

March 4, 2024

The Honorable Lina Khan, Chair
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

The Honorable Jonathan Kanter, Assistant Attorney General
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Chair Khan and AAG Kanter:

We write to share our strong concerns about Walmart's intention, announced on February 20, 2024, to [acquire](#) Vizio for \$2.3 billion. Given that Walmart's acquisition of this television manufacturer and digital advertising company could exacerbate concentration, data hoarding, and privacy concerns, we believe it would be harmful to consumers and dangerous to the free market from multiple standpoints. We urge you to apply the highest level of regulatory scrutiny to the proposed transaction.

Walmart is a multinational corporate behemoth, dominating retail, e-commerce, and logistics, as well as increasingly becoming a dominant player in banking and consumer finance, healthcare, food manufacturing and distribution, fintech, and other sectors. Walmart already operates one of the most comprehensive [consumer data harvesting programs](#) in the world. The company uses the data it collects about consumers and their shopping and buying habits to fuel a privacy-invasive surveillance advertising ecosystem. The company uses data collected about consumers to influence our behavior, tracks that behavior, then sells the new data it has harvested back to its suppliers.

Against this troubling backdrop, Walmart proposes to buy the Vizio advertising network and ecosystem and add millions of Americans' TV browsing and viewing history to its massive troves of data. While Vizio manufactures televisions, [it is also a media company](#) that generates far more profits on the advertising and data services built into its TV operating system than off sales of its hardware. Acquiring Vizio will enable Walmart to further grow its business lines that rely on extracting, monetizing, and exploiting consumer data.

These privacy and data security risks are especially alarming as Vizio is already notorious for undermining and violating consumer privacy, reflected in [a federal consent decree](#) prompted by its history of collecting and sharing consumers' TV viewing histories without consent. The proposed Vizio acquisition threatens to jeopardize future critically important privacy protections stipulated in that settlement, as well as expose even more Americans to similar privacy dangers.

To understand the potential ramifications of the proposed deal, it is critical to recognize that Walmart already leverages the huge footprint in each sector it dominates to cross-sell to consumers in other sectors, seeking to lock them into the Walmart ecosystem and consolidate

its dominance of our economy. The financial incentives for Walmart to use its acquisition of Vizio to tighten its grip on other sectors through anticompetitive tactics could be considerable. It is no wonder that advertising executives for other firms are already concerned that Walmart's proposed acquisition will result in their being locked out or forced to accept unfavorable terms. The head of media for Hershey [says the deal](#) "will inherently force larger spend commitments with no guardrails."

Furthermore, given that Vizio TVs have the [number-one shelf-share position](#) in Walmart retail stores, we note that the proposed acquisition could allow Walmart to self-preference its own televisions while avoiding the criticism it would have provoked if it had engaged in more shameless self-preferencing of a preexisting in-house television brand. We are concerned as well that Walmart's outsized brick-and-mortar and digital presence in every retail market in America gives it an opportunity to block or threaten to block television manufacturers that use competing operating systems from its sales channels. That would kill retail choice for Americans in all the markets where Walmart has already killed its brick-and-mortar competitors. The proposed deal could lock in captive buyers to Walmart advertising and content channels for good. Other smart-TV companies are already feeling the fallout: Roku shares [dropped 9%](#) following the announcement.

For all of these reasons, we urge you to investigate the serious threats posed by this proposed merger to consumers and competition, and if warranted, take appropriate measures and deny approval. Walmart must not be given a free pass to exploit and consolidate its monopolistic powers at the expense of everyone else.

Sincerely,

American Economic Liberties Project
Blue Future
Center for Digital Democracy
Demand Progress Education Fund
Electronic Privacy Information Center (EPIC)
FreedomBLOC
Institute for Local Self-Reliance
Main Street Alliance
Media Alliance
NextGen Competition
Open Markets Institute
Other 98%
Progress America
Public Citizen
Revolving Door Project
RootsAction.org
Social Security Works
UFCW 3000
United for Respect