

Congress of the United States
Washington, DC 20510

August 3, 2020

Anindya Datta
Chief Executive Officer and Chairman
Mobilewalla
5170 Peachtree Road
Building 100, Suite 100
Atlanta, GA 30341

Dear Mr. Datta:

We write to request information regarding your surveillance of Americans participating in First Amendment-protected activities. In June, your company released a report that disturbingly revealed that location data collected from cell phones was used to identify specific characteristics of American protesters at Black Lives Matter demonstrations around the United States.¹ We have serious concerns that your company's data could be used for surveillance of Americans engaging in Constitutionally-protected speech.

Mobilewalla is part of an ecosystem of data brokers that purchase or collect data from web browsers and apps installed on Americans' mobile devices. This data is often collected without the user's awareness and can include detailed location histories, "demographic information like home ZIP codes, age, gender, [and] even phone numbers and emails."² Data brokers can combine multiple datasets, assembling detailed profiles on individual users, including:

information as specific as whether a consumer purchased a particular soft drink or shampoo product in the last six months, uses laxatives or yeast infection products; OB/GYN doctor visits within the last 12 months, miles traveled in the last 4 weeks, [] the number of whiskey drinks consumed in the past 30 days, ... whether the individual or household is a pet owner, smokes, has a propensity to purchase prescriptions through the mail, donates to charitable causes, is active military or a veteran, holds certain insurance products including burial insurance or juvenile life insurance, enjoys reading romance novels, or is a hunter.³

¹ Mobilewalla, "George Floyd Protester Demographics: Insights Across 4 Major US Cities," June 2020, <https://f.hubspotusercontent40.net/hubfs/4309344/MW%20Protester%20Demographic%20Analysis.pdf>.

² New York Times, "Twelve Million Phones, One Dataset, Zero Privacy," Stuart A. Thompson and Charlie Warzel, December 19, 2019, <https://www.nytimes.com/interactive/2019/12/19/opinion/location-tracking-cell-phone.html>.

³ U.S. Senate Committee on Commerce, Science, and Transportation, "A Review of the Data Broker Industry: Collection, Use, and Sale of Consumer Data for Marketing Purposes," December 18, 2013, <https://www.commerce.senate.gov/services/files/bd5dad8b-a9e8-4fe9-a2a7-b17f4798ee5a>.

Brokers then sell these profiles to advertisers for more precise ad targeting.⁴

In a 2017 presentation, Mobilewalla wrote that “we profile users of mobile devices by collecting, analyzing and storing mass amounts of app and geo-location data” and claimed to have “billions of data points daily” from 276 million unique devices in the U.S.⁵ Mobilewalla’s June 2020 report on Black Lives Matter demonstrations analyzed data from almost 17,000 devices at specified protest locations in New York City, Los Angeles, Minneapolis, and Atlanta.⁶

Even though companies like Mobilewalla are quick to point out that their datasets are “de-identified,”⁷ it is in practice nearly impossible to anonymize detailed location data—for example, the location where that phone rests at night is likely to be the device owner’s home.⁸ As Mobilewalla itself explained, it used the location where “the device regularly resides” to determine whether protesters were likely residents of the city where they were observed protesting.⁹ Although the company reportedly claims that “we do not know who the protestors are, we are just able to derive their demographics,”¹⁰ the data that has been collected can likely be used to derive the exact location of a person’s home.

Furthermore, we are deeply concerned that Mobilewalla’s report advertises that the company can target thousands of Americans on the basis of their exercise of First Amendment rights. This use could include political targeting based on personal or religious beliefs, which Mobilewalla has previously facilitated. For example, in the 2016 presidential election, Mobilewalla “created ‘segments’ of Evangelicals and tracked their location in real time on election day. The firm [] used that data to tell Evangelicals to vote if their phone hadn’t been seen near a polling place on election day.”¹¹ Mobilewalla also facilitates the targeting of Muslims, advertising that they can identify audience segments such as “Ramadan Observers,” “Ramadan Restaurant Goers,” and “Ramadan Homecomers,” based in part on whether devices “were observed frequently in mosques.”¹²

⁴ BuzzFeed, “Almost 17,000 Protesters Had No Idea A Tech Company Was Tracing Their Location,” Caroline Haskins, June 25, 2020, <https://www.buzzfeednews.com/article/carolinehaskins1/protests-tech-company-spying>.

⁵ Mobilewalla, “Time: A critical dimension of understanding mobile consumers,” presentation, https://www.adsquare.com/wp-content/uploads/2017/03/08_AIM_Mobilewalla.pdf.

