S. Department of Justice.<sup>13</sup>

The second issue concerns the commodification of personal information and ubiquity of privacy intrusions. As mentioned above, policymakers continue to question FIPPS and propose new solutions.<sup>14</sup> The European Union, in May 2018, instituted a more active regulatory stance in the General Data Protection Regulation (GDPR).<sup>15</sup> The GDPR requires all companies processing the personal data of data subjects residing in the European Union, regardless of the company’s location, to (1) request consent in an easily accessible and intelligible form, with the purpose for data processing duly noted; (2) provide notifications of data breaches without undue delay; (3) supply a free electronic copy of all personal data held by the controller; and (4) permit the data subject to order the data controller to erase the subject’s data and cease further

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9. Jeffrey A. Hart, *The Net Neutrality Debate in the United States*, 8 J. OF INF. TECH. & POLITICS 418, 421–36 (2011).

10. Alina Selyukh, *U.S. Appeals Court Upholds Net Neutrality Rules in Full*, NPR (June 14, 2016, 10:42 AM), <https://www.npr.org/sections/thetwo-way/2016/06/14/471286113/u-s-appeals-court-holds-up-net-neutrality-rules-in-full> [<https://web.archive.org/web/20200405161542/https://www.npr.org/sections/thetwo-way/2016/06/14/471286113/u-s-appeals-court-holds-up-net-neutrality-rules-in-full>].

11. Cecilia Kang, *F.C.C. Repeals Net Neutrality Rules*, N.Y. TIMES (Dec. 14, 2017), <https://www.nytimes.com/2017/12/14/technology/net-neutrality-repeal-vote.html> [<https://web.archive.org/web/20200405162020/https://www.nytimes.com/2017/12/14/technology/net-neutrality-repeal-vote.html>].

12. Cecilia Kang, *Net Neutrality Vote Passes House, Fulfilling Promise by Democrats*, N.Y. TIMES (Apr. 10, 2019), <https://www.nytimes.com/2019/04/10/technology/net-neutrality-vote.html> [<https://web.archive.org/save/https://www.nytimes.com/2019/04/10/technology/net-neutrality-vote.html>].

13. See Camille Reid, *Chapter 976: The Battle for the Open Internet: Can California Salvage Net Neutrality?*, 50 U. PAC. L. REV 217, 228 (2019).

14. See generally Fred H. Cate, *The Failure of Fair Information Practice Principles*, FTC.GOV (2006), [https://www.ftc.gov/system/files/documents/public\\_comments/2018/12/ftc-2018-0098-d-0036-163372.pdf](https://www.ftc.gov/system/files/documents/public_comments/2018/12/ftc-2018-0098-d-0036-163372.pdf) [[https://web.archive.org/web/20190417095551/https://www.ftc.gov/system/files/documents/public\\_comments/2018/12/ftc-2018-0098-d-0036-163372.pdf](https://web.archive.org/web/20190417095551/https://www.ftc.gov/system/files/documents/public_comments/2018/12/ftc-2018-0098-d-0036-163372.pdf)].

15. See Council Regulation 2016/679, 2016 O.J. (L 119) 1 (EU).

dissemination and third-party processing of it.<sup>16</sup> Additionally, the GDPR prohibits the use of automated or algorithmic decision-making that produces “legal effects” or that “similarly significantly affects” the data subject, unless a human is involved in the process.<sup>17</sup> The institution of the GDPR, continued reports of large-scale data breaches, increased attention on potentially discriminatory effects of algorithms, and introduction of new products that are reliant upon the use of personal information, have generated renewed policy discussions in the U.S. as well. In 2018, California passed the California Consumer Privacy Act (CCPA), which went into effect in January 2020.<sup>18</sup> The CCPA mirrors many of the requirements of the GDPR and adopts a more regulatory approach than traditional FIPPSs.<sup>19</sup> A number of congressional committees held hearings and introduced several bills in the 2018–2019 session, but all of the bills have stalled in committee.<sup>20</sup>

The third issue involves the explosion of fake news and other inaccurate information on social media and blog sites. Specifically, the third issue concerns the influence certain social media and blog sites have

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16. See Ben Wolford, *A guide to GDPR data privacy requirements*, GDPR.EU, <https://gdpr.eu/data-privacy/> [<https://web.archive.org/web/20200405212544/https://gdpr.eu/data-privacy/>] (last visited Apr. 2, 2020).

17. Council Regulation 2016/679, art. 22, 2016 O.J. (L 119) 1 (EU).

18. Maria Korolov, *California Consumer Privacy Act (CCPA): What you need to know to be compliant*, CSOONLINE.COM (Oct. 4, 2019, 3:00 AM), <https://www.csoonline.com/article/3292578/california-consumer-privacy-act-what-you-need-to-know-to-be-compliant.html> [<https://web.archive.org/save/https://www.csoonline.com/article/3292578/california-consumer-privacy-act-what-you-need-to-know-to-be-compliant.html>].

19. For a discussion of the differences between the GDPR and CCPA, see Arupan Chander et al., *Catalyzing Privacy Law*, GEO. L. FAC. PUBLICATIONS & OTHER WORKS 2190 (2019).

20. See, e.g., Data Care Act, S. 2961, 116th Cong. (2019); Social Media Privacy Protection and Consumer Rights Act, S. 189, 116th Cong. (2019); CONSENT Act, S. 2639, 115th Cong. (2018); SENATOR RON WYDEN, CONSUMER DATA PROTECTION ACT OF 2018 DISCUSSION DRAFT, <https://www.wyden.senate.gov/imo/media/doc/Wyden%20Privacy%20Bill%20one%20pager%20Nov%201.pdf> [<https://web.archive.org/web/20200127082609/https://www.wyden.senate.gov/imo/media/doc/Wyden%20Privacy%20Bill%20one%20pager%20Nov%201.pdf>] (last visited March 24, 2020); SENATOR MARCO RUBIO, THE AMERICAN DATA DISSEMINATION ACT, [https://www.rubio.senate.gov/public/\\_cache/files/afe71d4b-201e-4273-b136-eb0555623b98/2F5D3F8CBF7E2BF65DB6E0FCF99D2797.add-act-one-pager.pdf](https://www.rubio.senate.gov/public/_cache/files/afe71d4b-201e-4273-b136-eb0555623b98/2F5D3F8CBF7E2BF65DB6E0FCF99D2797.add-act-one-pager.pdf) [[https://web.archive.org/web/20200405165142/https://www.rubio.senate.gov/public/\\_cache/files/afe71d4b-201e-4273-b136-eb0555623b98/2F5D3F8CBF7E2BF65DB6E0FCF99D2797.add-act-one-pager.pdf](https://web.archive.org/web/20200405165142/https://www.rubio.senate.gov/public/_cache/files/afe71d4b-201e-4273-b136-eb0555623b98/2F5D3F8CBF7E2BF65DB6E0FCF99D2797.add-act-one-pager.pdf)] (last visited Mar. 24, 2020); see also Chander et al., *supra* note 19, at 34–35 (providing a more complete list).

on the democratic process—not just in one country, but globally—through messages circulated to impressionable populations.<sup>21</sup> Concern about this issue intensified following the 2016 elections in the U.S. and Europe and the rise of more radical right-wing thinking around the world.<sup>22</sup> Policy discussions have focused on the knotty and unpopular question of censorship—a policy that is abhorred under the First Amendment but is equally concerning in Europe.<sup>23</sup> One critical issue, if any form of censorship is entertained, is who should make decisions about taking down internet content—the government, the platform, or an objective third-party?

Indeed, the key policy question seems not to be whether the powerful players on the internet *should* be regulated but instead *how best* to regulate them.<sup>24</sup> This sentiment was expressed by Facebook’s Mark Zuckerberg, who, in answering a question posed by Senator Lindsey Graham before the Senate Judiciary and Senate Commerce, Science, and Transportation Committees, stated, “I think the real question, as the internet becomes more important in people’s lives . . . is what’s the right regulation?”<sup>25</sup> Part of the difficulty in answering this question is the need to classify these

21. See generally Samidh Chakrabarti, *Hard Questions: What Effect Does Social Media Have on Democracy?*, ABOUT.FB.COM (Jan. 22, 2018), <https://about.fb.com/news/2018/01/effect-social-media-democracy/> [<https://web.archive.org/web/20200602014750/https://about.fb.com/news/2018/01/effect-social-media-democracy/>] (discussing the effect social media has on democracy).

22. See Glenn C. Altschuler & Sidney Tarrow, *Combatting fake news on social media will take a village*, THE HILL (Oct. 20, 2019, 10:20 AM), <https://thehill.com/opinion/technology/466612-combatting-fake-news-on-social-media-will-take-a-village> [<https://web.archive.org/web/20200405165916/https://thehill.com/opinion/technology/466612-combatting-fake-news-on-social-media-will-take-a-village>] (noting how sinking trust in “establishment” media gives “para-party groups, white nationalists, and hackers out for a thrill a platform on which to spread lies, fake news or deep fakes”).

23. See generally Daniela C. Manzi, *Managing the Misinformation Marketplace: The First Amendment and the Fight Against Fake News*, 87 FORDHAM L. REV. 2623 (2019) (discussing the First Amendment difficulties of misinformation regulation).

24. See generally Jack M. Balkin, *How to Regulate (and Not Regulate) Social Media*, KNIGHT FIRST AMEND. INST. (Mar. 25, 2020), <https://knightcolumbia.org/content/how-to-regulate-and-not-regulate-social-media> [<https://web.archive.org/web/20200510202925/https://knightcolumbia.org/content/how-to-regulate-and-not-regulate-social-media>] (arguing that social media sites are key in the public sphere, which does not work properly without professional norms guiding trustworthy institutions).

25. Aja Romano, *Don’t Ask Whether Facebook Can Be Regulated, Ask Which Facebook to Regulate*, VOX (Apr. 12, 2018), <https://www.vox.com/technology/2018/4/12/17224096/regulating-facebook-problems> [<https://web.archive.org/web/20200405171244/https://www.vox.com/technology/2018/4/12/17224096/regulating-facebook-problems>].

major internet players by entity type.<sup>26</sup> Are they media companies, technology companies, financial companies, publishing companies, or some new hybrid?<sup>27</sup> How this question is answered will determine whether major internet players come under the rules and oversight of the Federal Elections Commission (FEC), FTC, FCC, or some other regulatory agency—or if a new entity will be designed to address the complications of their business models and activities.<sup>28</sup>

This paper identifies the primary congressional committees that oversee the three issues discussed above and analyzes the relevant oversight hearings from 2015 through 2019. In order to provide a context and framework for the analysis of the hearing, Part II briefly reviews recent scholarship on congressional oversight in general and oversight of technology in particular. Part III describes and analyzes the congressional hearings in each of the three areas. Part IV compares the substance, dynamics, and outcomes of the congressional hearings on the three issues.

## II. BACKGROUND ON CONGRESSIONAL OVERSIGHT

Much of the literature on congressional oversight focuses on congressional efforts to identify and address executive branch violations of policy goals.<sup>29</sup> Importantly, though, congressional oversight also extends to private sector activities, allowing Congress to determine the scope and the nature of new policy problems, whether existing agency powers need to be extended or changed, and whether new laws may be needed.<sup>30</sup> As former Senator Abraham Ribicoff, writing in 1976 as Chair of the Senate Government Operations Committee, pointed out: “[O]versight is more than simple hindsight. It involves using the legislative process so that the legislation may be administered properly in the first place. There is, thus, an element of foresight in the congressional oversight function.”<sup>31</sup> Current congressional hearings on social media are

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26. *Id.*

27. *Id.*

28. See Sohn, *supra* note 2, at 345–48 (differentiating between the FCC’s jurisdiction over telecommunication service and the FTC’s jurisdiction over unfair competition and trade practices).

29. See generally Matthew D. McCubbins & Thomas Schwartz, *Congressional Oversight Overlooked: Police Patrols Versus Fire Alarms*, 28 AM. J. OF POL. SCI. 165 (1984).

30. See generally Carl Levin & Elise J. Bean, *Defining Congressional Oversight and Measuring its Effectiveness*, 64 WAYNE L. REV. 1 (2018).

