

**Public Knowledge Cy Pres Grant Request  
June 21, 2019**

**GRANT PROCESS**

**Organization Information**

*1. Name of Organization*

Public Knowledge

*2. Discuss the founding and development of the organization. Explain the original issue and/or opportunity the organization was founded to address and how that may have changed over time.*

Public Knowledge (PK) was founded in 2001 to advocate for the public interest and consumer rights in what were then emerging issues: universal access to nondiscriminatory broadband networks and access to knowledge online. Broadband, net neutrality, free speech, and intellectual property issues remain at the core of our mission. As the internet has grown, our mission has grown with it, and now encompasses consumer protection, privacy, and competition issues related to online platforms and services. On issues such as privacy, PK supports comprehensive efforts that cover both network providers such as internet service providers (ISPs) and wireless carriers, online services of all kinds, and even cable and satellite TV providers. However, we do not support a "one-size-fits-all" approach, believing instead that the different characteristics of different services require different rules and kinds of oversight.

*3. Describe the organization's current goals.*

Public Knowledge's mission is to promote freedom of expression, an open internet, and access to affordable communications tools and creative works. The organization works to shape policy in the public's interest by working with legislators, regulators, community coalitions, and in public forums on issues such as internet privacy and data security, technology and communications consolidation and competition, artificial intelligence and social good, intellectual property, and broadband regulation, access, affordability and deployment.

Our current policy goals include enactment of strong online privacy protections, restoring net neutrality protections, both through legal challenges to the current Federal Communications Commission (FCC) and through legislation, supporting balanced and pro-competitive spectrum policies at the FCC and in Congress, and ensuring that other consumer protections that are being enacted (e.g., with respect to robocalling) both meaningfully protect consumers and preserve competition. In our work on competition policy, we continue to be leaders in challenging anti-competitive mergers and support strengthening both antitrust law and enforcement levels. We also advocate for fair and functional copyright policies. Currently, our

work focuses on promoting controlled digital lending technology for libraries and archives to facilitate preservation and access to historical and cultural works, pursuing policy solutions to restore a functional termination rights regime, and promoting competition in the music licensing marketplace.

Organizationally, we are planning to expand our fellowship program to train the next generation of public interest advocates, to continue to build relationships with policymakers and stakeholders in areas of advocacy including privacy and platform regulation, and to expand and deepen our work in telecommunications and intellectual property law.

*4. Provide a brief description of the organization's current programs. Include population and numbers served, as well as expected results.*

Public Knowledge is based in Washington, D.C., and promotes access to communications tools, including the internet, for all members of the public, especially those in underserved communities. While access to communications networks is important for all Americans, many of the issues for which PK advocates are especially important to marginalized communities who may lack access to broadband, have limited resources to advocate, or are especially vulnerable to technology failures such as privacy abuses or algorithmic bias.

Privacy: Public Knowledge has taken a leadership role in the burgeoning privacy debate. PK has submitted regulatory filings to the Federal Trade Commission (FTC), National Telecommunications and Information Administration (NTIA), and the National Institute of Standards and Technology (NIST) and testified before the FTC in its hearings on consumer privacy and data security. PK has met with the White House, NTIA, the State Department, and the FTC to discuss privacy and has provided expertise to the House and the Senate as they attempt to draft comprehensive and consumer-protective privacy approaches. PK plays a leadership role within the Privacy Now coalition, and facilitated the creation of the Public Interest Privacy Principles. PK has also used its writing and online webinars to serve as an expert resource for broader audiences of technology users, looking to understand and engage with the privacy policy conversation in Washington, DC.

In addition, PK provides expert analysis to congressional staff in preparation for privacy hearings and during the drafting process. PK helps to prepare witnesses for hearings, submits written statements for congressional hearings on privacy, and provides technical, strategy, and policy advice to staff for the House and Senate on approaches that meaningfully protect consumers.

Finally, PK continues to engage with industry to find points of compromise and to persuade industry actors to voluntarily undertake best practices to protect consumer privacy and data security. For example, over the past year PK has participated in three rounds of the conferences led by the Local Media Consortium to investigate privacy values to be incorporated in a new

exchange for small publishers seeking a competitive online advertising marketplace to the one dominated by large digital platforms.

