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December 19, 2018

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons:

Exactly eight months ago, I wrote to you to draw your attention to evidence that Facebook may have violated its 2011 consent decree. Since then, there has been mounting and incontrovertible evidence that Facebook not only breached users' trust, but also disregarded key provisions in the consent decree. The stunning new investigation by the *New York Times* released last night confirms that Facebook violated its consent order with its data-sharing deals, and that those at the very top, including Mark Zuckerberg, were aware of it.¹ Facebook's seemingly unrestrained sharing of user data, the lengths it will go to justify its doing so, and the fact that it has not been forthcoming with consumers or Congress makes it imperative that the FTC act swiftly to prevent further consumer harm. I write urging you to take actions necessary to renew and refresh the FTC's urgency in pursuing strong legal remedies and major penalties on behalf of the consumers harmed by Facebook's conduct.

Instead of acting to protect consumers after its original breach of consumer privacy, Facebook appears to have defiantly violated its consent order. While news of Facebook's conduct continues to unfold, I am concerned that the FTC seems to be sitting on the sidelines, allowing Facebook and its handpicked auditing companies to vouch for the company. Meanwhile, reporters have aggressively pursued this story and uncovered significant new facts.

The new report by Gabriel J.X. Dance, Michael LaForgia, and Nicholas Confessore in the *New York Times*—the culmination of interviews with over 60 individuals, including former employees of Facebook and its partners, former government officials, and privacy advocates—paints a disturbing picture of how Facebook was responsible for the massive data sharing of millions of Americans without their consent. According to the report, Facebook justified its development of data-sharing relationships across a wide range of industries, and including foreign companies like the Russian search giant Yandex, by deliberately misinterpreting a "service provider" exemption in the FTC consent decree, which outlined Facebook's oversight of third parties. As a result, Facebook thought that it could skirt requirements in the consent decree that Facebook take steps to "verify the privacy or security protections that any third party

¹ <https://www.nytimes.com/2018/12/18/technology/facebook-privacy.html>

provides” and “obtain the user’s affirmative express consent” for the sharing of any user’s information.²

Thank you in advance for your prompt attention to this matter. I respectfully request a response by January 11, 2018.

Sincerely,



Richard Blumenthal
United States Senate

² <https://www.ftc.gov/sites/default/files/documents/cases/2011/11/111129facebookagree.pdf>