31. Abraham Ribicoff, *Congressional Oversight and Regulatory Reform*, 28 ADMIN. L. REV. 415, 418 (1976). Senator Ribicoff went on to note that while the complexity of government activities has heightened the need for congressional oversight, at least three factors hinder effective oversight: the fragmented committee structure, the absence of

largely focused on this latter element, with attention devoted to whether the existing laws and regulatory regimes are adequate to address the issues being raised today.<sup>32</sup> In this sense, congressional oversight hearings respond to “fire-alarms” raised by the media, constituents, interest groups, and advocates.<sup>33</sup>

Steven J. Balla and Christopher J. Deering posit that fire-alarm committee hearings will more likely be conducted by policy committees than by constituency committees and also suggest that witnesses “who [are] specifically called to task or who offered particular grievances are indicators of event-driven oversight.”<sup>34</sup> Robert J. McGrath further points out that congressional oversight for policy purposes is more likely to occur when legislators and agencies have divergent policy preferences, which may more often be the case in periods of divided government.<sup>35</sup> Subsequent research by Jason A. MacDonald and McGrath revisits the question of oversight during divided and unified government, finding that “oversight taking place during unified government is most likely to be related to substantive policymaking, as opposed to being purely political” and that there is likely to be “bursts” of oversight during periods of new unified control.<sup>36</sup>

Oversight of technological innovations and the social implications of such changes has been a particularly challenging area for congressional committees and for Congress as a whole. Congress itself recognized this in 1972 with the establishment of the Office of Technology Assessment (OTA) as a nonpartisan staff agency of Congress.<sup>37</sup> OTA, for largely political reasons, was abolished by Congress in 1995.<sup>38</sup> In 2019, Congress

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coordination and cooperation among committees, and the lack of adequate staff. *Id.* at 419–21.

32. Evelyn Douek, *Senate Hearing on Social Media and Foreign Influence Operations: Progress, But There’s A Long Way to Go*, LAWFARE (Sept. 6, 2018, 2:38 PM), <https://www.lawfareblog.com/senate-hearing-social-media-and-foreign-influence-operations-progress-theres-long-way-go> [<https://web.archive.org/web/20200602035526/https://www.lawfareblog.com/senate-hearing-social-media-and-foreign-influence-operations-progress-theres-long-way-go>].

33. See McCubbins & Schwartz, *supra* note 29, at 166.

34. Steven J. Balla & Christopher J. Deering, *Police Patrols and Fire Alarms: An Empirical Examination of the Legislative Preference for Oversight*, 40 CONGRESS AND THE PRESIDENCY 27, 31–32 (2013).

35. Robert J. McGrath, *Congressional Oversight Hearings and Policy Control*, 38 LEGIS. STUD. Q. 376, 369 (2013).

36. Jason A. MacDonald & Robert J. McGrath, *Retrospective Congressional Oversight and the Dynamics of Legislative Influence over the Bureaucracy*, 41 LEGIS. STUD. Q. 899, 923 (2016).

37. See BRUCE ALLEN BIMBER, *THE POLITICS OF EXPERTISE IN CONGRESS: THE RISE AND FALL OF THE OFFICE OF TECHNOLOGY ASSESSMENT* 8–9 (1996).

38. *Id.* at 69–77.

again recognized its shortcomings in keeping pace with technology issues and funded a study by the National Academy of Public Administration (NAPA) to recommend options to enhance science and technology resource support to Congress.<sup>39</sup> The NAPA report recommended that Congress both enhance the technological expertise and capacity of existing entities, such as the Congressional Research Service (CRS) and the Government Accountability Office (GAO), and create a new advisory office to increase the capacity of Congress itself.<sup>40</sup> Creating this new office would entail recruiting and hiring science and technology advisors for House and Senate committees with relevant oversight responsibilities.<sup>41</sup>

Outside groups and studies reached similar conclusions and offered similar recommendations regarding congressional capacity.<sup>42</sup> The Belfer Center on Science and Technology issued a major study in September 2019 that concluded that Congress had simply not given itself the resources needed to efficiently and effectively absorb new information.<sup>43</sup> The study explained that “in legislation and high profile hearings, Congress has appeared unprepared to reckon with emerging technologies and their effects on society. In recent years, Congress has failed to produce substantive legislation on emerging [science and technology] issues of national import, like personal data privacy and protections.”<sup>44</sup> The study identified a number of causes for Congress’s shortcomings, including congressional members not being subject matter experts, technology experts skirting responsibility by playing into Congress’s limited knowledge of technology, and inaction resulting from political gridlock.<sup>45</sup> Similar to the NAPA report, the Belfer study recommended that Congress create a legislative support body focused on science and technology issues.<sup>46</sup>

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39. See NAT. ACAD. PUB. ADMIN., SCIENCE AND TECHNOLOGY POLICY ASSESSMENT: A CONGRESSIONALLY DIRECTED REVIEW (2019), [https://www.napawash.org/uploads/Academy\\_Studies/NAPA\\_FinalReport\\_forCRS\\_110119.pdf](https://www.napawash.org/uploads/Academy_Studies/NAPA_FinalReport_forCRS_110119.pdf)

[[https://web.archive.org/web/20200405173323/https://www.napawash.org/uploads/Academy\\_Studies/NAPA\\_FinalReport\\_forCRS\\_110119.pdf](https://web.archive.org/web/20200405173323/https://www.napawash.org/uploads/Academy_Studies/NAPA_FinalReport_forCRS_110119.pdf)].

40. *Id.* at 51–55.

41. *Id.* at 54–55.

42. See, e.g., MIKE MIESEN ET AL., BUILDING A 21ST CENTURY CONGRESS: IMPROVING CONGRESS’S SCIENCE AND TECHNOLOGY EXPERTISE 9–12 (2019), <https://www.belfercenter.org/sites/default/files/2019-09/ST/Building21stCenturyCongress.pdf>

[<https://web.archive.org/web/20200405174107/https://www.belfercenter.org/sites/default/files/2019-09/ST/Building21stCenturyCongress.pdf>].

43. *Id.* at 7–9.

44. *Id.* at 1.

45. *Id.* at 2.

46. *Id.* at 9–10.



Similar to other scholars who have examined science and technology policymaking, L. B. Moses identified four potential problems that may result from the failure of law to keep pace with technology, including (1) the failure to impose appropriate legal restrictions and precautions to control the risks of new technologies, (2) uncertainties in the application of existing legal frameworks to new technologies, (3) the potential for existing rules to either under- or over-regulate new technologies, and (4) the potential for technology to make existing rules obsolete.<sup>47</sup>

Part III will describe the congressional oversight hearings for the three major social media issues—anti-competitive behavior, privacy, and content control—and provide analysis of those hearings, with particular attention to whether the hearings were provoked by a particular event or fire-alarm, explicitly designed to formulate or amend legislation, or involved traditional oversight of agencies.<sup>48</sup> Before delving into this discussion, it is important to place the hearings in their political context. The 114th Congress met from January 3, 2015, to January 3, 2017, with Republicans in control of both houses of Congress and Democrats in control of the executive branch with President Obama.<sup>49</sup> The 115th Congress met from January 3, 2017, to January 3, 2019, with Republicans once again in control of both houses of Congress as well as the White House with President Trump.<sup>50</sup> The 116th Congress began in January 3, 2019, with Democrats in control of the House and with Republicans holding both the Senate and Presidency.<sup>51</sup>

### III. ANALYSIS OF SOCIAL MEDIA OVERSIGHT

#### *A. Anti-Competitive Behavior*

Since 2015, there have been at least sixteen congressional hearings discussing the question of online platforms and marketplace competition.<sup>52</sup> Congress held eight in 2019, four in 2018, one in 2017, one in 2016, and

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47. L. B. Moses, *Recurring Dilemmas: The Law's Race to Keep Up with Technological Change*, 2 U. ILL. J.L., TECH. & POL'Y 239, 248 (2007).

48. See *infra* Part III.

49. *Past Days in Session of the U.S. Congress*, CONGRESS, <https://www.congress.gov/past-days-in-session> [<https://web.archive.org/web/20200405174825/https://www.congress.gov/past-days-in-session>] (last visited Mar. 26, 2020).

50. *Id.*

51. *Id.*

52. See *infra* Appendix 1. Although the goal has been to identify all hearings on each issue, it is likely that some hearings have not been identified. The number of hearings for each issue, therefore, is likely to be an undercount.

two in 2015.<sup>53</sup> Clearly, there was a “burst” of activity in 2019, with seven of the eight hearings that year being held by House committees under new Democratic leadership.<sup>54</sup> The two hearings in 2015 were responses to the FCC’s actions regarding net neutrality, with the Senate considering a bill to revise FCC authority and the House examining FCC rulemaking actions to protect internet neutrality.<sup>55</sup> In contrast, the 2017 and 2018 hearings do not seem to have been in response to any particular event or action but generally addressed broadband access and the competitiveness of the international environment.<sup>56</sup> The 2019 hearings were in response to increasing public concern, press coverage, and presidential candidate discussions about the possible need to break up large internet players.<sup>57</sup>

Committee activity on the issue of online platforms and anti-competitive behavior has been similarly situated in judiciary and commerce committees in both houses, with the Senate having one hearing (September 8, 2016) in the Subcommittee on Regulatory Affairs and Federal Management.<sup>58</sup> On the Senate side, the full Committee on Commerce, Science, and Transportation held two hearings (January 30, 2018, and January 21, 2015), while the Subcommittee on Antitrust of the Judiciary Committee (September 24, 2019) and the Subcommittee on Communications, Technology, Innovation, and the Internet (July 31, 2018) each held one.<sup>59</sup> On the House side, the full Committee on the Judiciary held one hearing (March 25, 2015) and its Subcommittee on Antitrust held five hearings (January 17, 2020; November 13, 2019; October 18, 2019; July 16, 2019; and June 11, 2019), while the Subcommittee on Communication and Technology of the Committee on Energy and Commerce held five hearings (March 12, 2019; February 7, 2019; May 16, 2018; April 17, 2018; and March 21, 2017).<sup>60</sup> The committee oversight for this issue is thus fairly concentrated and not overly fragmented.

Of the seventy witnesses that appeared at congressional hearings on the issue of anti-competitive behavior and internet actors, half were from industry, with twenty-five representing companies and ten representing industry-related groups.<sup>61</sup> In contrast, eleven of the witnesses represented public interest groups, seven were academics, and six were from think

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53. *See infra* Appendix 1.

54. *See infra* Appendix 1, pp. 41–43.

55. *See infra* Appendix 1, p. 45.

56. *See infra* Appendix 1, pp. 43–44.

57. *See infra* Appendix 1, pp. 41–43.

58. *See infra* Appendix 1, p. 45.

59. *See infra* Appendix 1, pp. 42–45.

60. *See infra* Appendix 1, pp. 41–45.

61. *See infra* Appendix 1.

tanks.<sup>62</sup> Only nine witnesses were from government, and two were attorneys.<sup>63</sup>

In order to provide a sense of the dynamics of congressional oversight for this issue, the activities of the House Subcommittee on Antitrust should be described in some detail. This subcommittee has thirteen members, with David N. Cicilline (D-RI) as chair and James Sensenbrenner (R-WI) as ranking member.<sup>64</sup> The four hearings of the House Subcommittee on Antitrust were all directed at examining the impact of dominant digital platforms on innovation, business, and digital marketplace competition, as well as reviewing FTC and DOJ antitrust enforcement issues.<sup>65</sup> On June 3, 2019, the House Judiciary Committee revealed plans to conduct a bipartisan investigation of competition in digital markets.<sup>66</sup> The Subcommittee on Antitrust, Commercial, and Administrative Law then held hearings regarding the rise of online market power and requests for relevant information from Facebook, Amazon, Google, and Apple.<sup>67</sup> The Committee's investigation focused on three key areas: "[d]ocumenting competition problems in digital markets; [e]xamining whether dominant firms are engaging in anti-competitive conduct; and [a]ssessing whether existing antitrust laws, competition policies, and current enforcement levels are adequate to address these issues."<sup>68</sup>

The first hearing focused on the effects on the news industry, with witnesses reflecting traditional media, digital media, and industry associations.<sup>69</sup> A witness statement, provided by a nonprofit trade association representing newspapers that publish both in print and online, sums up a main concern of witnesses:

The platforms' and news organizations' mutual reliance upon one another would not be a problem if not for the fact that concentration among the platforms means a small cadre of tech

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62. See *infra* Appendix 1.