**Open Internet:** Restoring meaningful Open Internet rules is a major focus for PK. Our work includes educating the public and policy makers, gaining support to overturn the FCC's 2017 net neutrality repeal order, and encouraging policy makers to create new rules that meaningfully restore net neutrality. PK is also working to invalidate the 2017 net neutrality repeal order in the courts.

**Affordability and Access:** PK advocates for increasing access to the internet through the Lifeline low-income subsidy programs and efforts to increase rural broadband deployment. The Lifeline program is under attack at the FCC, and PK is working to preserve the program for the thousands of American families who are eligible for the program. On broadband, PK is advocating for the 19 million Americans—6 percent of the population—who still lack access to fixed broadband service at threshold speeds that would allow them to engage in commerce, employment, and education. PK also led the formation of the Broadband Connects America coalition over the past year, coordinating local and national organizations to promote values and policies that support affordable, open, and secure rural broadband networks.

**Digital Platform Accountability:** In 2018, consumer and policy maker concerns about the rise and power of the largest digital platforms reached a boiling point. Contributing to public sentiment were privacy and data violations and other abuses. PK quickly became a leader on issues of platform accountability, outlining a general framework for regulating digital platforms with the goal of ultimately curbing competitive abuses through new laws or regulations.

**Copyright:** Public Knowledge works to promote creativity and openness on the internet by advocating for policies that ensure fair and functional copyright laws for consumers and online creators alike. PK's copyright priorities include preserving the Digital Millennium Copyright Act's protections against liability for online intermediaries, fighting for consumer protection against anti-competitive uses of digital rights management technologies, and promoting the ability for libraries and archives to provide their communities with preservation and access to important historical and cultural works through controlled digital lending.

**Other Work:** PK opposes media mergers that would be detrimental to consumers by intervening at regulatory agencies and other bodies, advocates for cybersecurity and artificial intelligence policies in the public interest through thought leadership and convenings, and encourages the government to adopt policies to preserve the protections inherent in the legacy phone network during the transition to digital networks.

5. *Has your organization been reviewed or rated by Charity Navigator or similar entity?*

Yes, by Charity Navigator.

a. *If yes, what are your ratings?*

PK's Overall [Score](#) is 88.10;

Rating is three stars;

Financial is 87.28; and

Accountability and Transparency is 89.00

### **Grant Proposal**

6. *Identify Principal Investigator/Project Director*

Legal Director, John Bergmayer

7. *Explain how much money you are requesting*

Public Knowledge is requesting \$770,000 for the projects outlined below, assuming a one-year fellowship is included. If a two-year fellowship is included, the budget would be \$907,500. The proposed budgets are summarized below:

#### **Fortify the Public Knowledge effort to fight for strong federal privacy laws**

- Stakeholder summit: \$75,000
- White papers: \$75,000
- Public information campaigns: \$75,000
- Privacy advocacy website: \$100,000

#### **Address the power of large digital market players to abuse consumer privacy**

- White paper, convening, staff expert work, technology, research costs: \$100,000

#### **Add data and analysis to the debate around individual privacy online**

- Economic analysis and consultation with outside experts: \$150,000

#### **Privacy Fellowship**

- One-year privacy fellow: \$125,000
- Or two-year privacy fellow: \$250,000

#### **Organizational Costs**

- 10 percent of total project budget (\$700,000) with one-year privacy fellow: \$70,000
- Or 10 percent of total project budget (\$825,000) with two-year privacy fellow: \$82,500

8. *Provide a summary of the plan for the program or project request. Include the issue and/or opportunity addressed, goals and objectives, activities, and timeline.*

Public Knowledge is a key player in the fight for individuals to control their own data and information online. We fight against colossal big money interests that stand to gain billions by vacuuming up data, regardless of the impact on consumers. Our current privacy work centers around advocating for strong federal rules to put individuals in charge of their own information. However, there is a great deal more we could do with additional resources. We outline here a number of additional tools and projects that would help us make real progress in the fight for individual privacy.

