



**Statement on behalf of the Center for Democracy & Technology
Before the Federal Trade Commission Public Forum on Commercial Surveillance**

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Thank you for the opportunity to comment today. My name is Ridhi Shetty, and I am a policy counsel on the Privacy & Data Project at the Center for Democracy & Technology. CDT welcomes the Commission's efforts to protect consumers from data harms that constitute unfair or deceptive practices. We urge the Commission to ensure its rulemaking addresses enforcement gaps that affect marginalized and multiply marginalized consumers.

For example, targeted ads are delivered to subsets of consumers based on consumer activity on advertising platforms and third-party sharing of data that consumers provide for purposes unrelated to advertising. Targeted ads for dangerous products have a pernicious influence on children and teens and adult consumers whose marginalization and related trauma make the ads even more harmful – as a recent UC Berkeley study explains, ads promoting body ideals build on racial, gender-based, and other prejudices that stigmatize certain body types. In contrast, ads for critical opportunities have been targeted to consumers that tend to access those opportunities more often – a factor used to predict engagement. Consumers who have previously had less access to these opportunities are less likely to get these ads, and struggle to show they would have pursued the opportunities if they had received the ads.

Another example is data-driven decision-making systems for determining eligibility or resource allocation across sectors. Many of these systems can fail consumers because their training data do not accurately represent the whole population on which they are used, they are designed to evaluate data that functions as proxies for protected traits, or they are not built to be usable for all consumers. Such systems produce adverse outcomes because they are not designed to mitigate impacts on certain groups of consumers – for instance, tools that prevent disabled job applicants from advancing in a hiring process. To pursue viable discrimination claims, consumers would need real transparency from companies about how and why algorithmic systems process their data to pinpoint how they contribute to discriminatory outcomes.

Platforms also evade accountability for these harms due to a lack of consensus about applying civil rights laws to companies that are not traditionally considered to be covered by such laws but increasingly fulfill functions of covered entities. We urge the FTC to consider impacts on all



communities, including disability and LGBTQ+ communities not mentioned in the ANPR, and harms that are particularly severe along intersections of marginalized identities. We look forward to engaging further in the Commission’s rulemaking process.