63. See *infra* Appendix 1.

64. *Subcommittees*, U.S. HOUSE COMMITTEE ON THE JUDICIARY, <https://judiciary.house.gov/subcommittees/antitrust-commercial-and-administrative-law-116th-congress/>

[<http://web.archive.org/web/20200406235818/https://judiciary.house.gov/subcommittees/antitrust-commercial-and-administrative-law-116th-congress/>] (last visited Apr. 2, 2020).

65. See *infra* Appendix 1, pp. 41–42.

66. *Digital Markets Investigation*, U.S. HOUSE COMMITTEE ON THE JUDICIARY, <https://judiciary.house.gov/issues/issue/?IssueID=14921>

[<https://web.archive.org/web/20200405175640/https://judiciary.house.gov/issues/issue/?IssueID=14921>] (last visited Apr. 2, 2020).

67. *Id.*

68. *Id.*

69. See *infra* Appendix 1, p. 42.

giants exercise an extreme level of control over news. At the same time, those same platforms also control the digital advertising technologies that news organizations use to monetize traffic. This has proven to be a dangerous combination.<sup>70</sup>

In terms of solutions, the witness from Public Knowledge noted that “we cannot rely on antitrust alone to address the problems of platform power. We need a sector-specific regulator with expertise in how digital platforms operate and authority to affirmatively promote competition.”<sup>71</sup> However, industry representatives were less enthusiastic about the use of antitrust laws and were more supportive of incentives to encourage competition among smaller players.<sup>72</sup>

The witnesses also noted overlaps between the problem of market concentration and other social media policy issues. Public Knowledge specifically pointed out the overlap between market concentration and misinformation, noting that “[a]ny solution focused on news must address the concerns of misinformation and lack of trust in the news. The new expert regulator can set up systems of content moderation for platforms to pay for various mechanisms of information reliability.”<sup>73</sup> A statement for the record submitted by the Electronic Privacy Information Center (EPIC) pointed out a similar overlap with privacy: “[A]n absence of privacy regulation has led to a growing concentration of internet services. Privacy rules could help level the playing field.”<sup>74</sup>

The second set of hearings on July 16, 2019, tackled the question of innovation and entrepreneurship with a first panel of witnesses from the key players—Google, Facebook, Amazon, and Apple.<sup>75</sup> Not surprisingly, all four touted the benefits they had created for new entrants to the online market and for consumers.<sup>76</sup> The second panel took a more skeptical view.

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70. *Online Platforms and Market Power, Part 1: The Free and Diverse Press: Hearing Before the Subcomm. on Antitrust, Commercial and Administrative Law of the H. Comm. on the Judiciary*, 116th Cong. (2019) (statement of David Chavren, President and CEO of News Media Alliance).

71. *Id.* (statement of Gene Kimmelman, President and CEO of Public Knowledge).

72. *See, e.g., id.* (statement of Matt Schruers, Vice President for Law and Policy Computer & Communications Industry Association).

73. *Id.* (testimony of Gene Kimmelman, President and CEO of Public Knowledge).

74. *Id.* (statement of EPIC).

75. *See infra* Appendix 1, p. 42.

76. *See Online Platforms and Market Power Part 2: Innovation and Entrepreneurship: Hearing Before the Subcomm. on Antitrust, Commercial, and Administrative Law of the H. Comm. on the Judiciary*, 116th Cong. (2019) (statements of Adam Cohen, Director of Economic Policy, Google; Matt Perault, Head of Global Policy Development, Facebook; Nate Sutton, Associate General Counsel, Competition, Amazon; and Kyle Andeer, Vice President, Corporate Law, Apple).

For example, Stacy F. Mitchell, witness for the public interest group Institute for Local Self-Reliance, testified that Amazon’s platform dominance was harming entrepreneurship and innovation, threatening economic liberty, “eroding the economic capacity” of communities and regions, and furthering the concentration of wealth.<sup>77</sup> Other, more industry-centered witnesses, such as The App Association and NetChoice, however, advised that an antitrust approach needed to be based on evidence that it was necessary and would be effective, as well as that it should be used cautiously.<sup>78</sup> In addition to witness testimony, fifteen organizations submitted statements for the record.<sup>79</sup>

The third set of hearings addressed the role that data and privacy play with competition.<sup>80</sup> In her statement before the subcommittee, FTC Commissioner Rohit Chopra emphasized the economic value of personal data in contributing to the market power of key players and took the position that “remedies should not be directed at the data itself, but rather the structural incentives that are leading to the problems in the first place.”<sup>81</sup> In other words, the solution should not be targeted at privacy per se but at market forces.<sup>82</sup> A witness familiar with European solutions made a similar point: “Limited data protection can therefore lead to both exploitative and exclusionary conduct by dominant platforms.”<sup>83</sup> Not surprisingly, this point was challenged by the witness from the American Enterprise Institute.<sup>84</sup> In addition to the two panels of witnesses, ten statements for the record were submitted.<sup>85</sup>

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77. *See id.* (statement of Stacy F. Mitchell, Co-Director, Institute for Local Self-Reliance).

78. *See id.* (statements of Carl Szabo, Vice President and General Counsel, NetChoice; and Morgan Reed, Executive Director, The App Association).

79. *Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship*, HOUSE JUDICIARY COMMITTEE (July 16, 2019), <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=2258> [<https://web.archive.org/web/20200405183903/https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=2258>] (listing statements submitted for the record).

80. *See infra* Appendix 1, p. 42.

81. *Online Platforms and Market Power Part 3: The Role of Data and Privacy in Competition: Hearing Before the Subcomm. on Antitrust, Commercial, and Administrative Law of the H. Comm. on the Judiciary*, 116th Cong. (2019) (statement of Rohit Chopra, Commissioner, FTC).

82. *Id.*

83. *Id.* (statement of Tommaso Valletti, Ph.D., Professor of Economics, Imperial College Business School at Imperial College London).

84. *See id.* (statement of Roslyn Layton, Ph.D., Visiting Scholar, American Enterprise Institute).

85. *Hearing: Online Platforms and Market Power, Part 3: The Role of Data and Privacy in Competition*, U.S. HOUSE OF REPRESENTATIVES COMMITTEE REPOSITORY (Oct. 18, 2019, 9:00 AM),

The fourth hearing gave the FTC and the Antitrust Division of the DOJ an opportunity to present their enforcement activities and policies.<sup>86</sup> The final hearing in this series focused on the views of some of the newer competitors in the digital economy. PopSockets, for example, described “the strong-arming and bullying” of Amazon Retail, which led it to end its relationship with Amazon, causing it to lose an estimated ten million dollars in revenue.<sup>87</sup> Similarly, a representative from Sonos noted that his company was “strong enough and successful enough to say what goes largely unspoken, but remains very much on the minds of countless tech entrepreneurs at smaller firms and people thinking about starting new businesses.”<sup>88</sup> He further added that “[o]ne reason [smaller firms] do not speak up is that they’re afraid of how dominant platforms could retaliate against their businesses.”<sup>89</sup> In addition to these congressional hearings, the DOJ is reviewing the power of internet platforms and large players, the FTC is opening antitrust investigations into some large internet players, including Facebook, and several state attorneys general are investigating Facebook and Google.<sup>90</sup>

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<https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=110098>

[<https://web.archive.org/web/20200405184438/https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=110098>] (listing statements submitted for the record).

86. See *Online Platforms and Market Power, Part 4: Perspectives of the Antitrust Agencies: Hearing Before the Subcomm. on Antitrust, Commercial, and Administrative Law of the H. Comm. on the Judiciary*, 116th Cong. (2019) (statements of Makan Delrahim, Assistant Attorney General, Department of Justice, Antitrust Division; and Joseph Simons, Chairman, Federal Trade Commission).

87. *Online Platforms and Market Power Part 5: Competitors in the Digital Economy: Hearing Before the Subcomm. on Antitrust, Commercial, and Administrative Law of the H. Comm. on the Judiciary*, 116th Cong. (2020) (statement of David Barnett, CEO and Founder, PopSockets LLC).

88. *Id.* (statement of Patrick Spence, CEO, Sonos, Inc.).

89. *Id.*

90. Tony Romm et al., *Justice Department announces broad antitrust review of Big Tech*, WASH. POST (July 23, 2019, 7:34 PM), <https://www.washingtonpost.com/technology/2019/07/23/justice-department-announces-antitrust-review-big-tech-threatening-facebook-google-with-more-scrutiny/> [<https://web.archive.org/web/20200325123823/https://www.washingtonpost.com/technology/2019/07/23/justice-department-announces-antitrust-review-big-tech-threatening-facebook-google-with-more-scrutiny/>]; John D. McKinnon & Deepa Seetharaman, *FTC Expands Antitrust Investigation Into Big Tech*, WALL ST. J. (Feb. 11, 2020), <https://www.wsj.com/articles/ftc-plans-to-examine-past-acquisitions-by-big-tech-companies-11581440270>

[<https://web.archive.org/web/20200325123903/https://www.wsj.com/articles/ftc-plans-to-examine-past-acquisitions-by-big-tech-companies-11581440270>]; Annie Palmer, *47 Attorneys General Are Investigating Facebook for Antitrust Violations*, CNBC (Oct. 22, 2019, 11:07 AM), <https://www.cnb.com/2019/10/22/47-attorneys-general-are-investigating-facebook-for-antitrust-violations.html>

*B. Privacy*

In comparison to the sixteen hearings on anti-competitive behavior of large internet players, there have been nineteen hearings on online privacy from 2015 to 2019, with the Senate holding twelve hearings and the House holding seven hearings.<sup>91</sup> On the Senate side, the Banking, Housing, and Urban Affairs Committee held two hearings (July 16, 2019, and May 7, 2019)<sup>92</sup> while the Committee on Commerce, Science, and Transportation held five hearings (December 4, 2019; May 1, 2019; February 27, 2019; September 26, 2018; and February 11, 2015)<sup>93</sup> and its Subcommittee on Consumer Protection held three hearings (March 26, 2019; June 19, 2018; and February 6, 2018).<sup>94</sup> Additionally, the Senate Commerce and Judiciary Committees held a joint hearing (April 10, 2018) that received considerable media coverage.<sup>95</sup> On the House side, the Energy and Commerce Committee held three hearings (May 8, 2019; February 26, 2019; and April 11, 2018) and its Subcommittee on Communication and Technology held two hearings (June 14, 2016, and July 28, 2015).<sup>96</sup> The Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet held one hearing (July 29, 2015),<sup>97</sup> and the Committee on Oversight and Government Reform's Subcommittee on Information Technology held one hearing (April 29, 2015).<sup>98</sup> As with the anti-competitive hearings, there was a "burst" of activity in 2019 with eight hearings held, but this burst was greater on the Senate side, with six Senate hearings and only two in the newly Democratic House.<sup>99</sup>

Of the sixty-five witnesses who appeared before congressional committees on privacy issues more than half were industry-related, with twenty-two representing companies and thirteen representing industry

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[<https://web.archive.org/web/20200325123956/https://www.cnbc.com/2019/10/22/47-attorneys-general-are-investigating-facebook-for-antitrust-violations.html>].

91. *See infra* Appendix 2.

92. *See infra* Appendix 2.

93. *See infra* Appendix 2.

94. *See infra* Appendix 2.

95. *See infra* Appendix 2, p. 48; *see also* Kurt Wagner, *Live updates from Mark Zuckerberg's testimony to Congress Tuesday*, VOX (Apr. 10, 2018, 7:30 PM), <https://www.vox.com/2018/4/10/17216734/live-facebook-mark-zuckerberg-testimony-senate-hearing-data>

[<https://web.archive.org/web/20200325124105/https://www.vox.com/2018/4/10/17216734/live-facebook-mark-zuckerberg-testimony-senate-hearing-data>].

96. *See infra* Appendix 2.

97. *See infra* Appendix 2.

98. *See infra* Appendix 2.