**Fortify the Public Knowledge and coalition effort to fight for strong federal privacy laws.**

Public Knowledge spearheaded creation of a coalition of consumer groups to create privacy principles and form a battle plan to approach Capitol Hill, and PK is at the center of the federal privacy debate. In addition, PK has testified before the FTC, appears routinely across the media, produces white papers, and participates in the Civil Rights Privacy and Technology Roundtable on emerging tech, biometrics, AI, algorithmic justice, and third party uses of data. (Note that as a 501(c)(3), PK's efforts center largely around advocacy and education for policy makers and the public, with strict limits on lobbying activities.) PK has devoted one of its government affairs attorneys to the effort, and several other PK advocates and lawyers work on the project as well. With more resources, PK could create:

- A stakeholder summit to discuss policy options for a comprehensive privacy solution with the goal to continue to build consensus around possible legislation and support in Washington for key consumer protections. (Timeline: between November 2019 and February 2020, or within six months of the start of the project. Activities and budget: venue, technology, travel, and other costs: \$75,000.)
- White papers with new facts and argumentation to influence lawmakers, create incentives for companies, and educate the public. (Timeline: one paper each calendar quarter beginning in the fall of 2019, or within the quarter after the start of the project. Activities and budget: staff experts, printing, technology, and public event: \$75,000.)
- Public information campaigns, such as events and webinars with grassroots and grasstops groups who can mobilize to educate their communities and direct their voices to policy makers. (Timeline: September 2019-September 2020, or one year after the start of the project. Activities and budget: staff experts, technology, travel, and public event(s): \$75,000.)
- Create a privacy advocacy website that would contain links to live events like congressional hearings, direct action information, educational materials like white papers and blog posts, information about how interest groups and the public can participate, and news about the privacy debate. (Timeline: September 2019-January 2020, or six

months after the start of the project. Activities and budget: staff experts, graphics, technology, web contractor, live streaming: \$100,000.)

**Capitalize on the energy and attention that has resulted from consumer concerns about online privacy and data abuses to create stronger privacy protections across the marketplace**

Personal data is an incredibly valuable resource to digital platforms. It is a key input to creating the artificial intelligence systems that will manage production and consumption in many industries in the future and is used for product customization and, of course, for targeting ads. The amount of data that today's dominant platforms are able to collect may create a very high barrier that will be difficult for any new competitor to surmount. If we can significantly curtail the data collection of these companies, that competitive moat they can build will be smaller, and diminish over time as the data ages. Properly targeted policies can address privacy and competition harms while still allowing consumers to benefit from new technologies.

Many privacy harms, such as identity theft, are major, and cause individuals significant harm. In other cases, individual privacy harms may be small but cumulative, and even consensual data sharing may create negative externalities for third parties. In some cases, when a company obtains an individual's data, it can be aggregated and analyzed to learn private information about others. Information may be inferred about people's mental health, political views, or economic status. This information has commercial, and even political value, as we learned from the Cambridge Analytica scandal. When some people have access to this tool and others don't, it provides the keepers of the tool an immense amount of power in the marketplace. Rather than democratize the power to influence human behavior to more for-profit entities, we need to significantly curtail the excessive data collection that makes the ecosystem possible. At the same time, PK will continue our competition and antitrust work, which will directly promote competition in and against the dominant digital platforms. (Timeline: September 2019-September 2020, or one year after the start of the project. Activities and budget: white paper, convening, staff expert work, technology, research costs: \$100,000.)

**Add data and analysis to the debate around individual privacy online by expanding economic information**

Public Knowledge has produced major white papers and other reports on online privacy and digital platform competition. With increased resources, PK could add serious economic analyses to this body of work, by studying the costs and benefits of data-heavy advertising to publishers, advertisers, and users, and the advantages of alternate means of providing consumers services (such as federated learning, differential privacy, on-device processing, and more coarsely-targeted ads) that do not involve significant privacy tradeoffs. (Timeline: September 2019-September 2020, or one year after the start of the project. Activities and budget: compensation for economist and associated costs: \$150,000.)

