



Duck Duck Go, Inc.
20 Paoli Pike • Paoli, PA 19301, United States
+1 267.690.7758 • duckduckgo.com

Katie McInnis

Senior Public Policy Manager, US
Washington, DC
kmcinnis@duckduckgo.com

Written Testimony of Katie McInnis

Senior Public Policy Manager US for Duck Duck Go, Inc.

Before the U.S. House Committee on Energy and Commerce, Consumer Protection and Commerce
Subcommittee

Hearing on Holding Big Tech Accountable: Legislation to Protect Online Users

March 1, 2022

Chair Schakowsky, Ranking Member Bilirakis, and Members of the Subcommittee, thank you for holding this important hearing and inviting me to testify. I'm here to discuss DuckDuckGo's privacy-protective business model and why we need bills like the Banning Surveillance Advertising Act of 2022 to protect individuals online and reform the digital marketplace.

DuckDuckGo is a privacy technology company.¹ We believe that privacy is a human right and that being private online should be simple and accessible to all. With one download of the DuckDuckGo Privacy Browser for mobile or the DuckDuckGo Privacy Essentials browser extension for desktop, we offer seamless protection from invasive tracking. This includes our email protection service, our tracker blocker technology on the web as well as for apps on the Android operating system, and our private search engine that is the fourth largest in the United States and serves over three billion searches a month globally.

In short, DuckDuckGo helps you avoid surveillance ads (also known as behavioral ads) and data collection by seamlessly reducing your digital footprint through the blocking of hidden third-party trackers. And because we do not collect information about your search or browsing history, every time you search on DuckDuckGo it is like you are searching for the first time. Unlike most of our competitors, we do not engage in personal profiling to decide what you see online or serve you with personalized results or ads in response to your search queries.

Our company was founded in 2008 in Valley Forge, Pennsylvania. We now have employees in 24 states

¹ *About*, DUCKDUCKGO, <https://duckduckgo.com/about> (last visited Feb. 28, 2022).



and the District of Columbia. Year after year, we have seen record growth in our downloads, search queries, and our search engine market share, proving users' interest in being more private online. This growth enables us to commit to and expand our social impact and sustainability programs. For example, every year we donate a portion of our revenue to support non-profits around the world that work to protect digital rights and freedoms online.²

DuckDuckGo has been robustly profitable since 2014 thanks to the contextual advertisements shown to users on our search engine. Contextual advertisements are based on the content being shown on the screen and do not need to know anything about you: If you search for “mobile phones” you will get advertisements for phones. It’s that simple.

Contextual advertising contrasts with behavioral advertising, which is based on personal profiles from data collected both on and offline about the person viewing the ad. Have you ever searched for something online only to see an advertisement for that very thing show up again in ads on apps or other websites? Do you ever feel like your phone is listening to you based on the ads you see online? That is surveillance advertising. It is the invasive ads that follow you around. Rather than finding these ads useful, multiple studies have shown that the majority of people in the U.S. think this kind of advertising is an inappropriate use of their personal data.³

The covert collection of personal information for surveillance advertisements allows companies to granularly target individuals, violating user privacy and expectations on data collection. But what many users are not aware of is that this data collection also results in additional harm like discrimination, identity theft, fraud, and filter bubbles. The same personal information that enables a business to target potential customers with creepy ads also enables companies to discriminate against users in the presentation of critical opportunities, like education, employment, housing, and financial services.

And these harms are not just theoretical. The Department of Housing and Urban Development charged Facebook with engaging in housing discrimination by allowing advertisers to restrict who sees ads based on race, religion, and national origin, a harm made possible thanks to data collection for surveillance ads.⁴ Online surveillance also enabled advertisers to use Google’s ad targeting algorithm to present more men than women with ads for higher-paying jobs.⁵ The practice of data collection therefore does not just

² *Advancing Privacy Worldwide*, DUCKDUCKGO, <https://duckduckgo.com/donations> (last visited Feb. 28, 2022).

³ *Perception of targeted advertising according to adults in the United States as of May 2019*, STATISTA, <https://www.statista.com/statistics/993399/adult-opinion-targeted-ads-us/> (last visited Feb. 28, 2022); *57% of US consumers would forego marketing personalization to protect their data*, MARKETINGDIVE (Nov. 17, 2020), <https://www.marketingdive.com/news/57-of-us-consumers-would-forego-marketing-personalization-to-protect-their/589189/>.

⁴ Katie Benner, Glenn Thrush, & Mike Issac, Facebook Engages in Housing Discrimination with Its Ad Practices, U.S. Says, N.Y. TIMES (Mar. 28, 2019), <https://www.nytimes.com/2019/03/28/us/politics/facebook-housing-discrimination.html>.

⁵ Amit Datta, Michael Carl Tschantz, & Anupam Datta, *Automated Experiments on Ad Privacy Settings*, PROCEEDINGS ON PRIVACY ENHANCING TECH. (2015), <https://www.andrew.cmu.edu/user/danupam/dtd-pets15.pdf>.



affect a user's right to privacy, but also their ability to access critical opportunities and services.

Consumers should have an easy and effective way to avoid being surveilled online. That's why DuckDuckGo supports bills that would protect consumers from online and offline collection of their personal information.⁶ The Banning Surveillance Advertising Act would effectively protect users from companies collecting their personal data for the purpose of serving them with targeted advertisements. DuckDuckGo has also supported state measures that protect consumers. For example, we have been a lead supporter in the creation of the browser-based Global Privacy Control setting under the California Consumer Privacy Act.⁷

As our history makes clear, Internet companies can be successful and profitable with a contextual advertising business model and without surveilling individuals online. In addition, studies from researchers like Alessandro Acquisti have found that behavioral advertising does not result in a significant increase in revenue for publishers.⁸ Although dominant tech companies may make significant revenue through surveillance advertising now, there is no reason why contextual advertising couldn't be as relevant as behavioral advertising, by drawing on the context of the website, video, or audio being consumed.