99. *See infra* Appendix 2, pp. 46–47.

associations or interest groups.<sup>100</sup> Thirteen witnesses were from government, primarily from either the FTC or FCC.<sup>101</sup> Of the sixty-five witnesses, only seven expressed the views of public interest groups, only six were academics, and only one was an international witness.<sup>102</sup>

With respect to subject matter, the congressional hearings on privacy addressed a number of issues and lacked a clear focus. For example, the hearings covered Facebook's development of a new cryptocurrency, Big Data, privacy policies in major companies, Cambridge Analytica, the Uber data breach, the Internet of Things, and data encryption.<sup>103</sup> Only one hearing was focused on FTC's online privacy enforcement, while three hearings addressed the FCC's newer role with respect to privacy.<sup>104</sup> Four of the 2019 hearings in the Senate focused on more general issues regarding privacy rights in the digital economy and possible policy solutions.<sup>105</sup>

Despite the wide range of topics, the hearings generally fell into one of three tracks. The first track concerned responding to new technological changes, such as the Internet of Things and Big Data, and gathering information on the status and implications of these changes.<sup>106</sup> These hearings appeared more narrowly focused on, and tended to call more witnesses from, the sectors directly affected.<sup>107</sup> For example, on July 29, 2015, the House Subcommittee on Courts, Intellectual Property, and the Internet heard testimony from The App Association, the IT Industry Council, the Consumer Electronics Association, and the Alliance of Automobile Manufacturers.<sup>108</sup> The subcommittee did not hear accompanying testimony from privacy advocacy groups or academics.<sup>109</sup>

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100. *See infra* Appendix 2.

101. *See infra* Appendix 2.

102. *See infra* Appendix 2.

103. *See infra* Appendix 2.

104. *See infra* Appendix 2 (noting the FTC hearing on May 8, 2019 and the FCC hearings on August 16, 2018; June 14, 2016; and July 28, 2015).

105. *See infra* Appendix 2 (referencing hearings that occurred on September 26, 2018; February 27, 2019; May 7, 2019; and December 4, 2019).

106. *See infra* Appendix 2, pp. 47–50 (referencing hearings that occurred on February 26, 2019; July 29, 2015; and February 11, 2015).

107. *See infra* Appendix 2, pp. 47–50 (referencing hearings that occurred on February 26, 2019; July 29, 2015; and February 11, 2015).

108. *See* Joshua New, *What Congress Wants to Know About the Internet of Things*, CTR. FOR DATA INNOVATION (July 29, 2015), <https://www.datainnovation.org/2015/07/what-congress-wants-to-know-about-the-internet-of-things/>

[<https://web.archive.org/web/20200325124151/https://www.datainnovation.org/2015/07/what-congress-wants-to-know-about-the-internet-of-things/>]; *see also infra* Appendix 2, p. 62.

109. *Id.*



This hearing, thus, fits a pattern of more pluralist interest group input with testimony from those sectors directly affected by proposed policy changes rather than testimony from experts or public interest groups.

The second track was concerned with responding to specific privacy breaches.<sup>110</sup> The February 6, 2018, hearing on the Uber breach and coverup brought witnesses not only from Uber but also from security experts and Consumer Union, creating a more balanced hearing.<sup>111</sup> The joint Senate Commerce and Judiciary Committee hearing on April 10, 2018, was in response to the Facebook–Cambridge Analytica breach.<sup>112</sup> This hearing revealed the lack of knowledge on the part of many Senators.<sup>113</sup> The House Energy and Commerce Committee held a similar hearing on April 11, 2018, and the Senate Subcommittee on Consumer Protection followed suit with its June 19, 2018, hearing regarding Cambridge Analytica, where it called witnesses who were again critical of the activities.<sup>114</sup>

The third track was focused primarily on policy options. This track drew a broad group of witnesses, as indicated above, but only in the last hearing focused on particular legislative proposals.<sup>115</sup> Other policy proposals continue to be introduced, such as Senator Gillibrand’s proposal to establish a Data Protection Agency.<sup>116</sup>

To provide a sense of the dynamics of congressional oversight for online privacy, the three Senate Committee on Commerce hearings that occurred in 2019 should be briefly reviewed. The Senate Commerce Committee is chaired by Roger Wicker (R-MS) with Maria Cantwell (D-

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110. See *infra* Appendix 2, p. 48 (referencing hearings that occurred on June 19, 2018; April 11, 2018; April 10, 2018; and February 6, 2018).

111. See *infra* Appendix 2, p. 48.

112. See *infra* Appendix 2, p. 48.

113. See Kevin Roose & Cecilia Kang, *Mark Zuckerberg Testifies on Facebook Before Skeptical Lawmakers*, N.Y. TIMES (Apr. 18, 2018), <https://www.nytimes.com/2018/04/10/us/politics/zuckerberg-facebook-senate-hearing.html>

[<https://web.archive.org/web/20200325124307/https://www.nytimes.com/2018/04/10/us/politics/zuckerberg-facebook-senate-hearing.html>].

114. See *Cambridge Analytica and Other Facebook Partners: Examining Data Privacy Risks: Hearing Before the Subcomm. on Consumer Protection, Product Safety, Insurance, and Date Security of the S. Comm. on Commerce, Science, and Transportation*, 116th Cong. (2018) (statement of John Battelle, CEO, NewCo); see also *infra* Appendix 2, p. 48.

115. See *infra* Appendix 2, p. 48.

116. Sen. Kirsten Gillibrand, *The U.S. Needs a Data Protection Agency*, MEDIUM (Feb. 12, 2020), <https://medium.com/@gillibrandny/the-u-s-needs-a-data-protection-agency-98a054f7b6bf>

[<https://web.archive.org/web/20200325124354/https://medium.com/@gillibrandny/the-u-s-needs-a-data-protection-agency-98a054f7b6bf>].

WA) as ranking member.<sup>117</sup> The panel for the February 27, 2019, hearing drew four representatives from more industry-oriented associations, one representative from academia, and one representative from a privacy advocacy group.<sup>118</sup> The industry advocates cautioned against “overly prescriptive methods.”<sup>119</sup> The May 1, 2019, hearing was focused on policy options—hence, the title “Consumer Perspectives: Policy Principles for a Federal Data Privacy Framework”—and included four witnesses, three from privacy advocacy groups and one from the Irish Data Protection Agency.<sup>120</sup> The four largely agreed that the current privacy framework is ineffective and that stronger legislation is needed, but they voiced some disagreement about federal preemption of state laws and the degree of oversight and enforcement needed.<sup>121</sup>

The December 4, 2019, hearing was viewed as the culmination of the work of the Committee; Chairman Wicker noted in his opening remarks:

For the past year, members of this committee have worked to develop a strong, national privacy law that would provide baseline data protections for all Americans. Given the 2018 implementation of the European Union’s General Data Protection Regulation, the passage of the California Consumer Privacy Act, and near-daily reports of data breaches and misuse, it is clear that Congress needs to act now to provide stronger and more meaningful data protections to consumers and address the privacy risks that threaten the prosperity of the nation’s digital economy.<sup>122</sup>

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117. *Committee Members*, SENATE COMMITTEE ON COMMERCE, SCI., & TRANSP. (2020), <https://www.commerce.senate.gov/members> [<https://web.archive.org/web/20200325124441/https://www.commerce.senate.gov/members>].

118. *See infra* Appendix 2, p. 47.

119. *Policy Principles for a Federal Data Privacy Framework: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 116th Cong. 2 (2019) (statement of Michael Beckerman, President and CEO, Internet Association).

120. *See id.* (statements of Helen Dixon, Data Protection Commissioner, Republic of Ireland; Neema Singh Guliani, Senior Legislative Counsel, American Civil Liberties Union; Jules Polonetsky, Chief Executive Officer, Future of Privacy Forum; and Jim Steyer, Chief Executive Officer and Founder, Common Sense Media).

121. *See id.*

122. *Examining Legislative Proposals to Protect Consumer Data Privacy: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 116th Cong. (2019) [hereinafter *December Hearing*] (statement of Sen. Roger Wicker, Chairman, Senate Committee on Commerce, Science, and Transportation).

The primary bill under discussion was the Consumer Online Privacy Act, which would provide more rights to consumers and greater FTC enforcement, and which was co-sponsored by Senators Cantwell, Schatz, Klobuchar, and Markey.<sup>123</sup> There was also discussion of a draft consumer privacy bill, written by Republican Senator Roger Wicker's staff, that would pre-empt state laws but would not include a private right of action.<sup>124</sup> All the witnesses supported more effective privacy legislation, though they quibbled over certain aspects—especially pre-emption of state laws and private right of action.<sup>125</sup> It is possible that legislation will receive serious floor attention before the 2020 elections, given the relatively high level of consensus on most issues and the work of the Commerce Committee staff.<sup>126</sup> For its part, the March 2019 Subcommittee on Manufacturing, Trade, and Consumer Protection hearing was also focused on policy options.<sup>127</sup>

### *C. Content Control*

There were twenty-one hearings on content control for internet sites from 2015 to 2019, with hearings only beginning in 2017.<sup>128</sup> Hearings were almost evenly split between the Senate and House, with the Senate holding eleven hearings and the House holding ten hearings.<sup>129</sup> The Senate held two hearings in the Commerce Committee (March 22, 2017, and September 18, 2019), and it held one in the Judiciary Committee (April

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123. See Consumer Online Privacy Rights Act, S. 2968, 116th Cong. (2019).

124. David Shepardson & Diane Bartz, *Republican privacy bill would set U.S. Rules, pre-empt California: senator*, REUTERS (Dec. 2, 2019, 5:03 PM), <https://www.reuters.com/article/us-usa-privacy-congress/republican-privacy-bill-would-set-us-rules-pre-empt-california-senator-idUSKBN1Y62EO> [<https://web.archive.org/web/20200325124557/https://www.reuters.com/article/us-usa-privacy-congress/republican-privacy-bill-would-set-us-rules-pre-empt-california-senator-idUSKBN1Y62EO>].

125. See *December Hearing*, *supra* note 122 (statements of Julie Brill, Deputy General Counsel, Microsoft; Maureen Ohlhausen, Co-Chair, 21st Century Privacy Coalition; Laura Moy, Executive Director and Associate Professor of Law, Georgetown Law Center on Privacy & Technology; Nuala O'Connor, Senior Vice President and Chief Counsel, Digital Citizenship at Walmart; and Michelle Richardson, Director of Privacy and Data, Center for Democracy and Technology).

126. Cameron F. Kerry, *Game on: What to make of Senate privacy bills and hearings*, BROOKINGS INST. (Dec. 3, 2019), <https://www.brookings.edu/blog/techtank/2019/12/03/game-on-what-to-make-of-senate-privacy-bills-and-hearing/> [<https://web.archive.org/web/20200325124714/https://www.brookings.edu/blog/techtank/2019/12/03/game-on-what-to-make-of-senate-privacy-bills-and-hearing/>].

127. See *infra* Appendix 2, p. 47.

128. See *infra* Appendix 3.

129. See *infra* Appendix 3.

10, 2019).<sup>130</sup> The Senate held seven hearings in the Intelligence Select Committee (January 10, 2017; March 30, 2017; June 21, 2017; November 1, 2017; June 20, 2018; August 1, 2018; and September 5, 2018).<sup>131</sup> The House held ten hearings with five committees or their subcommittees: Foreign Affairs (July 16, 2019), Homeland Security (June 26, 2019), Oversight and Reform (May 22, 2019), Energy and Commerce (September 5, 2018; June 14, 2018; March 7, 2018; and November 29, 2017), and Judiciary (April 9, 2019; September 27, 2018; and July 17, 2018).<sup>132</sup> As with the privacy and anti-competitive hearings, there was a burst of activity in 2019, along with an earlier burst in 2018.<sup>133</sup>

Of the eighty-six witnesses who appeared before these congressional committees, thirty-four were from industry and one was from an industry-related interest group.<sup>134</sup> Seventeen were academic, ten were from government, ten were from think tanks, ten were from public interest groups, and four were from a variety of other organizations (e.g., reporters and victims).<sup>135</sup>

A range of topics were covered at these hearings. The 2019 hearings focused on extremism and violent content, as well as election interference.<sup>136</sup> The 2018 hearings focused on alleged bias and censorship of conservative viewpoints, social media's filtering of content, and behavioral advertising techniques.<sup>137</sup> The 2017 hearings focused on cyber threats and the use of algorithms to personalize content to consumers.<sup>138</sup> Most of these hearings are classified as "fire-alarms" driven by specific events, such as the 2016 elections or the terrorist attack in New Zealand.<sup>139</sup> The hearings were less about oversight activities of an agency or the effectiveness of existing policies and were more about gathering information, such as how social media companies make decisions about content, what technologies are used for these purposes, and how companies can strengthen their efforts to identify disinformation while remaining transparent.<sup>140</sup>

Like with the issues discussed above, it is important to review a few of these hearings on content control to understand the dynamics at play. In

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130. *See infra* Appendix 3.

131. *See infra* Appendix 3.

132. *See infra* Appendix 3.

133. *See infra* Appendix 3, pp. 50–53.

134. *See infra* Appendix 3.

