

**Proposal for Cy Pres Funding Support  
Center for Digital Democracy  
June 19, 2019**

**Background on Center for Digital Democracy.** The Center for Digital Democracy (CDD) is a non-partisan, nonprofit 501(c)(3) organization founded in 2001. Our core mission was, and remains, to ensure that the privacy of individuals and their communities is protected, and that technology platforms, content providers, data companies, advertisers, and other commercial players are held accountable for their behaviors in the digital marketplace. As the successor group to the Center for Media Education, which we established in 1991, CDD is considered one of the pioneers of the digital rights movement. For more than two decades, we have been at the forefront of research, public education, and advocacy to protect consumer privacy and to promote civic engagement in the digital era.

- In the early 90s, at the birth of the modern Internet era, we brought together the first coalition of consumer, civil liberty, education, and library organizations to call for “Public Interest Principles for the Information Highway,” which helped create a framework for later policies, including online privacy protection, network neutrality, and low-cost online access for schools and libraries.
- Our research, organizing and advocacy led to passage of the 1998 Children’s Online Privacy Protection Act (COPPA), which remains the only federal law protecting online privacy. We subsequently urged the Federal Trade Commission (FTC) to revise its COPPA rules so the law would stay abreast of contemporary developments; this effort resulted in an updated set of regulations in 2012, covering geolocation tracking and other contemporary techniques.
- Over the past ten years, we played a key role in encouraging the FTC to develop policy initiatives on “online behavioral targeting,” location tracking, mobile apps, and other threats to consumer privacy.
- Our steady stream of research documents, formal comments, and petitions, documenting a variety of questionable data practices at major tech companies, were highly influential in the FTC’s 2011 Consent Decree agreements with both Google and Facebook.

Today, we play a critical leadership role on a range of vital issues, by promoting digital rights for privacy and fair treatment; protecting the welfare of vulnerable Americans from discriminatory and unfair practices; developing policies to protect children and youth from marketplace manipulation and other harmful practices; and advocating for safeguards to ensure responsible commercial data and digital marketing practices in political campaigns and elections.

CDD is widely recognized for its ability to track and analyze commercial digital marketplace developments—to identify and then address the evolving and newly emerging Big Data practices that not only shape our daily lives, but also profoundly influence our democratic institutions.

Our work serves as an “early warning system,” alerting the public about ongoing threats from commercial surveillance taking place on a spectrum of new and developing technologies, including mobile apps, social media, gaming platforms, streaming television, and connected devices. Indeed, CDD was one of the first groups to raise public concerns about Google’s Street View when it was initially launched. We conduct ongoing, extensive research on the commercial marketplace, including the activities of leading companies such as Google, Facebook, Amazon, broadband Internet service providers (ISPs) and large data brokers. Our analyses and reports on digital marketing and data practices help demystify complex and often covert online marketplace activities. We engage in broad outreach to leading consumer, privacy, civil rights, child advocacy, public health and other groups, keeping them apprised of the continuing erosion of privacy in the Big Data era and collaborating with them to develop solutions. We also regularly share information about the latest technological and policy developments with our allies in the international privacy, consumer, and digital rights movement. Our overall work helps build greater understanding of all these complex issues among journalists, academics, regulators, and the public-at-large.

**Populations served:** We serve all consumers in the U.S., including children, communities of color, and other vulnerable or at-risk individuals and communities. We believe our efforts have led to a better-informed public, more responsible corporate behavior, and increased interest from state and federal policymakers in addressing how best to protect consumer privacy.

**Proposed Project:** CDD respectfully requests \$500,000 for a 2-year research, outreach, and education project focused on emerging developments in the Big Data digital marketplace and their potential impacts on consumer privacy.

**Rationale:** Since the time that Google’s Street View was launched, the digital marketplace has expanded exponentially. Though the practices outlined in the lawsuit may have been curtailed, today’s data-driven apparatus has become even more pervasive and complex. Nearly every digital device and application has been refined to enhance its data-tracking capabilities. A complex system of interconnected services tracks, analyzes and then attempts to influence individuals through data-management platforms, offline and online “data onboarding” services, “data marketing clouds,” “cross-device identification” applications and other new Big Data operations. Companies are now able to reap an abundance of geo-location data on individuals, often in real-time, as well as to have access to a nearly unlimited array of highly personal data, including an individual’s political and news interests, financial and health status, race/ethnicity, shopping transactions and more. Mobile devices, apps, social media, gaming platforms, PCs, and connected TVs provide a continuous, interactive stream of information about individuals, families, friends, and acquaintances. Increasingly, many leading commercial data companies, including Facebook and Google, are now developing and using artificial intelligence, machine

learning, and algorithmic decision-making to take advantage of the abundance of personal data they regularly collect.