⁶ Mobilewalla, “MOBILEWALLA METHODOLOGY FOR GEORGE FLOYD PROTEST MARCH IN ATLANTA, MINNEAPOLIS, NEW YORK AND LOS ANGELES,” June 2020, <https://f.hubspotusercontent40.net/hubfs/4309344/Mobilewalla%20Protester%20Insights%20Methodology.pdf>.

⁷ *Id.*

⁸ New York Times, “Twelve Million Phones, One Dataset, Zero Privacy,” Stuart A. Thompson and Charlie Warzel, December 19, 2019, <https://www.nytimes.com/interactive/2019/12/19/opinion/location-tracking-cell-phone.html>; Wall Street Journal, “IRS Used Cellphone Location Data to Try to Find Suspects,” Byron Tau, June 19, 2020, <https://www.wsj.com/articles/irs-used-cellphone-location-data-to-try-to-find-suspects-11592587815>.

⁹ Mobilewalla, “MOBILEWALLA METHODOLOGY FOR GEORGE FLOYD PROTEST MARCH IN ATLANTA, MINNEAPOLIS, NEW YORK AND LOS ANGELES,” June 2020, <https://f.hubspotusercontent40.net/hubfs/4309344/Mobilewalla%20Protester%20Insights%20Methodology.pdf>.

¹⁰ Engadget, “Demographic report on protests shows how much info our phones give away,” Christine Fisher, June 25, 2020, <https://www.engadget.com/mobilewalla-data-broker-demographics-protests-214841548.html>.

¹¹ VICE Motherboard, “Firm That Tracked Protesters Targeted Evangelicals During 2016 Election,” Lorenzo Franceschi-Bicchierai, June 26, 2020, https://www.vice.com/en_us/article/9353qv/mobilewalla-tracked-protesters-targeted-evangelicals-during-2016-election.

¹² Mobilewalla, “Reach your best prospects this Ramadan,” accessed July 20, 2020, https://cdn2.hubspot.net/hubfs/4309344/MW%20Audience%20Segments_Ramadan%202020.pdf.

More concerning, once profiled on the basis of their location data or other information collected about them, people can be targeted not only for marketing or political purposes, but for law or immigration enforcement. At least one data broker has obtained contracts with multiple federal agencies, including Immigrations and Customs Enforcement, Customs and Border Protection, and the Internal Revenue Service.¹³ Last month, we opened an investigation into this broker.¹⁴

Data brokers such as Mobilewalla may enable the government to obtain sensitive data about Americans' activities that the government would otherwise need a warrant to compel. In 2018, the Supreme Court held that, under the Fourth Amendment, the government must generally obtain a warrant before obtaining cell phone location data from telecommunications companies.¹⁵ However, the purchase of data from a third-party company such as yours may be allowing the government to, in the words of one expert, "buy its way around the Fourth Amendment."¹⁶

We are concerned that data collected by Mobilewalla or other data brokers could be used to enable state-sponsored retaliation against protesters. On July 6, 2020, Chad Wolf, Acting Secretary of the Department of Homeland Security, said, "This is no longer about peaceful protesting, this is about violent, criminal mobs taking over certain cities,"¹⁷ a sentiment supported (via retweet) by President Trump.¹⁸

To help us better understand the extent to which data brokers such as Mobilewalla could enable Americans to be targeted on the basis of protected First Amendment activities, political activities, and other characteristics, please provide a briefing to our staffs on this matter and respond to the following questions and requests by August 17, 2020.

1. Does Mobilewalla currently provide goods or services to any federal, state, or local government entities? Please provide documents sufficient to show the nature and purpose of the product or service provided, including any contracts with federal, state, or local

¹³ Wall Street Journal, "Federal Agencies Use Cellphone Location Data for Immigration Enforcement," Byron Tau and Michelle Hackman, February 7, 2020, <https://www.wsj.com/articles/federal-agencies-use-cellphone-location-data-for-immigration-enforcement-11581078600>; Wall Street Journal, "IRS Used Cellphone Location Data to Try to Find Suspects," Byron Tau, June 19, 2020, <https://www.wsj.com/articles/irs-used-cellphone-location-data-to-try-to-find-suspects-11592587815>; USASpending.gov, "venntel," accessed July 28, 2020, https://www.usaspending.gov/#/keyword_search/venntel.

¹⁴ Letter from Carolyn B. Maloney, Chairwoman, Committee on Oversight and Reform, Senator Elizabeth Warren, Senator Ron Wyden, and Representative DeSaulnier to Chris Gildea, Venntel, Inc., June 24, 2020, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-06-24.CBM%20Warren%20Wyden%20DeSaulnie%20to%20Venntel%20re%20Mobile%20Phone%20Location%20Data.pdf>.