135. *See infra* Appendix 3.

136. *See infra* Appendix 3, pp. 50–51.

137. *See infra* Appendix 3, pp. 52–53.

138. *See infra* Appendix 3, pp. 53–55.

139. *See infra* Appendix 3.

140. *See infra* Appendix 3.

response to the New Zealand shooting and the role of social media companies in the growth of white nationalism and hate crimes, the House Judiciary Committee held hearings on April 9, 2019, to address the role of social media in the proliferation of white nationalism.<sup>141</sup> The hearing included testimony from victims, civil and human rights groups, as well as Facebook and Google.<sup>142</sup> In member questioning, groups expressed strong emotions along with a variety of opinions and partisan differences.<sup>143</sup>

On April 10, 2019, the Senate Judiciary Committee heard testimony regarding whether technology companies enable the censorship of different political perspectives.<sup>144</sup> The hearing had two panels.<sup>145</sup> The first panel heard testimony from representatives of Twitter and Facebook, while the second panel heard from academics, victims, and civil society groups.<sup>146</sup> Chairman Cruz began with the question of remedies for anti-conservative bias—such as changing liability under Section 230 of the Communications Act, anti-trust violations, and fraud.<sup>147</sup> Chairman Cruz also questioned the lack of data regarding the practices of social media companies.<sup>148</sup> Ranking Member Hirono took a different track, emphasizing the importance of disinformation and election interference and underlining the lack of evidence of anti-conservative bias.<sup>149</sup> The hearing continued to take a more partisan tone.<sup>150</sup>

One reporter summarized the difference between the April hearings in the House and Senate Judiciary Committees as follows:

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141. *See infra* Appendix 3, p. 51.

142. *See infra* Appendix 3, p. 51.

143. *See* Associated Press, *The Latest: Facebook, Google Grilled on White Supremacy Rise*, U.S. NEWS (Apr. 9, 2019), <https://www.usnews.com/news/business/articles/2019-04-09/the-latest-lawmakers-criticize-social-media-for-hate-crimes> [<https://web.archive.org/web/20200325124810/https://www.usnews.com/news/business/articles/2019-04-09/the-latest-lawmakers-criticize-social-media-for-hate-crimes>].

144. *See infra* Appendix 3, p. 51.

145. *See Stifling Free Speech: Technological Censorship and the Public Discourse*, SENATE COMMITTEE ON THE JUDICIARY (Apr. 10, 2019, 2:30 PM), <https://www.judiciary.senate.gov/meetings/stifling-free-speech-technological-censorship-and-the-public-discourse> [<https://web.archive.org/web/20200325124850/https://www.judiciary.senate.gov/meetings/stifling-free-speech-technological-censorship-and-the-public-discourse>] (including embedded video of hearing).

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

[T]he stark contrast between the two hearings demonstrates how this industry has become embroiled in yet more culture wars between the right and the left. That's not to say that holding social media platforms accountable for the spread of white nationalism and other hate speech is not important, or that policing one's platforms can't be tricky to enact fairly, but it's a sign that of all the meaty and potentially bipartisan issues Congress could choose to focus on, they're choosing the ones their respective bases are most invested in at this moment.<sup>151</sup>

At the June 26, 2019, hearing before the House Homeland Security Committee, there were four witnesses—three from social media companies and one from a law school.<sup>152</sup> The Facebook representative noted the difficulties of identifying terrorist content but stated that the company relied on both artificial intelligence and 30,000 human examiners to review content reported by users as violating Facebook's policies.<sup>153</sup> She also mentioned the Global Internet Forum to Counter Terrorism (GIFCT), a partnership among Google, Facebook, YouTube, Microsoft, and Twitter to share information.<sup>154</sup> Twitter's representative reported a similar strategy of machine learning and human review, which was successful in suspending more than 1.5 million accounts for violations related to the promotion of terrorism between August 1, 2015, and December 31, 2018.<sup>155</sup> Google's representative likewise described Google and YouTube's efforts to combat terror content and misinformation.<sup>156</sup> Professor Nadine Strossen, a former president of the ACLU, cautioned that the discretion that companies have in controlling content could violate free speech, and she further warned Congress that content control methods may be ineffective in light of alternate avenues like the dark web.<sup>157</sup> She also emphasized that, while the public does not have the right to speech on social media sites, the companies are entitled to choose what they will post

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151. Li Zhou, *Republicans and Democrats have completely different priorities on tech*, VOX (Apr. 9, 2019, 7:10 AM), <https://www.vox.com/2019/4/9/18300659/facebook-google-congress-hearing-white-nationalism-censorship> [<https://web.archive.org/web/20200325124936/https://www.vox.com/2019/4/9/18300659/facebook-google-congress-hearing-white-nationalism-censorship>].

152. See *infra* Appendix 3, p. 50.

153. *Examining Social Media Companies' Effort to Counter Online Terror Content and Misinformation: Hearing Before the H. Comm. on Homeland Security*, 116th Cong. (2019) (statement of Monika Bickert, Head of Global Policy Management, Facebook).

154. *Id.*

155. *Id.* (statement of Nick Pickles, Senior Public Policy Strategist, Twitter).

156. *Id.* (statement of Derek Slater, Director of Information Policy, Google).

157. *Id.* (statement of Nadine Strossen, John Marshall Harlan II Professor of Law, New York Law School).

on their platforms under Section 230 of the Communications Decency Act.<sup>158</sup> Members questioned why different platforms took down different content and pointed out the inconsistencies in policies.<sup>159</sup> Republican members queried whether there was a cultural or political bias in decisions about suppressing content.<sup>160</sup> In general, members were quite critical of the ability of companies to deliver on effective control of terrorist content and misinformation and were frustrated by the amount of apologizing that the companies do.<sup>161</sup>

The House hearings were instrumental in drafting the National Commission on Online Platforms and Homeland Security Act, which the House Homeland Security Committee unanimously voted to advance for floor consideration on October 23, 2019.<sup>162</sup> The bill would create a twelve-member bipartisan commission of experts to research “how online platforms have been exploited to carry out mass-casualty targeted violence”—including acts of domestic and international terrorism as well as “covert foreign state influence campaigns.”<sup>163</sup> Privacy and civil liberties groups, however, are not supportive of the bill due to concerns that government intervention in online speech would constitute censorship and violate the First Amendment.<sup>164</sup>

Under the Senate Select Committee on Intelligence’s mandate to oversee the government’s intelligence activities and programs, including the effectiveness of its counterintelligence function, the Committee held seven high-profile hearings on Russian interference and the general issue of disinformation in the 2016 election.<sup>165</sup> Additionally, because of the

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158. *Id.*

159. See *Examining Social Media Companies’ Efforts to Counter Online Terror Content and Misinformation*, HOUSE COMMITTEE ON HOMELAND SECURITY (June 26, 2019, 10:00 AM), <https://homeland.house.gov/activities/hearings/examining-social-media-companies-efforts-to-counter-online-terror-content-and-misinformation> [<https://web.archive.org/web/20200325125013/https://homeland.house.gov/activities/hearings/examining-social-media-companies-efforts-to-counter-online-terror-content-and-misinformation>] (including embedded video of hearing).

160. *Id.*

161. *Id.*

162. Emily Birnbaum & Chris Mill Rodrigo, *House Homeland Security Committee advances online extremism bill*, THE HILL (Oct. 23, 2019, 10:40 AM), <https://thehill.com/policy/national-security/467076-house-homeland-committee-advances-online-extremism-bill>, [<https://web.archive.org/web/20200325125107/https://thehill.com/policy/national-security/467076-house-homeland-committee-advances-online-extremism-bill>].

163. *Id.*

164. *Id.*

165. See *infra* Appendix 3, pp. 52–55 (referencing hearings that occurred on September 5, 2018; August 1, 2018; June 20, 2018; November 1, 2017; June 21, 2017; March 30, 2017; and June 10, 2017).

classified nature of the issue, the Committee conducted closed-door interviews of a number of witnesses.<sup>166</sup> The Committee also worked with its Technical Advisory Group, an external group of experts with whom the Committee consults for substantive technical advice, which issued two public reports.<sup>167</sup> As a result of these hearings and investigations, the Committee itself issued a two-volume report (July 25 and October 8, 2019).<sup>168</sup> The report included among its findings that “[Russian operatives] sought to influence the 2016 U.S. presidential election by harming Hillary Clinton’s chances of success and supporting Donald Trump at the direction of the Kremlin.”<sup>169</sup>

#### IV. DISCUSSION AND CONCLUSION

From 2015 to 2019, there was serious and sustained congressional oversight of all three issues—anti-competitive behavior, privacy, and content control—with a total of at least fifty-six hearings that drew a total of 221 witnesses, most of whom represented industry or industry-related groups.<sup>170</sup> The three major social media platforms—Facebook, Google, and Twitter—appeared as witnesses on all three issues.<sup>171</sup> Congressional oversight in all three cases is best characterized as “fire-alarm” oversight.

In all three cases, there were “bursts” of activity—in 2019 for anti-trust and privacy, and in both 2019 and 2018 for content control.<sup>172</sup> Half

166. Karoun Demirjian, *Senate Intelligence Committee to start Russia probe interviews next week*, WASH. POST (Mar. 29, 2017, 5:15 PM), [https://www.washingtonpost.com/powerpost/gop-lawmaker-senate-should-take-lead-on-congress-russia-investigation/2017/03/29/c31d0fb0-1485-11e7-ada0-1489b735b3a3\\_story.html](https://www.washingtonpost.com/powerpost/gop-lawmaker-senate-should-take-lead-on-congress-russia-investigation/2017/03/29/c31d0fb0-1485-11e7-ada0-1489b735b3a3_story.html)

[[https://web.archive.org/web/20200405203650/https://www.washingtonpost.com/powerpost/gop-lawmaker-senate-should-take-lead-on-congress-russia-investigation/2017/03/29/c31d0fb0-1485-11e7-ada0-1489b735b3a3\\_story.html](https://web.archive.org/web/20200405203650/https://www.washingtonpost.com/powerpost/gop-lawmaker-senate-should-take-lead-on-congress-russia-investigation/2017/03/29/c31d0fb0-1485-11e7-ada0-1489b735b3a3_story.html)].

167. Renee DiResta et al., *The Tactics and Tropes of the Internet Research Agency*, NEW KNOWLEDGE (2018),

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1003&context=senatedocs> [<https://web.archive.org/web/20200405204043/https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1003&context=senatedocs>]; Phil Howard et al., *The IRA, Social Media and Political Polarization in the United States, 2012–2018*, COMPUTATIONAL PROPAGANDA RES. PROJECT (2018), <https://comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2018/12/The-IRA-Social-Media-and-Political-Polarization.pdf> [<https://web.archive.org/web/20200405204551/https://comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2018/12/The-IRA-Social-Media-and-Political-Polarization.pdf>].

168. S. REP. NO. 116-XX (2019) (Comm. Report).

169. *Id.* at 4.

170. *See infra* Appendices 1, 2, & 3. As noted earlier, although efforts were made to identify all hearings, this number is likely an undercount of the number of hearings.

171. *See infra* Appendices 1, 2, & 3.

172. *See infra* Appendices 1, 2, & 3.



of the hearings about anti-competitive behavior occurred in 2019, under the new Democratic leadership in the House.<sup>173</sup> These hearings were designed to investigate the scope of the problem.<sup>174</sup> A bit less than half of the hearings regarding online privacy occurred in 2019, but the burst in oversight activity was more prominent on the Senate side.<sup>175</sup> Further, in comparison to the hearings regarding anti-competitive behavior, those regarding privacy were more bipartisan in tone and approach and were more focused on serious consideration of legislation rather than ascertaining the scope of the problem.<sup>176</sup> The 2018 and 2019 bursts in content control hearings were focused on three discrete problems: disinformation, violent content, and election interference.<sup>177</sup> The investigations of disinformation and violent content were quite partisan in tone and approach, while the investigations of election interference were more bipartisan.<sup>178</sup>

Although there are no agreed-upon measures of congressional effectiveness, two suggested measures are: first, the degree of bipartisanship represented in hearings; and second, the impact of bipartisanship on policy.<sup>179</sup> I would suggest a third measure that involves the number of different venues and narratives of oversight as measured by the number of congressional committees involved in oversight—the idea being that more fragmented oversight will actually be less effective.