While many people rely on mobile devices, social media, and other technical tools in their daily lives, most have little knowledge or understanding of these underlying data systems and business models, the nature and extent of personal data extracted through their interactions with these technologies, or the consequences to their own privacy, safety, and security. Opinion polls indicate that the vast majority of Americans are concerned about their loss of privacy, but are resigned to having few, if any, means of dealing effectively with this problem.

In the wake of the scandal over Cambridge Analytica's use of social media during the 2016 election, we have seen more attention being paid to many of these issues in the press, as well as in the halls of Congress. However, the entire system is moving forward so quickly, that policy makers, the news media, and the general public have difficulty staying abreast of the most recent developments. Because of our ongoing tracking of the digital marketplace and the expertise we have developed in this area, we are playing a vital role both in keeping consumers and other key stakeholders informed, and in helping develop policy and corporate accountability solutions to address threats to privacy. Though other individuals and groups have recently taken up the cause for data privacy, CDD remains one of the only organizations with deep background and expertise in today's complex, elaborate and dynamic commercial data systems, as well as a laser-like focus on where the system is headed, what it means, and what we can do about it.

**Goals, Activities, and Deliverables:** We seek funding to embark on new areas of inquiry and to support our ongoing efforts for several projects currently underway. The funding would also help us increase our organizational capacity, enabling us to conduct our research more efficiently, distribute additional educational materials online through videos, multimedia, infographics, and other means; and organize convenings of stakeholder groups in several key issue areas. We believe this project will greatly benefit the class of individuals harmed by Google's Street View's intrusion into their privacy—and, equally important, possibly spare others from having to endure such incursions in the future.

Major project goals:

- to research next-generation technologies and services that are still in development for the commercial marketplace, or are in the process of being introduced, and to analyze them in terms of their implications for privacy and security;
- to provide accessible information to key stakeholders that explains these developments in the context of how today's Big Data-driven commercial surveillance system operates; what its impacts are on our lives; and which potential options might be developed to address privacy and security issues;

- to increase awareness among consumers, promote more responsible corporate behavior, and help inform policy makers of contemporary developments.

Project activities and deliverables: Our research will focus on several key technological developments that we believe are particularly urgent. These include streaming video (also known as “over-the-top” or OTT); e-sports gaming platforms; intelligent billboards and other Digital Out-of-Home (DOOH) technologies; advanced geotargeting systems; smart speakers; augmented reality; artificial intelligence/machine learning; and virtual reality. We will use this research to develop and publish online issue briefs and reports, videos and other multimedia materials. We will also conduct press briefings, convene meetings with stakeholder organizations, and present our work at scholarly conferences. The new developments we are researching will have significant consequences for health, democratic participation, family relationships, and other aspects of people’s lives. We will use the funding to engage in outreach efforts across several of these cross-cutting thematic areas where we already have done foundational research, published educational materials, developed networks of allied organizations, and worked with key media outlets. These issue areas are described below, along with summaries of our previous and current work, and a set of proposed activities:

*Retail, grocery and ecommerce privacy.* Grocery and retail shopping are in the midst of a major transformation, as offline (in-store) and online purchasing are increasingly being merged into one integrated market. Retailers are making major investments in Big Data systems to gather more detailed information on their customers, and to be able to reach them whether they are at the store or on the Internet. So-called “smart” discount coupons, delivered digitally to mobile phones, enable more precise tracking of consumer purchase activities. An extensive set of location-aware services has been constructed throughout the U.S. to identify the “places” where people spend their time, enabling companies to create “geofences” that identify and target individuals when they are near a school, shopping center, grocery store, or fast food restaurant. E-commerce companies, led by Amazon, are also making significant strides in their consumer data profiling capabilities. Few consumers understand the extensive ways data are captured and used in this growing retail and e-commerce system. Our [article](#), “Big Data and the Transformation of Food and Beverage Marketing,” published in *Critical Public Health*, alerted public health professionals to current and emerging practices in the retail marketplace and the privacy risks they raise for all consumers.