**Create a privacy fellowship.** A dedicated privacy fellow could focus full time on executing the privacy work described in this grant report and then move on to another position in the field as a privacy advocate. PK has a five year history of cultivating consumer rights advocates through fellowships, hosting 18 full time one or two-year fellowships over that time. PK fellows train by working side-by-side with PK's lawyers and advocates, in the halls of Congress, before agencies like the FCC, FTC, DOJ, in coalition meetings, and with the press. PK fellows have moved on to positions at Common Cause, National Hispanic Media Coalition, elected office as a state senator, the federal government, Capitol Hill, and other policy institutions. A Privacy Fellow could provide one or two years of dedicated attention to the privacy fight, and in doing so make a significant contribution toward policy success. (Timeline, activities, and budget: if one year, October 2019-October 2020 or one year after the start of the project, salary, benefits and costs: \$125,000. If two years, through October 2021 or two years after the start of the project, \$250,000.)

9. *Explain why the organization is approaching the issue and/or opportunity in this way.*

Public Knowledge approaches privacy both as a standalone issue, and through the lens of our other work. As a standalone issue, in addition to the coalition, advocacy, and lobbying work we have described, we have published whitepapers, such as December 2017's "Principles for Privacy Regulation," and addressed it substantially in our recent book, "The Case for the Digital Platform Act."

Public Knowledge also has a long history of working in telecommunications law. By the nature of their operation, telecommunications networks have the ability to monitor a great deal of user activity, and at times they have to share certain kinds of information with each other in order to interoperate. Distinct privacy laws and practices have been developed to deal with these issues, including prohibitions on wiretapping. We have long advocated that the FCC strengthen its privacy protections for users of telephone networks, and for it to extend its privacy protections to broadband users, as well. This work has included filings and meetings at the FCC, and working with members of Congress to preserve and extend these protections. We also fought successfully as intervenors in court to support the previous FCC's extension of the legal framework that protects telephone privacy to broadband, and are currently waiting to see how the DC Circuit rules on our challenge to the current FCC's unwise rollback of that framework. As parties in both cases, we not only prepared briefs but presented oral arguments in court. A core tenet of our privacy work is that privacy rules for modern internet platforms can be informed by the protections that have long been in place for communications networks.

Public Knowledge also has a great deal of expertise in antitrust and competition law. These issues have effects on privacy--for instance, a data breach on a monopoly service will affect more users than a data breach on a service in a competitive market. Additionally, in a competitive market, some companies may choose to differentiate themselves through data minimization, or by better protecting user privacy.

10. *Will the money be used to continue an existing project or create a new project?*

As described in the answer to question 8, the funds would be used to expand or create new elements of the PK privacy work.

a. *If a continuing project please provide all other funding sources*

PK's privacy advocacy is funded through general foundation and donor contributions. PK receives financial support for its mission from a wide array of sources, and ensures that its funding remains diversified and its mission independent. Funding sources include charitable foundation grants and general support contributions, including funds raised through Public Knowledge's annual IP3 Awards event. Foundation support accounts for between half and two thirds of Public Knowledge's budget, and current grantors include the Ford Foundation, Open Society Foundations, the Kahle-Austin Foundation, Media Democracy Fund/New Venture Fund, Nielsen, and the Voqal Fund. The remainder of support comes from companies and individuals through donations or sponsorship of the IP3 Awards.

11. *Specifically explain how this money will be used to enhance internet privacy and/or internet security for consumers and businesses.*

There is a growing consensus among a wide range of policymakers and stakeholders that a new privacy framework is needed at the federal level. Current federal privacy policy is a hodgepodge of often-ineffective laws. However, new laws can take many forms, and it is just as important to prevent new policies that actually weaken consumer protection from passing, as it is to promote positive reform.

Policy and legal advocates can shape this debate in many ways, through communication with lawmakers, staff, and the press, and through events and persuasive writing. However, empirical support in several key areas would greatly aid these efforts. By hiring economists, industry experts, or other relevant consultants, Public Knowledge can fill in the gaps and provide the kinds of evidence that policymakers can point to in support of constructive legislation.

12. *What are the major goals and objectives of this project?*

As discussed above, the best outcome of this project would be the enactment of a new strong federal online privacy law that protects consumers.

13. *Explain exactly how the money will be utilized to accomplish the goal and/or objective identified.*

Public Knowledge is at the forefront of the public debate on how best to create meaningful online privacy laws that protect consumers. As outlined in response to question 8 above, PK would deploy additional funds to fortify the fight for strong federal privacy laws by creating a

stakeholder summit, publishing white papers, launching a public information campaign, and creating a privacy advocacy website. PK would work to address the power of the largest digital market players to abuse consumer privacy through advocacy, thought leadership, and convenings. PK would add data and analysis to the debate around individual privacy online by adding economic analysis to the effort. Finally, PK would create a one or two year fellowship, providing a dedicated resource to fight for privacy, who could then continue his or her work in the public interest field, ideally as a privacy advocate.