In terms of the *degree of bipartisanship*, we see variation across the three issues. On issues of anti-competitive behavior, one might expect the Democrats to be more skeptical of market concentration and more concerned about consumers and smaller companies, and this is evident by the fact that antitrust became a hearing subject after the Democrats took

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173. See *infra* Appendix 1.

174. See *infra* Appendix 1.

175. See *infra* Appendix 1.

176. See *infra* Appendix 2.

177. See *infra* Appendix 3.

178. See Eric Geller, ‘*Get your act together*’: *Tech companies face bipartisan congressional uproar over encryption*, POLITICO (Dec. 10, 2019, 2:09 PM), <https://www.politico.com/news/2019/12/10/tech-companies-bipartisan-congress-encryption-080704>

[<https://web.archive.org/web/20200325125257/https://www.politico.com/news/2019/12/10/tech-companies-bipartisan-congress-encryption-080704>]; see also Julian E. Barnes, *Senate Report Criticizes Response to Russian Meddling and Blames Partisanship*, N.Y. TIMES (Feb. 6, 2020), <https://www.nytimes.com/2020/02/06/us/politics/russian-interference-mcconnell.html>

[<https://web.archive.org/web/20200325125339/https://www.nytimes.com/2020/02/06/us/politics/russian-interference-mcconnell.html>].

179. Levin & Bean, *supra* note 30, at 17–18.

control of the House.<sup>180</sup> However, the tone of these hearings is quite bipartisan, with members of both parties probing similar concerns.<sup>181</sup> This may be the result of the more investigatory nature of these hearings. Additionally, it is possible that partisanship may become more pronounced as committees move from identifying the nature of the problem to formulating policy solutions. The exception to bipartisanship is when the discussions involved net neutrality, a policy that Democrats support and Republicans oppose.<sup>182</sup> With respect to online privacy, both parties agree on the general principles of the matter and believe that more regulation is needed.<sup>183</sup> However, both sides disagree with respect to how much regulation is appropriate, though this disagreement is largely confined to federal preemption and a private right of action.<sup>184</sup> On these two questions, Democrats respond “no” and “yes,” respectively, while Republicans respond “yes” and “no.”<sup>185</sup> On issues of content control, there was more partisanship, except in the Senate Select Committee on Intelligence, where members seemed to take a more bipartisan approach.<sup>186</sup> On questions of disinformation and control of controversial content, while there tended to be finger-pointing in terms of what kind of content was controlled by “liberal” internet platforms, both parties seemed to share concerns regarding proposals that would censor and potentially violate the First Amendment.<sup>187</sup>

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180. Cf. Cristiano Lima, *House lawmakers open antitrust probe into tech industry's biggest players*, POLITICO (June 3, 2019, 5:03 PM), <https://www.politico.com/story/2019/06/03/antitrust-tech-industry-google-facebook-1352388> [https://web.archive.org/web/20200325125438/https://www.politico.com/story/2019/06/03/antitrust-tech-industry-google-facebook-1352388].

181. *Id.*

182. Cf. Tony Romm, *Democrats in Congress are promising to do everything they can to stop the FCC from gutting net neutrality*, Vox (July 12, 2017, 1:34 PM), <https://www.vox.com/2017/7/12/15958990/democrats-republicans-net-neutrality-day-of-action-congress-fcc-pai> [https://web.archive.org/web/20200325125530/https://www.vox.com/2017/7/12/15958990/democrats-republicans-net-neutrality-day-of-action-congress-fcc-pai].

183. See Brian Naylor, *Targeting Online Privacy, Congress Sets A New Tone With Big Tech*, NPR (Mar. 13, 2019, 5:00 AM), <https://www.npr.org/2019/03/13/702619020/targeting-online-privacy-congress-sets-a-new-tone-with-big-tech> [https://web.archive.org/web/20200325125613/https://www.npr.org/2019/03/13/702619020/targeting-online-privacy-congress-sets-a-new-tone-with-big-tech].

184. *Id.*

185. Cf. *id.*

186. See Zhou, *supra* note 151.

187. See Siva Vaidhyanathan, *Why Conservatives Allege Big Tech Is Muzzling Them*, THE ATLANTIC (July 28, 2019), <https://www.theatlantic.com/ideas/archive/2019/07/conservatives-pretend-big-tech->

There is also some variation in terms of impact on policy. The hearings on industry concentration and anti-competitive behavior, which were designed to be more information-gathering, have teed up an issue that will likely be the focus of policy actions if the Democrats gain seats in the 2020 elections.<sup>188</sup> The five-part congressional hearing by the House Subcommittee on Antitrust, Commercial, and Administrative Law was particularly well-organized and designed to yield information that would be useful in formulating policy. It is still possible that these hearings will set the stage for a significant impact on policy. With respect to online privacy, it is likely that the congressional hearings have facilitated policy agreement and policy action of some kind, though it may not go as far as Democrats advocate. Finally, with respect to content control, the congressional hearings have increased public awareness and concern, but, given the complicated nature of the issue, the current White House's stance on the media and Russian election interference,<sup>189</sup> and the First Amendment issues, it seems unlikely that any real impact on policy will occur.

The *level of fragmentation* in congressional oversight also varies by issue. On the issue of anti-competitive behavior, there is a concentration of congressional oversight in judiciary and commerce committees, which is likely to lead to more effective oversight.<sup>190</sup> On the issue of online privacy, there has been more fragmentation of congressional oversight, with commerce, banking, judiciary, and government oversight committees, as well as a number of subcommittees, exercising oversight.<sup>191</sup> At this point, however, oversight appears to be coalescing in commerce committees.<sup>192</sup> On the issue of content control, there is the highest level of fragmentation, with commerce, foreign affairs, homeland

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biased-against-them/594916/

[<https://web.archive.org/web/20200325125700/https://www.theatlantic.com/ideas/archive/2019/07/conservatives-pretend-big-tech-biased-against-them/594916/>].

188. See Leah Nylén & Cristiano Lima, *Big Tech's 'bully' tactics stifle competition, smaller rivals tell Congress*, POLITICO (Jan. 17, 2020, 6:23 PM), <https://www.politico.com/news/2020/01/17/big-tech-competition-investigation-100701> [<https://web.archive.org/web/20200325125745/https://www.politico.com/news/2020/01/17/big-tech-competition-investigation-100701>].

189. See Roberta Rampton & David Shepardson, *Trump rips tech firms at 'free speech' summit*, REUTERS (July 11, 2019), <https://finance.yahoo.com/news/trump-rips-tech-firms-free-100445334.html> [<https://web.archive.org/web/20200325125938/https://finance.yahoo.com/news/trump-rips-tech-firms-free-100445334.html>] (describing President Trump's allegation that "big tech firms" are "suppress[ing] conservative voices").

190. See Appendix 1.

191. See Appendix 2.

192. See Appendix 2.

security, government oversight and reform, judiciary, and intelligence committees all holding hearings.<sup>193</sup> Given the complexity of these issues and the number of lines of policy discourse, oversight here is likely to remain somewhat scattered and ineffective.

Finally, this review of congressional oversight reveals two important aspects of social media oversight more generally—the heavy reliance on industry input and the relative lack of expertise outside of industry and in Congress itself. As noted above, in all three arenas of congressional oversight, the largest number of witnesses came from industry or industry-related groups.<sup>194</sup> Given that it is the activities of these companies that is at issue, the large presence of industry representatives is not surprising. Even so, this large presence affords companies an opportunity to control and dominate policy discussions.<sup>195</sup> Although members can and do question and probe witnesses in challenging ways, their ability to extract real information or concessions is quite limited.<sup>196</sup>

A common refrain among members at these hearings is why media companies have seriously increased their Washington presence and invested millions of dollars in lobbying.<sup>197</sup> In 2018, Amazon, Apple, Facebook, and Google combined spent \$55 million on lobbying, doubling their combined spending of \$27.4 million in 2016.<sup>198</sup> The Center for Responsive Politics lists both Amazon and Facebook among the top ten lobbying organizations in 2019, with Amazon at number nine, spending \$16,790,000, and Facebook at number 10, spending \$16,710,000.<sup>199</sup> Although congressional committees have tried to counter this industry dominance by including witnesses from public interest groups, think tanks, and academic researchers, these groups cannot match the deep

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193. See *infra* Appendix 3.

194. See *infra* Appendices 1, 2, & 3.

195. Cf. Issie Lapowsky, *The Sundar Pichai Hearing Was a Major Missed Opportunity*, WIRED (Dec. 11, 2018, 4:29 PM), <https://www.wired.com/story/congress-sundar-pichai-google-ceo-hearing/>

[<https://web.archive.org/web/20200325130015/https://www.wired.com/story/congress-sundar-pichai-google-ceo-hearing/>]

196. See *id.*

197. Cecilia Kang & Kenneth P. Vogel, *Tech Giants Amass a Lobbying Army for an Epic Washington Battle*, N.Y. TIMES (June 5, 2019), <https://www.nytimes.com/2019/06/05/us/politics/amazon-apple-facebook-google-lobbying.html>

[<https://web.archive.org/web/20200325130229/https://www.nytimes.com/2019/06/05/us/politics/amazon-apple-facebook-google-lobbying.html>].

198. *Id.*

199. *Top Spenders*, OPENSECRETS (2019), <https://www.opensecrets.org/federal-lobbying/top-spenders>

[<http://web.archive.org/web/20200405211609/https://www.opensecrets.org/federal-lobbying/top-spenders>] (last visited Apr. 2, 2020).

pockets or the deep knowledge that the industry has. Moving forward, this may be the greatest barrier in terms of effective congressional oversight of social media companies.

APPENDIX ONE: ANTITRUST/NET NEUTRALITY

Date	Committee	Purpose	Witnesses
Jan. 17, 2020	House Committee on the Judiciary – Subcommittee on Antitrust, Commercial, and Administrative Law	Online Platforms and Market Power, Part 5: Competitors in the Digital Economy	<ul style="list-style-type: none"> <li>• David Barnett, PopSockets LLC</li> <li>• Kirsten Daru, Tile</li> <li>• David Heinemeier Hansson, Basecamp LLC</li> <li>• Patrick Spence, Sonos</li> </ul>
Nov. 13, 2019	House Committee on the Judiciary – Subcommittee on Antitrust, Commercial, and Administrative Law	Examine impact of dominant digital platforms on competition, and to review FTC and Department of Justice antitrust enforcement activities and policies to promote competition	<ul style="list-style-type: none"> <li>• Makan Delrahim, DOJ</li> <li>• Joseph Simons, FTC</li> </ul>
Oct. 18, 2019	House Committee on the Judiciary – Subcommittee on Antitrust, Commercial, and Administrative Law	Examine impact of data and privacy on online platforms and digital marketplace competition, and to review related policy and antitrust enforcement issues	<ul style="list-style-type: none"> <li>• Rohit Chopra, FTC</li> <li>• Tommaso Valletti, Imperial College London</li> <li>• Jason Furman, Harvard University</li> <li>• Dr. Roslyn Layton, Ph.D., The American Enterprise Institute</li> </ul>
Sept. 24, 2019	Senate Committee on the Judiciary – Subcommittee on Antitrust, Competition Policy, and Consumer Rights	Examine competition and antitrust enforcement in digital technology markets	<ul style="list-style-type: none"> <li>• Bruce Hoffman, FTC</li> <li>• Diana Moss, American Antitrust Institute</li> <li>• John Yun, George Mason University</li> <li>• Patricia Nakache, National Venture Capital Association</li> </ul>

July 16, 2019	House Committee on the Judiciary – Subcommittee on Antitrust, Commercial, and Administrative Law	Examine impact of dominant digital platforms on innovation, businesses, and digital marketplace competition, and to review related policy and antitrust enforcement issues	<ul style="list-style-type: none"> <li>• Adam Cohen, Google</li> <li>• Matt Perault, Facebook</li> <li>• Nate Sutton, Amazon</li> <li>• Kyle Andeer, Apple</li> <li>• Timothy Wu, Columbia University</li> <li>• Fiona Scott Morton, Yale University</li> <li>• Stacy Mitchell, Institute for Local Self-Reliance</li> <li>• Maureen Ohlhausen, attorney</li> <li>• Carl Szabo, NetChoice</li> <li>• Morgan Reed, ACT/The App Association</li> </ul>
June 11, 2019	House Committee on the Judiciary – Subcommittee on Antitrust, Commercial, and Administrative Law	Examine impact of dominant digital platforms on news industry and digital marketplace competition, and to review related policy and antitrust enforcement issues	<ul style="list-style-type: none"> <li>• David Chavern, News Media Alliance</li> <li>• Gene Kimmelman, Public Knowledge</li> <li>• Sally Hubbard, Open Markets Institute</li> <li>• Matt Schruers, Computer and Communications Industry Association</li> <li>• David Pitofsky, News Corp.</li> <li>• Kevin Riley, Atlanta Journal-Constitution</li> </ul>
Mar. 12, 2019	House Committee on Energy and Commerce – Subcommittee on Communications and Technology	Consider H.R. 1644, the Save the Internet Act of 2019, to repeal FCC Dec. 2017 rule and order that overturned an FCC 2015 open Internet order reclassifying broadband Internet access service as a telecommunications service	<ul style="list-style-type: none"> <li>• Francella Ochillo, National Hispanic Media Coalition</li> <li>• Matthew Wood, Free Press</li> <li>• Gregory Green, Fatbeam</li> <li>• Robert McDowell, Hudson Institute</li> </ul>