- Proposed activities and deliverables: an e-guide on contemporary shopping practices—what consumers need to know to protect their privacy and receive fair treatment; a series of op-eds; issue briefs for policymakers, stakeholder organizations, and leading industry representatives; infographics for social and other media; online video primer; panels at leading consumer affairs and privacy conferences.

*Wearable consumer devices and connected health.* CDD has documented how “wearable” and other connected devices can be used in ways that potentially affect

our health—such as signaling to pharmaceutical companies that we are concerned about some specific medical condition, which can lead to being personally targeted for various branded medications or treatments. Our 2016 [report](#), *Health Wearable Devices in the Big Data Era: Ensuring Privacy, Security, and Consumer Protection*, provided an overview and analysis of the major features, key players, and trends that are shaping this new consumer-wearable and connected-health marketplace, raising concerns that the weak and fragmented health-privacy regulatory system fails to provide adequate federal laws to safeguard personal health information collected by wearables. As more consumers rely on the Internet to obtain health information, and as the medical profession expands its own use of the Internet to engage in diagnosis and treatment, the privacy and security of our health data will be at even greater risk.

- Proposed activities and deliverables: an update of our 2016 report, to include the new marketplace technologies outlined above; an e-guide to the consumer online health landscape—covering the key developments, implications, and issues that need attention; a policy review of recent and current initiatives to address the consumer wearables market; an article for a leading health journal laying out the issues for the medical profession; op-eds in selected publications; and participation at meetings in the health field.

*Digital privacy safeguards for political/electoral campaigns.* Candidates and campaigns across the political spectrum increasingly use a full array of data-driven and digital marketing techniques pioneered by the commercial sector. These include data profiling, real-time targeting, geo-tracking, emotional analytics, and other potentially manipulative and discriminatory practices. CDD began closely analyzing these developments long before the 2016 presidential campaign brought them to the public’s attention. In 2018, through a [series of reports](#), as well as outreach to [policymakers](#), journalists, and campaign reform advocates, we [worked](#) to broaden the debate over the role of data and digital marketing beyond the important issue of Russian interference, illuminating how the basic operations of the digital marketing industry (especially the large platforms) can be used by a wide spectrum of political players in ways that threaten to undermine both individual privacy and the integrity of the democratic process. Our project is designed to inform Americans about the impact on their privacy of the political use of their commercially sourced data. They need to understand what kinds of information political interests are now able to collect and how these data are used to influence their voting decisions. Beyond explaining how the process works, we will also assess current and proposed safeguards—at both the state and federal levels—that might serve as models for developing new regulations or responsible data-industry practices. We want to explore whether anything can be done to give individuals greater control over how their commercial data can be used by political campaigns. This might mean urging the adoption of such practices as data minimization, privacy by design, and other mechanisms that have traditionally played a role in strengthening privacy in the commercial marketplace.

- Proposed activities and deliverables: develop additional materials for online distribution to the public; work with scholars and NGOs globally to identify needed policy safeguards; educate the news media and policymakers through reports and briefings; convene a panel in Washington, DC, with experts, privacy groups; produce a digital guide for voters; write and place a series of op-eds in major news outlets; convene and participate in public forums involving diverse stakeholders.

*Digital safeguards for children and youth.* CDD remains at the forefront of work to ensure that the privacy of both children and adolescents is protected. We constantly monitor industry trends and practices, engage in legal analysis (with our partner, the Institute for Public Representation, Georgetown University Law Center), and undertake efforts to alert and educate the public. We have examined some of the most powerful commercial services targeting children, including video programming on [YouTube](#) and Google's Play store for apps. Through a series of [complaints](#) filed at the FTC, as well as extensive outreach to the news media, we have kept both children and teen privacy—and the need for modernizing advertising safeguards for these vulnerable groups—front and center before policymakers and the press. We believe it is time to develop and promote a set of “Fair Data and Marketing Practices for Youth” in the digital era that should be adopted by leading digital media companies. Ensuring privacy and fair practices for teens 13-16 is also on our agenda, since they currently have no data collection and digital advertising protections. We will continue our work fostering collaboration globally among privacy advocates, scholars and consumer groups working in the EU, Canada and elsewhere.

