

June 9, 2022

The Honorable Carolyn B. Maloney
Chairwoman, House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Maloney,

We are writing today with regards to recent reports that the Office of Federal Student Aid secretly shared Personally Identifiable Information (PII) of an unknown number of federal student aid applicants with Meta and, more specifically, Facebook.

According to an April 28 news article co-published by Chalkbeat and The Markup, a string of website programming code, known as the Facebook Pixel, has collected personal data from an unknown number of applicants and potential applicants and sent that information to Facebook.¹ Meta's website says the Facebook Pixel is "a piece of code that you put on your website that allows you to measure the effectiveness of your advertising by understanding the actions people take on your website."²

When asked about the potential privacy vulnerability, Office of Federal Student Aid Chief Operating Officer Richard Cordray said that the Department of Education changed their tracking settings for a March 2022 advertising campaign, which "inadvertently caused some StudentAid.gov user information that falls outside of FSA's normal collection efforts, such as a user's first and last name, to be tracked."³ However, the article claims the data collection started earlier and went beyond first and last name, including "first name, last name, country, phone number, and email address[es] being sent to Facebook from the site as early as January 2022, months before the mentioned advertising campaign began."⁴

It is gravely concerning that the use of this data beyond collection is not closely monitored, tracked, or regulated. In fact, allowing advertisers access to Personally Identifiable Information opens users to potential data breaches and creates new privacy vulnerabilities. According to a 2018 report, "the inclusion of PII-based targeting opens up new privacy leaks in advertising platforms."⁵

¹ See Surya Mattu & Colin Lecher, *Applied for student aid online? Facebook saw you.*, Chalkbeat (Apr. 28, 2022, 5:16 PM), <https://www.chalkbeat.org/2022/4/28/23044944/fafsa-student-aid-facebook-tracking-pixel>.

² See *About Meta Pixel*, META BUSINESS HELP CENTER, <https://www.facebook.com/business/help/742478679120153?id=1205376682832142> (last visited May 12, 2022).

³ Mattu & Lecher, *supra* note 1.

⁴ *Id.*

⁵ Venkatadri, Giridhari, et al., *Privacy Risks with Facebook's PII-based Targeting: Auditing a Data Broker's Advertising Interface*, FED. TRADE COMM'N 14 (July 26, 2018), https://www.ftc.gov/system/files/documents/public_events/1223263/p155407privacyconmislove_1.pdf.

Moreover, Meta allows advertisers to parse and upload their own PII to compare against Facebook user data to assist in ad targeting.⁶ This is especially troubling as it relates to targeted advertising efforts that may be launched by predatory colleges with a history of employing deceptive and unscrupulous marketing practices to lure students to enroll.⁷

Facebook has a controversial history regarding user data privacy and their lenient and obscure targeted advertising policies are not new to government scrutiny. As recently as May 12, media reports indicate Facebook continues to allow advertisers to reach — or exclude — hyper-targeted demographic groups by identifiers such as race, religion, and sexual orientation.⁸ The lax accountability and oversight surrounding these policies has also enabled predatory advertisers to use Americans' personal information for discriminatory advertising campaigns that may violate civil rights and consumer protections laws. For example, a 2019 report showed that Facebook's algorithm was preventing women from seeing some job advertisements.⁹ The company has also faced intense scrutiny for allowing advertisers to discriminate against protected classes when advertising for housing and credit.¹⁰

The for-profit college industry has a similarly controversial history with discriminatory and predatory advertising practices. As recently as October 2021, the Federal Trade Commission has warned dozens of for-profit colleges and universities about predatory advertising practices, including false and misleading claims aimed at ensnaring students in high-cost, low-quality programs.¹¹ In many cases, students end up shouldering the burden of unnecessary debt while higher ed profiteers line their pockets.

Student Defense recently filed a class action lawsuit against Walden University — a Minnesota-based, online for-profit college — on grounds that the school unfairly targeted Black and women students with deceptive advertising. As alleged in the complaint, students who enrolled in the school's Doctorate in Business Administration program were required to enroll in and pay for substantially more credit hours than was originally advertised.¹²

⁶ See *About Personally Identifiable Information (Contact Information)*, META BUSINESS HELP CENTER, <https://www.facebook.com/business/help/876665706470981?id=188852726110565> (last visited May 12, 2022).

⁷ See Press Release, Fed. Trade Comm'n, *FTC Targets False Claims by For-Profit Colleges* (Oct. 6, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-targets-false-claims-profit-colleges>.

⁸ See Angie Waller & Colin Lecher, *Facebook Promised to Remove "Sensitive" Ads. Here's What It Left Behind*, *The Markup* (May 12, 2022, 8:00 AM), <https://themarkup.org/citizen-browser/2022/05/12/facebook-promised-to-remove-sensitive-ads-heres-what-it-left-behind>.

⁹ Imana, Basileal, et al., *Auditing for Discrimination in Algorithms Delivering Job Ads*, *THE ANT LAB* (Apr. 2021), <https://ant.isi.edu/datasets/addelivery/Discrimination-Job-Ad-Delivery.pdf>.

¹⁰ See Ariana Tobin, *HUD Sues Facebook Over Housing Discrimination and Says the Company's Algorithms Have Made the Problem Worse*, *ProPublica* (Mar. 28, 2019, 1:18 PM), <https://www.propublica.org/article/hud-sues-facebook-housing-discrimination-advertising-algorithms>; see also Corin Faife & Alfred Ng, *Credit Card Ads Were Targeted by Age, Violating Facebook's Anti-Discrimination Policy*, *The Markup* (Apr. 29, 2021, 8:00 AM), <https://themarkup.org/citizen-browser/2021/04/29/credit-card-ads-were-targeted-by-age-violating-facebooks-anti-discrimination-policy>.

¹¹ *FTC Targets False Claims by For-Profit Colleges*, *supra* note 7.

¹² See Erica L. Green, *Lawsuit Charges For-Profit University Preyed on Black and Female Students*, *THE NEW YORK TIMES* (Apr. 8, 2022), <https://www.nytimes.com/2022/04/08/us/politics/walden-university-lawsuit.html>.

Given these circumstances and the potential negative implications of this oversight on student borrowers, we request that the House Committee on Oversight and Reform immediately investigate the troubling questions raised by this breach, including:

- What data was sent to Meta over what period of time?
- How many applicants or potential applicants have had their PII shared?
- What steps has FSA taken to ensure similar breaches won't occur in the future?
- How advertisers — specifically for-profit colleges — might use this information for advertising purposes.
- What steps has FSA taken to ensure that for-profit colleges will not abuse the data for discriminatory or predatory advertising purposes?
- Whether Meta has shared any of the potentially affected users' data with any for-profit colleges for advertising purposes.
- Has the collection, release, and use of this information been used in a way that violates applicants' civil rights?

Students applying for federal aid programs should not have to worry about data privacy when accessing government resources online, let alone potentially being exposed to deceptive marketing practices. Unfortunately, by allowing Meta to collect this data without adequate accountability measures in place, the Department of Education has potentially enabled a violation of students' right to privacy.

If you have any questions, please contact Student Defense at info@defendstudents.org or Accountable Tech at jesse@accountabletech.org. Thank you for your time and consideration.

Sincerely,

/s/ Aaron Ament
Co-founder & President, Student Defense

/s/ Jesse Lehrich
Co-founder & Senior Advisor, Accountable Tech