<p>Feb. 7, 2019</p>	<p>House Committee on Energy and Commerce – Subcommittee on Communications and Technology</p>	<p>Examine issues surrounding Internet network neutrality, known as net neutrality, and to review concerns about FCC 2017 repeal of 2015 open Internet order reclassifying broadband internet access service as a telecommunications service</p>	<ul style="list-style-type: none"> <li>• Tom Wheeler, Brookings Institution</li> <li>• Jessica Gonzalez, Free Press</li> <li>• Denelle Dixon, Mozilla Corp.</li> <li>• Ruth Livier, writer</li> <li>• Michael Powell, NCTA - The Internet and Television Association</li> <li>• Joseph Franell, Eastern Oregon Telecom</li> </ul>
<p>July 31, 2018</p>	<p>Senate Committee on Commerce, Science, and Transportation – Subcommittee on Communications, Technology, Innovation, and the Internet</p>	<p>Review international internet policies that are impacting the competitiveness, investment, and innovation opportunities of U.S. businesses domestically and abroad in today’s global digital economy</p>	<ul style="list-style-type: none"> <li>• The Honorable Michael Chertoff, The Chertoff Group</li> <li>• Mr. James Bladel, GoDaddy</li> <li>• Dr. Roslyn Layton, Ph.D., The American Enterprise Institute</li> <li>• Mr. Christopher Painter, Global Commission on the Stability of Cyberspace</li> <li>• Ms. Denise Zheng, The Business Roundtable</li> </ul>
<p>May 16, 2018</p>	<p>House Committee on Energy and Commerce – Subcommittee on Communications and Technology</p>	<p>Examine methods to expand broadband Internet access in a technologically neutral manner, while promoting competition in wire-line and wireless markets and protecting telecommunications infrastructure from national security threats</p>	<ul style="list-style-type: none"> <li>• Dr. Charles Clancy, Virginia Polytechnic Institute</li> <li>• Clete Johnson, Wilkinson Barker Knauer, LLP</li> <li>• Samm Sacks, Center for Strategic and International Studies</li> </ul>

Apr. 17, 2018	House Committee on Energy and Commerce – Subcommittee on Communications and Technology	Examine elements and components of Internet data network models, focusing on service provider and network operator methods to manage and prioritize Internet traffic	<ul style="list-style-type: none"> <li>• Richard Bennett, High Tech Forum</li> <li>• Peter Rysavy, Rysavy Research LLC</li> <li>• Paul Schroeder, Aira Tech Corporation</li> <li>• Matt Wood, Free Press</li> </ul>
Jan. 30, 2018	Senate Committee on Commerce, Science, and Transportation	Examine the implementation of science and technology policy and program updates enacted under the American Innovation and Competitiveness Act, and will specifically evaluate progress made by the National Science Foundation and the National Institute of Standards and Technology to implement the act	<ul style="list-style-type: none"> <li>• Dr. France Córdova, National Science Foundation</li> <li>• Dr. Walter Copan, National Institute of Standards and Technology</li> </ul>
Mar. 21, 2017	House Committee on Energy and Commerce -- Subcommittee on Communication and Technology	Examine challenges facing broadband infrastructure deployment efforts, review proposals to promote broadband infrastructure development and investment and efforts to improve permitting process	<ul style="list-style-type: none"> <li>• Steven K. Berry, Competitive Carriers Association</li> <li>• Michael Conners, Saint Regis Mohawk Tribe</li> <li>• Thomas Murray, Community Wireless Structures</li> <li>• Joanne S. Hovis, CTC Technology and Energy</li> <li>• LeRoy T. Carlson, U.S. Cellular</li> <li>• James W. Stegeman, CostQuest Associates</li> <li>• Bryan Darr, Mosaik Solutions</li> </ul>



Sept. 8, 2016	Senate Committee on Homeland Security and Governmental Affairs -- Subcommittee on Regulatory Affairs and Federal Management	Examine Federal independent agencies regulatory review activities and processes, review proposals for potential improvements to regulatory process	<ul style="list-style-type: none"> <li>• Adam J. White, Hoover Institution</li> <li>• Cary Coglianese, University of Pennsylvania Law School</li> </ul>
Mar. 25, 2015	House Committee on the Judiciary	Examine recent FCC rulemaking actions to protect Internet neutrality	<ul style="list-style-type: none"> <li>• Thomas Wheeler, FCC</li> <li>• Ajit Pai, FCC</li> <li>• Joshua Wright, FTC</li> <li>• Terrell McSweeney, FTC</li> </ul>
Jan. 21, 2015	Senate Committee on Commerce, Science, and Transportation	Review potential options for legislative action to address net neutrality concerns and protect consumers, considers bill to revise FCC authority	<ul style="list-style-type: none"> <li>• Meredith Baker, The Wireless Association</li> <li>• Gene Kimmelman, Public Knowledge</li> <li>• Robert McDowell, Hudson Institute</li> <li>• Paul Misener, Amazon</li> <li>• W. Tom Simmons, Midcontinent Communications</li> <li>• Nicol E. Turner-Lee, Telecom and Internet Council</li> </ul>

APPENDIX TWO: ONLINE PRIVACY

Date	Committee	Purpose	Witnesses
Dec. 4, 2019	Senate Committee on Commerce, Science, and Transportation	Examine legislative proposals to protect consumer data privacy, including giving FTC more resources and authority	<ul style="list-style-type: none"> <li>• Julie Brill, Former Commissioner of the FTC, now at Microsoft</li> <li>• Maureen Ohlhausen, Former Acting-Chair of the FTC, now at 21st Century Privacy Coalition</li> <li>• Laura Moy, Georgetown Law</li> </ul>

			<p>Center on Privacy &amp; Technology</p> <ul style="list-style-type: none"> <li>• Nuala O'Connor, Walmart</li> <li>• Michelle Richardson, Center for Democracy and Technology</li> </ul>
July 16, 2019	Senate Committee on Banking, Housing, and Urban Affairs	Examine Facebook, Inc. proposed development of a new cryptocurrency, called Libra, and a digital wallet to store this cryptocurrency, called Calibra, and to review implications for consumers and potential risks associated with Libra	<ul style="list-style-type: none"> <li>• David Marcus, Facebook</li> </ul>
May 8, 2019	House Energy and Commerce Committee	Oversight of the Federal Trade Commission: Strengthening Protections for Americans' Privacy and Data Security	<ul style="list-style-type: none"> <li>• Joseph Simmons, FTC</li> <li>• Noah Joshua Phillips, FTC</li> <li>• Rohit Chopra, FTC</li> <li>• Rebecca Kelly Slaughter, FTC</li> <li>• Christine Wilson, FTC</li> </ul>
May 7, 2019	Senate Committee on Banking, Housing, and Urban Development	Privacy Rights and Data Collection in a Digital Economy	<ul style="list-style-type: none"> <li>• Peter Chase, German Marshall Fund</li> <li>• Jay Cline, PWC</li> <li>• Maciej Ceglowski, Pinboard</li> </ul>
May 1, 2019	Senate Committee on Commerce, Science and Transportation	Examine consumers' expectations for data privacy in the Digital Age and how those expectations may vary based on the type of information collected and processed by businesses	<ul style="list-style-type: none"> <li>• Helen Dixon, Republic of Ireland</li> <li>• Neema Singh Guliani, ACLU</li> <li>• Jules Polonetsky, Future of Privacy Forum</li> <li>• Jim Steyer, Common Sense Media</li> </ul>
Mar. 26, 2019	Subcommittee on Manufacturing, Trade, and	Data privacy issues that impact small businesses and the	<ul style="list-style-type: none"> <li>• Mr. Justin Brookman, Consumer Reports</li> </ul>

	Consumer Protection of Senate Commerce Committee	unique challenges they face with laws designed for larger companies	<ul style="list-style-type: none"> <li>• Ms. Nina Dosanjh, National Association of Realtors</li> <li>• Mr. Jefferson England, Silver Star Communications</li> <li>• Mr. Evan Engstrom, Engine Advocacy and Research Foundation</li> <li>• Mr. Ryan Weber, KC Tech Council</li> </ul>
Feb. 27, 2019	Senate Committee on Commerce, Science and Transportation	Examine what Congress should do to address risks to consumers and implement data privacy protections for all Americans	<ul style="list-style-type: none"> <li>• Jon Leibowitz, 21<sup>st</sup> Century Privacy Coalition</li> <li>• Michael Beckerman, Internet Association</li> <li>• Brian Dodge, Retail Industry Leaders Association</li> <li>• Victoria Espinel, The Software Alliance</li> <li>• Woodrow Hartzog, Professor, Northeastern University</li> <li>• Randall Rothenberg, Interactive Advertising Bureau</li> </ul>
Feb. 26, 2019	House Energy and Commerce Committee	Protecting consumer privacy in an era of Big Data	<ul style="list-style-type: none"> <li>• Brandi Collins-Dexter, Media, Democracy 7 Economic Justice</li> <li>• Dave Grimaldi, IAB</li> <li>• Rosalyn Layton, AEI</li> <li>• Nuala O'Connor, CDT</li> <li>• Denise Zheng, Business Roundtable</li> </ul>

Sept. 26, 2018	Senate Committee on Commerce, Science, and Transportation	Examine current privacy policies in top companies, review current privacy laws, discuss possible new safeguards	<ul style="list-style-type: none"> <li>• Len Cali, AT&amp;T</li> <li>• Andrew DeVore, Amazon</li> <li>• Keith Enright, Google</li> <li>• Damien Kieran, Twitter</li> <li>• Guy Tribble, Apple</li> <li>• Rachel Welch, Charter Communications</li> </ul>
Aug. 16, 2018	Senate Committee on Commerce, Science, and Transportation	Examine policy issues before the Commission and review the FCC's ongoing duties and activities	<ul style="list-style-type: none"> <li>• Ajit Pai, FCC</li> <li>• Michael O'Rielly, FCC</li> <li>• Brendan Carr, FCC</li> <li>• Jessica Rosenworcel, FCC</li> </ul>
June 19, 2018	Senate Committee on Commerce, Science, and Transportation -- Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security	follow-up to Zuckerberg hearing, focused on privacy concerns in the wake of Cambridge Analytica	<ul style="list-style-type: none"> <li>• John Battelle, NewCo</li> <li>• Aleksandr Kogan, University of Cambridge Department of Psychology</li> <li>• Ashkan Soltani, Soltani LLC (formerly FTC)</li> </ul>
Apr. 11, 2018	House Committee on Energy and Commerce	Facebook: Transparency and Use of Consumer Data (Cambridge Analytica)	<ul style="list-style-type: none"> <li>• Mark Zuckerberg, Facebook</li> </ul>
Apr. 10, 2018	Senate Commerce, Science and Transportation and Judiciary Committees (joint)	Facebook, social media, privacy and the use and abuse of data (Cambridge Analytica)	<ul style="list-style-type: none"> <li>• Mark Zuckerberg, Facebook</li> </ul>
Feb. 6, 2018	Senate Committee on Commerce, Science, and Transportation -- Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security	Examine the Uber breach including coverups, review the value of "bug bounty" programs	<ul style="list-style-type: none"> <li>• Justin Brookman, Consumers Union</li> <li>• John Flynn, Uber</li> <li>• Márten Mickos, HackerOne</li> <li>• Katie Moussouris, Luta Security</li> </ul>