- Proposed activities and deliverables: examine the growth of an expanded commercial sector targeting youth, including via streaming video, mobile devices, and gaming platforms; document new industry practices, such as data collection and microtargeted ads via connected TVs, and their privacy implications for young people; convene child-development scholars, advocates, and industry representatives to develop a fair data and marketing framework; produce e-guides for parents.

Note: While all of the project areas described above are part of CDD's priorities for the next few years, the only areas currently supported are portions of our retail and youth efforts, which are funded, in part, through a grant by Robert Wood Johnson Foundation to address the impact of the digital marketing of unhealthy food and beverages to young people.

#### **Evaluation:**

We will rely on a number of measures to assess our effectiveness. These will include the position papers, briefs, and consumer materials written and distributed; metrics for downloads of online e-guides and other documents; press coverage generated; number of briefings to outside groups, as well the nature and variety of the participants we attract; evidence of the

impact of our work on individual companies and industry self-regulatory bodies; public policies developed that reflect our work; and testimonials from leading NGOs and others about the impact of our project on their own activities. We will provide this evidence to the court on an annual basis for two years.

**Principal Project Directors:**

Jeff Chester, MSW, Executive Director: A former investigative reporter, filmmaker and Jungian-oriented psychotherapist, Jeff Chester received his M.S.W. in Community Mental Health from U.C. Berkeley. He is the author of *Digital Destiny: New Media and the Future of Democracy* (The New Press, 2007), as well as articles in both the scholarly and popular press. During the 1980s, Jeff co-directed the campaign that led to the establishment by Congress of the Independent Television Service (ITVS) for public TV. He also co-founded the National Campaign for Freedom of Expression, the artist advocacy group that supported federal funding for artists. In 1996, *Newsweek* magazine named Jeff Chester one of the Internet's fifty most influential people. He was named a Stern Foundation "Public Interest Pioneer" in 2001, and a "Domestic Privacy Champion" by the Electronic Privacy Information Center in 2011. CDD is a member of the Transatlantic Consumer Dialogue (TACD). Until January 2019, Jeff was served as the U.S. co-chair of TACD's Information Society (Infosoc) group, helping direct the organization's transatlantic work on data protection, privacy and digital rights.

Kathryn C. Montgomery, Ph.D., Research Director and Senior Strategist. In the early 90s, Kathryn Montgomery and Jeff Chester co-founded the Center for Media Education (CME). Dr. Montgomery served as President from 1991 to 2003. From 2003 until 2018, Dr. Montgomery was Professor of Communication at American University in Washington, D.C., where she founded and directed the 3-year interdisciplinary PhD program in Communication. In 2018, she was awarded Professor Emerita status at the university. Throughout her career, Dr. Montgomery has written and published extensively about the role of media in society, addressing a variety of topics, including the politics of entertainment television; youth engagement with digital media; and contemporary advertising and marketing practices. Montgomery's research, writing, and testimony have helped frame the national public policy debate on a range of critical media issues. In addition to numerous journal articles, chapters, and reports, she is author of two books: *Target: Prime Time – Advocacy Groups and the Struggle over Entertainment Television* (Oxford University Press, 1989); and *Generation Digital: Politics, Commerce, and Childhood in the Age of the Internet* (MIT Press, 2007). Montgomery's current research focuses on the major technology, economic, and policy trends shaping the future of digital media in the Big Data era. She earned her doctorate in Film and Television from the University of California, Los Angeles.

**Additional information:**

CDD has no relationship with the law firms or lawyers at Spector, Roseman, Kodroff & Wills, PC; Cohen, Milstein, Sellers & Tolls PLLC; and Lief, Cabraser, Heimann & Bernstein, LLP.

We have received two *cy pres* awards in the past. In 2012, CDD received an award as a result of a Netflix privacy litigation. We also received a separate *cy pres* grant to educate consumers about telecommunications issues.

We neither solicit nor accept funding from corporations, including Google and its parent, Alphabet, Inc.