*14. What target population will your project benefit?*

Increasing online privacy protections will benefit all Americans. They will be especially important to marginalized and low income communities who may have limited resources to advocate on their own behalf, or are especially vulnerable to data-based discrimination or technology failures such as privacy abuses or algorithmic bias.

*15. When will the project be completed?*

The majority of the projects are estimated to take place from September 2019 through September 2020, or one year from the start of the project, although the work could be ongoing beyond that date. If there is a two-year fellowship, it would continue through October 2021, or two years after the start of the project.

*16. If the project will be continued beyond a year after receiving the grant please describe when the project will be completed*

Most of the work we have outlined has a one year duration, although Public Knowledge will continue to advocate for individual privacy and data security online. The one project that is anticipated for two years is the privacy fellowships. In our experience, two-year fellowships are very effective in training future advocates.

*17. Is this project going to be funded by any other sources in addition to the proposed grant?*

*a. If yes, by whom and how much?*

Please see response to question 10. PK's privacy advocacy is funded through general foundation and donor contributions.

#### **Utilization of Data**

*18. Describe how you will evaluate the success of the grant on improving internet privacy and/or internet security for consumers and businesses.*

One way we will evaluate the success of our project is through concrete changes to marketplace behavior as influenced directly or indirectly by public policy. As an

inside-the-beltway organization, we work closely with policymakers, legislators, and regulators. The grant will help us both push for new legal frameworks and enforcement, and to oppose proposals that would harm, or water down, consumer privacy protections. Of course, changing the direction of public policy can be a long process. We will also judge the quality of our advocacy in terms of simply winning over lawmakers and stakeholders to our side, as well as using our expertise to support efforts of partners to broaden support outside the beltway. We also measure progress through successful execution of deliverables such as hearings, holding events for congressional staffers, public education events and campaigns, and white papers or other pieces of written advocacy. Additionally, even in the absence of changes to public policy, we will work to change the practices of dominant services to better promote user privacy. Many companies now claim to put a high priority on user privacy, but we need to match that with concrete changes, such as data minimization.

*19. Describe how often and what the form of evaluation you will provide during the course of the project and upon completion.*

During the course of the project, we will continually monitor the effectiveness of our efforts in promoting positive changes to public policies around privacy, and company practices, and in continuing to build and work with coalitions supporting reform.

*20. Do you intend to use the results of the project in any publications, conference papers, and presentations*

Yes.

*a. If so, please identify.*

Public Knowledge has outlined a number of projects in this proposal that include white papers and other written work. These papers and any other similar work would be assertively promoted through publication, at convenings hosted by Public Knowledge and others, at panels where PK experts appear, with congressional offices and other policy makers, on our website, with our email listservs, and through the press and social media.

**Miscellaneous**

21. *Do you have any relationship to the law firms Spector Roseman & Kodroff, PC; Cohen Milstein; or Lief Cabrasser or any lawyers at those firms?*

No.

22. *Have you ever received cy pres money previously?*

Yes.

a. *If yes, please explain.*

In 2019, Public Knowledge received \$78,868.41 of cy pres money. PK was chosen as one of the recipients for the cy pres distribution of residual funds from the settlement between Francis W. Hooker v. Sirius XM Radio Inc to go towards "consumer privacy work and not in furtherance of litigation."

23. *Within the last 3 years have you received any money from Google or its parent company Alphabet, Inc.*

Yes.

a. *If yes, please identify the amounts and the purposes of the money*

Google amounts and purposes:

2016 Funding for Trade Fellow - \$100,000

2016 Annual Support - \$100,000

2016 Support the Open Internet Online Course - \$60,000

2017 Patent Sponsorship - \$120,000

2017 Research by an expert economist on the business model for online creators - \$25,000

2018 Tech Policy General Support - \$100,000

2018 Google Public Policy Fellowship Stipend - \$7,500

2018 General Support - \$102,000

2018 Support for PK to participate at the IGF (international) - \$3,000