June 14, 2016	House Committee on Energy and Commerce -- Subcommittee on Communication and Technology	Reviewing FCC proposed rules to establish consumer privacy requirements for broadband internet access service providers	<ul style="list-style-type: none"> <li>• Doug Brake, Information Technology and Innovation Foundation</li> <li>• Jon Leibowitz, 21st Century Privacy Coalition</li> <li>• Paul Ohm, Georgetown University Law Center</li> </ul>
July 29, 2015	House Committee on the Judiciary -- Subcommittee on Courts, Intellectual Property, and the Internet	Examine the Internet of Things, focusing on privacy issues and government regulation	<ul style="list-style-type: none"> <li>• Gary Shapiro, Consumer Electronics Association</li> <li>• Dean D. Garfield, Information Technology Industry Council</li> <li>• Mitch Bainwol, Alliance of Automobile Manufacturers</li> <li>• Morgan Reed, ACT\The App Association</li> </ul>
July 28, 2015	House Committee on Energy and Commerce -- Subcommittee on Communication and Technology	Summarizing current FCC activities and policy issues	<ul style="list-style-type: none"> <li>• Tom Wheeler, FCC</li> <li>• Ajit Pai, FCC</li> </ul>

Apr. 29, 2015	House Committee on Oversight and Government Reform -- Subcommittee on Information Technology	Examine digital data encryption and options to maintain proper balance between public safety and privacy	<ul style="list-style-type: none"> <li>• Amy Hess, FBI Science and Technology Branch</li> <li>• Daniel F. Conley, Suffolk County District Attorney</li> <li>• Kevin D. Bankston, New America Open Technology Institute</li> <li>• Jon Potter, Application Developers Alliance</li> <li>• Matthew Blaze, University of Pennsylvania Department of Computer and Information Science</li> </ul>
Feb. 11, 2015	Senate Committee on Commerce, Science, and Transportation	Examine Internet of Things (IoT) Internet-connected devices, focusing on concerns over privacy and network security	<ul style="list-style-type: none"> <li>• Mike Abbott, Kleiner Perkins Caufield and Byers</li> <li>• Douglas Davis, Intel Corp.</li> <li>• Lance Donny, OnFarm Systems</li> <li>• Adam Thierer, George Mason University</li> <li>• Justin Brookman, Center for Democracy and Technology</li> </ul>

## APPENDIX THREE: CONTENT REGULATION

Date	Committee	Purpose	Witnesses
Sept. 18, 2019	Senate Committee on Commerce, Science, and Transportation	Examine the proliferation of extremism online and explore the effectiveness of industry efforts to remove violent content from online platforms	<ul style="list-style-type: none"> <li>• Ms. Monika Bickert, Facebook</li> <li>• Mr. Nick Pickles, Twitter</li> <li>• Mr. George Selim, Anti-Defamation League</li> <li>• Mr. Derek Slater, Google</li> </ul>

<p>July 16, 2019</p>	<p>House Committee on Foreign Affairs – Subcommittee on Europe, Eurasia, and the Environment</p>	<p>Examine Russia alleged systematic attempts to influence and undermine election processes of Western democratic countries, including 2016 U.S. presidential election and recent elections in European countries</p>	<ul style="list-style-type: none"> <li>• Daniel Fried, Atlantic Council</li> <li>• Jessikka Aro, investigative journalist</li> <li>• Jakub, Kalensky, Atlantic Council</li> <li>• Frederick Kagan, American Enterprise Institute for Public Policy Research</li> </ul>
<p>June 26, 2019</p>	<p>House Committee on Homeland Security</p>	<p>Examine efforts by social media companies to combat terrorist and extremist content on social networking platforms, in light of Mar. 2019 terrorist attack in Christchurch, New Zealand, as well as misinformation on platforms</p>	<ul style="list-style-type: none"> <li>• Monika Bickert, Facebook</li> <li>• Nick Pickles, Twitter</li> <li>• Derek Slater, Google</li> <li>• Nadine Strossen, New York Law School</li> </ul>
<p>May 22, 2019</p>	<p>House Committee on Oversight and Reform – Subcommittee on National Security</p>	<p>Examine cybersecurity threats to U.S. election infrastructure, and to review Federal and State efforts to improve election system security and private sector activities to protect integrity of elections and democratic process</p>	<ul style="list-style-type: none"> <li>• Christopher Krebs, DHS</li> <li>• Adam Hickey, DOJ</li> <li>• Christy McCormick, Election Assistance Commission</li> <li>• Ellen Weintraub, Federal Election Commission</li> <li>• William Gavin, Massachusetts Secretary of State</li> <li>• Nathaniel Gleicher, Facebook</li> <li>• Kevin Kane, Twitter</li> <li>• Richard Salgado, Google</li> </ul>

Apr. 10, 2019	Senate Judiciary Committee	Stifling Free Speech: Technological censorship and the public discourse	<ul style="list-style-type: none"> <li>• Carlos Monje, Jr, Twitter</li> <li>• Neil Potts, Facebook</li> <li>• Chuck Konzelman, Director “Unplanned”</li> <li>• Francesca Tripodi, James Madison University</li> <li>• Marilyn Musgrave, Susan B. Anthony List</li> <li>• Robbie Parker, Father of Sandy Hook Victim</li> <li>• Eugene Kontorovick, George Mason Univ Law</li> </ul>
Apr. 9, 2019	House Judiciary Committee	Role of social media companies in white nationalism and hate crimes	<ul style="list-style-type: none"> <li>• Mohammad Abu Salha</li> <li>• Kristen Clark, National Lawyers’ Com for Civil Rights under Law</li> <li>• Mort Klein, Zionist Org of America</li> <li>• Candace Owens, Turning Point, USA</li> <li>• Eva Paterson, Equal Justice Society</li> <li>• Neil Potts, Facebook</li> <li>• Alexandria Walden, Google</li> </ul>
Sept. 27, 2018	House Committee on the Judiciary – Subcommittee on the Constitution and Civil Justice	Examine issues regarding intellectual freedom and freedom of speech, including alleged bias against and censorship of conservative viewpoints at higher education institutions and by Internet and social media providers	<ul style="list-style-type: none"> <li>• Mike Adams, University of North Carolina – Wilmington</li> <li>• Peter Wood, National Association of Scholars</li> <li>• Michael, Simkovic, University of Southern California</li> <li>• Tim Groseclose, George Mason University</li> <li>• James Hoft, Gateway Pundit</li> </ul>



			<ul style="list-style-type: none"> <li>• Adriana Cohen, columnist</li> <li>• Jeremy Tedesco, Alliance Defending Freedom</li> <li>• Ari Waldman, New York Law School</li> <li>• Harmeet Dhillon, attorney</li> </ul>
Sept. 5, 2018	House Committee on Energy and Commerce	Examine Twitter, Inc., activities to manage and filter content on its social media platform	<ul style="list-style-type: none"> <li>• Jack Dorsey, Twitter, Inc</li> </ul>
Sept. 5, 2018	Senate Intelligence Committee	Foreign Influence Operations' Use of Social Media Platforms – Company witnesses	<ul style="list-style-type: none"> <li>• Sheryl Sandberg, Facebook</li> <li>• Jack Dorsey – Twitter</li> <li>• Larry Page – Google (invited)</li> </ul>
Aug. 1, 2018	Senate Intelligence Committee	Foreign Influence Operations' Use of Social Media Platforms – Third party experts	<ul style="list-style-type: none"> <li>• Todd Helmus, RAND</li> <li>• Renee DiResta, New Knowledge</li> <li>• John Kelly, Graphica</li> <li>• Laura Rosenberger, German Marshall</li> <li>• Philip Howard, Oxford Internet Institute</li> </ul>
July 17, 2018	House Committee on the Judiciary	Examine social media companies activities to filter content on their platforms, including rationale behind content filtering decisions	<ul style="list-style-type: none"> <li>• Monika Bickert, Facebook, Inc.</li> <li>• Juniper Downs, Google, Inc.</li> <li>• Nick Pickles, Twitter, Inc</li> </ul>
June 20, 2018	Senate Intelligence Committee	Policy Response to Russian Interference in 2016 Elections	<ul style="list-style-type: none"> <li>• Victoria Nuland, Center for a New American Security</li> <li>• Michael Daniel, Cyber Threat Alliance</li> </ul>
June 14, 2018	House Committee on Energy and Commerce – Subcommittee on Digital	Examine complexities of digital advertising, and to review privacy issues regarding collection of data	<ul style="list-style-type: none"> <li>• Justin Brookman, Consumers Union</li> <li>• Rachel Glasser, Wunderman</li> </ul>

	Commerce and Consumer Protection	detailing consumers Internet behavior and preferences to enable targeted advertising	<ul style="list-style-type: none"> <li>• Michael Zaneis, Trustworthy Accountability Group</li> <li>• Howard Beales, George Washington University</li> </ul>
Mar. 7, 2018	House Committee on Energy and Commerce – Subcommittee on Digital Commerce and Consumer Protection	Examine electronic commerce sales impact on retail industry and supply chain logistics related to online shopping	<ul style="list-style-type: none"> <li>• Dan Sanker, CaseStack</li> <li>• Rob Taylor, Convey</li> <li>• Jonathan Johnson, Overstock.com</li> <li>• David Borris, Main Street Alliance</li> </ul>
Nov. 29, 2017	House Committee on Energy and Commerce -- Subcommittee on Communication and Technology -- Subcommittee on Digital Commerce and Consumer Protection	Discuss companies' use of algorithms to personalize content, review concerns about protecting consumer information, outlining platform privacy policy disclosures	<ul style="list-style-type: none"> <li>• Catherine Tucker, MIT School of Management</li> <li>• Omri Ben-Shahar, University of Chicago Law School</li> <li>• Kate Klonick, Yale Law School</li> <li>• Michael Kearns, University of Pennsylvania Department of Computer and Information Science</li> <li>• Laura Moy, Georgetown Law Center on Privacy and Technology</li> <li>• Frank Pasquale, University of Maryland Law</li> </ul>
Nov. 1, 2017	Senate Intelligence Committee	Social Media influence in the 2016 elections	<ul style="list-style-type: none"> <li>• Colin Stretch, Facebook</li> <li>• Sean Edgett, Twitter</li> <li>• Kent Walker, Google</li> </ul>
Oct. 31, 2017	Senate Judiciary Committee, Crime and Terrorism Subcommittee	Extremist Content and Russian Disinformation Online: Working with Tech to Find Solutions	<ul style="list-style-type: none"> <li>• Colin Stretch, Facebook</li> <li>• Sean Edgett, Twitter</li> <li>• Richard Salgado, Google</li> </ul>

June 21, 2017	Senate Intelligence Committee	Russian Interference in the 2016 US Elections	<ul style="list-style-type: none"> <li>• Samuel Liles, DHS</li> <li>• Jeanette Manfra, DHS</li> <li>• Bill Priestap, FBI</li> <li>• Michael, Nat'l Assoc of State Elections Directors</li> <li>• Alex Halderman, Univ of Michigan</li> <li>• Connie Lawson, Nat'l Assoc of Secs of State</li> <li>• Steve Sandvoss, Illinois State Bd of Elections</li> </ul>
Mar. 30, 2017	Senate Intelligence Committee	Disinformation: A Primer in Russia Active Measures and Influence Campaigns	<ul style="list-style-type: none"> <li>• Kevin Mandia, FireEye</li> <li>• Keith Alexander, IronNet Cybersecurity</li> <li>• Thomas Rid, King's College, London</li> <li>• Eugene Rumer, Carnegie Endowment</li> <li>• Roy Godson, Georgetown Univ</li> <li>• Clint Watts, Foreign Policy Research Institute, National Security</li> </ul>
Mar. 22, 2017	Senate Committee on Commerce, Science, and Transportation	Examine benefits and risks of innovative technologies to combat cyber threats and secure critical infrastructure	<ul style="list-style-type: none"> <li>• Caleb Barlow, IBM Security</li> <li>• Venky Ganesan, National Venture Capital Association</li> <li>• Steve Grobman, Intel Security Group</li> <li>• Malcolm Harkins, Cylance Corp.</li> <li>• Eric Rosenbach, DOD</li> </ul>
Jan. 10, 2017	Senate Intelligence Committee	Intelligence Community's Assessment of Russian Activities in the 2016 Elections	<ul style="list-style-type: none"> <li>• James Clapper, DNI</li> <li>• John Brennan, CIA</li> <li>• Michael Rogers, NSA</li> <li>• James Comey, FBI</li> </ul>