¹⁵ *Carpenter v. United States*, 138 S.Ct. 2206 (2018).

¹⁶ WIRED, "Can the Government Buy Its Way Around the Fourth Amendment?," Gilad Edelman, February 11, 2020, <https://www.wired.com/story/can-government-buy-way-around-fourth-amendment/>

¹⁷ Fox News, "DHS Secretary Wolf says 'criminal mobs' taking over cities, not peaceful protesters," Joshua Nelson, July 6, 2020, <https://www.foxnews.com/media/acting-dhs-secretary-criminal-mobs-are-taking-over-cities-federal-provide-assistance>.

¹⁸ Tweet by Donald J. Trump, July 6, 2020, <https://twitter.com/realDonaldTrump/status/1280132362152693761>.

government entities and the characteristics of any data provided to or accessed by any federal, state, or local government entity.

2. Is Mobilewalla aware of any government entities with licenses to access any database that has been knowingly sourced with Mobilewalla data?
3. Please provide all correspondence between Mobilewalla and any employee, official, or representative of any federal department, federal agency, or executive branch office.
4. Is Mobilewalla in contact with, or has it disclosed any data to, federal, state, or local government entities for the purpose of tracking protesters in Portland, Oregon?
5. Please explain why Mobilewalla prepared and then released a report analyzing Black Lives Matter protesters.
6. Is Mobilewalla identifying protesters in Portland, Oregon, and tracking their activities and locations? Is Mobilewalla planning to release a report about these protesters similar to the one it released in June 2020?
7. Has Mobilewalla ever shared data about devices in the U.S. with foreign governments or foreign companies? If so, please identify those entities, and describe the disclosures in full.
8. What is Mobilewalla's policy on providing data or access to data to government entities that have not obtained a warrant for the information?
9. Please provide a complete list of the audience segments that Mobilewalla uses to classify device profiles, including audience segments that indicate likely political leanings.
10. According to Mobilewalla documents and statements made by you, Mobilewalla has tracked and profiled Americans based on their visits to mosques¹⁹ or Evangelical churches.²⁰ Has Mobilewalla tracked and profiled Americans who have visited places of worship associated with other faiths? If yes, please identify each religion or faith that Mobilewalla has used to profile Americans or their devices.
11. Please describe and provide documents sufficient to show the characteristics and extent of data collected by Mobilewalla, including:
 - a. How many unique device identifiers have you collected in total?
 - b. How many unique device identifiers have been observed each month, for each of the last 36 months?

¹⁹ Mobilewalla, "Reach your best prospects this Ramadan," accessed July 20, 2020, https://cdn2.hubspot.net/hubfs/4309344/MW%20Audience%20Segments_Ramadan%202020.pdf.

²⁰ VICE Motherboard, "Firm That Tracked Protesters Targeted Evangelicals During 2016 Election," Lorenzo Franceschi-Bicchierai, June 26, 2020, https://www.vice.com/en_us/article/9353qv/mobilewalla-tracked-protesters-targeted-evangelicals-during-2016-election.

- c. Please provide the number of unique device identifiers associated with any known, inferred, or predicted information about the following categories. For each category, please provide three numbers: the total number of device identifiers worldwide; the number of device identifiers associated with American consumers; and the number of device identifiers that were included in the June report.
 - i. Race
 - ii. Age
 - iii. Gender
 - iv. Phone number
 - v. Email address
 - vi. Home location
 - vii. Work location
 - viii. Latitude and longitude location
 - ix. Browser history
 - x. Personal interests
 - xi. Religion
 - xii. Political leanings
 - d. How many total latitude and longitude data points are included in the dataset?
12. Please describe and provide documents sufficient to show how Mobilewalla correlates datasets to create user profiles.
13. Please describe the analytical processes used by Mobilewalla to infer race and gender as the company analyzes aggregate data.
14. Please identify the apps, software development kits (SDKs), and Real Time Bidding (RTB) advertising exchanges from which Mobilewalla obtains information about Americans and their devices.
15. Please describe and provide documents sufficient to show how Mobilewalla's collection, storage, and use of RTB bidstream data is consistent with its agreements, if any, with the RTB exchanges that provide the data to Mobilewalla and other participants in ad auctions.
16. Please identify and provide documents sufficient to show the steps taken by Mobilewalla to ensure that the data it buys or acquires has been obtained with consumer consent, and that consumers understand that data about their visits to sensitive locations, such as places of worship, may be collected and shared with Mobilewalla and then used to profile them based on their religious views.

Sincerely,



Elizabeth Warren
United States Senator



Carolyn B. Maloney
Chairwoman
House Committee on Oversight and Reform



Ron Wyden
United States Senator



Mark DeSaulnier
Member of Congress