In fact, many online advertising companies started with a contextual ad model. Even DuckDuckGo's primary search competitor, Google, used contextual advertising in the beginning. However, Google's purchase of DoubleClick in 2007 pushed the company to pivot to surveillance advertising and helped the company to establish its current dominance in digital ads.⁹ This switch gave Google a strategic advantage in the online advertising market, along with Facebook, because of their ability to collect massive amounts of personal data from users.

Despite growing privacy concerns among Americans,¹⁰ Google has not turned away from their surveillance business model. Google's response to consumers' desire for privacy, a so-called "Privacy Sandbox,"¹¹ will only serve to maintain Google's dominance without changing the fact that Google will

⁶ The Do-Not-Track Act of 2019, DuckDuckGo, <https://spreadprivacy.com/do-not-track-act-2019/> (last visited Feb. 28, 2022).

⁷ *DuckDuckGo Founding Member in Global Privacy Control (GPC) Standards Effort*, DUCKDUCKGO (Oct. 7, 2020), <https://spreadprivacy.com/announcing-global-privacy-control/>.

⁸ Keach Hagey, *Behavioral Ad Targeting Not Paying Off for Publishers, Study Suggests*, WALL ST. J. (May 29, 2019), <https://www.wsj.com/articles/behavioral-ad-targeting-not-paying-off-for-publishers-study-suggests-11559167195>.

⁹ Steve Lohr, *This Deal Helped Turn Google into an Ad Powerhouse. Is That a Problem?*, N.Y. TIMES (Sept. 21, 2020), <https://www.nytimes.com/2020/09/21/technology/google-doubleclick-antitrust-ads.html>.

¹⁰ Brooke Auxier, et al., *Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information*, PEW RESEARCH CTR. (Nov. 15, 2019), <https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confused-and-feeling-lack-of-control-over-their-personal-information/>.

¹¹ The Privacy Sandbox, Chrome Developers, <https://developer.chrome.com/docs/privacy-sandbox/> (last visited Feb. 28, 2022).



continue to, by default, surveil consumers' online activity and share information about them with advertisers and other parties for the purpose of behavioral advertising.¹² Instead of continuing to automatically bombard users with targeted advertisements that enable discrimination and other harms, we need to re-open the market for contextual advertising.¹³

For some time now venture capital has been largely unwilling to fund competitor advertising companies due to Google's and Facebook's strategic data advantages. As a result, innovation in the contextual advertising market has been severely suppressed. However, if consumers were protected from data collection for surveillance ads, the ability of dominant tech companies like Facebook and Google to continue stifling innovation in this market would be significantly diminished. Because access to massive troves of data would no longer determine success in the digital advertising market, more companies would be able to compete against Google and Facebook's ad duopoly.¹⁴ As surveillance ads result in measurable harm and fail to provide much added revenue for publishers, what is this surveillance for anyway, outside of maintaining this duopoly?

The 2020 Investigation of Competition in Digital Markets report from the Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary found that the concentration in the ad market is due in part to high barriers to entry: "Google and Facebook both have a significant lead in the market due to their significant collection of behavioral data online, which can be used in targeted advertising."¹⁵ Furthermore, reports from the United States and governments around the world have documented how access to individuals' private data enables companies like Google to further anchor their dominance and thwart competition from companies like DuckDuckGo outside of advertising. A shift back to contextual advertising would significantly reduce their inherent advantages, both in advertising and beyond.

Our mission at DuckDuckGo is to raise the standard of trust online. We, therefore, support bills like the Banning Surveillance Advertisements Act of 2022 that would do exactly that. Consumers should be protected from the data collection required to target them with surveillance ads and the subsequent

¹² *Use the DuckDuckGo Extension to Block FLoC, Google's New Tracking Method in Chrome*, DUCKDUCKGO (Apr. 9, 2021), <https://spreadprivacy.com/block-floc-with-duckduckgo/>; Bennett Cyphers, *Google's FLoC Is a Terrible Idea*, ELECTRONIC FRONTIER FOUND. (Mar. 3, 2021), <https://www EFF.ORG/deeplinks/2021/03/googles-floc-terrible-idea>.

¹³ Gabriel Weinberg, *What if We All Just Sold Non-Creepy Advertising?*, N.Y. TIMES (July 19, 2019), <https://www.nytimes.com/2019/06/19/opinion/facebook-google-privacy.html>; John Flenday, *CMA boss blasts Facebook and Google ad market 'duopoly'*, THE DRUM (Feb. 24, 2021), <https://www.thedrum.com/news/2021/02/24/cma-boss-blasts-facebook-and-google-ad-market-duopoly>.

¹⁴ *Facebook and Google 'too powerful' says watchdog boss*, BBC (Feb. 23, 2021), <https://www.bbc.com/news/business-56174671>.

¹⁵ *Investigation of Competition in Digital Markets, Majority Staff Report and Recommendations*, SUBCOMM. ON ANTITRUST, COMMERCIAL, & ADMIN. LAW OF THE COMM ON THE JUDICIARY (Oct. 2020), https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf.



harms this data collection makes possible, like discrimination, identity theft, and fraud. We believe that getting the privacy you deserve online should be as simple as closing your blinds. We, therefore, encourage Congress to pass bills that would allow individuals to easily protect themselves online and would also have the effect of strengthening competition in the online market.

I am pleased to answer your questions today and make myself available to Members in the future for in-depth discussions about this bill and others that would reform the online ecosystem for the better. Thank you.