

Testimony of Amba Kak, Monopoly Busters Caucus Shadow Hearing

AI Crossroads: Stopping Big Tech's Race to Monopolize AI Through Surveillance

Thank you, Co-Chair Jayapal and members of this Caucus, for your leadership on these issues. My name is Amba Kak, co-executive director of AI Now, an independent think tank committed to shaping AI in the public interest. I've worked on technology policy for over 15 years, including as Senior Advisor on AI at the Federal Trade Commission (FTC) under Chair Khan's leadership.

At the FTC I saw first hand what it meant to go up against power in the tech industry. The experience reinforced how impactful it can be for government to use all the tools at its disposal: the laws on the books, including dormant, but relevant statutes that had been gathering dust from disuse; transparency measures that chip away at the information asymmetries; and, maybe most importantly, a message to industry that the job of a regulator is to do just that.. Equally, it was never lost on us what a gargantuan task it is to confront Big Tech power *after* it has already consolidated, and falsely positioned as too big to fail.¹

Meanwhile, it is the public that has faced the consequences of a surveillance economy that weaponizes our personal data against our own interests – to hike up prices,² depress wages,³ deny us loans and insurance claims;⁴ foster addiction to an often manipulative information environment⁵ – sometimes at irreparable cost for the most vulnerable among us. Harms that can *never* be remediated or undone.

Today's highly concentrated, routinely reckless AI industry wasn't born with chatGPT, it has grown out of these very foundations: a decade of consolidation fueled by unregulated commercial surveillance⁶ and a permissive competition regime.⁷ It is these surveillance profits

¹ Kate Brennan, Amba Kak, and Sarah Myers West, "Too Big to Fail: Infrastructure and Capital Push," in *Artificial Power: 2025 Landscape Report* (AI Now Institute, 2025), <https://ainowinstitute.org/publications/2-heads-i-win-tails-you-lose-how-tech-companies-have-rigged-the-ai-market>.

² Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries* (January 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf.

³ Veena Dubal, "On Algorithmic Wage Discrimination," *Columbia Law Review* 123, no. 7 (November 2023): 1929–2004, https://www.columbialawreview.org/wp-content/uploads/2023/11/Dubal-On_Algorithmic_Wage_discrimination.pdf.

⁴ See Elizabeth Napolitano, "UnitedHealth uses faulty AI to deny elderly patients medically necessary coverage, lawsuit claims," *CBS News*, November 20, 2023, <https://www.cbsnews.com/news/unitedhealth-lawsuit-ai-deny-claims-medicare-advantage-health-insurance-denials/>; and ABA Banking Journal, "Fed's Barr highlights digital redlining risk resulting from AI tools," *ABA Banking Journal*, July 18, 2023, <https://bankingjournal.aba.com/2023/07/feds-barr-highlights-digital-redlining-risk-resulting-from-ai-tools/>.

⁵ Cecilia Kang, Ryan Mac, and Eli Tan, "Meta and YouTube Found Negligent in Landmark Social Media Addiction Case," *New York Times*, March 25, 2026, <https://www.nytimes.com/2026/03/25/technology/social-media-trial-verdict.html>.

⁶ Federal Trade Commission, *A Look Behind the Screens: Examining the Data Practices of Social Media and Video Streaming Services* (September 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/Social-Media-6b-Report-9-11-2024.pdf.

⁷ House Judiciary Committee, "Judiciary Antitrust Subcommittee Investigation Reveals Digital Economy Highly Concentrated, Impacted By Monopoly Power," press release, October 6, 2020, <https://democrats-judiciary.house.gov/media-center/press-releases/judiciary-antitrust-subcommittee-investigation-reveals-digital-economy-highly-concentrated-impacted-by-monopoly-power>.

and the data, infrastructure and capital they built that are now being redirected to dominate AI.⁸ The AI industry's vision is more of the same: centralize power within a small cabal of private actors, and away from everyone else.⁹

The good news? We've been here before. while the game is already rigged in Big Tech's favor, its rules can still be changed. In the din of frenzied fears and anxieties about AI, **we're looking to our representatives for a steady hand at the wheel. I have three recommendations for how we do this.**

First, go after root causes, not symptoms. For a decade, we've played whack-a-mole with harms after the fact—including last month's \$17 billion settlement by Meta over . harms to kids.¹⁰ While welcome, \$17 billion is still a drop in the ocean of a trillion dollar market cap.¹¹ And for these firms, fines are the cost of doing business, doing nothing to perturb the business model that perpetuates these harms in the first place.

What does? Clear and *enforceable* rules of the road, especially on privacy and competition as data advantages sit at the root of these monopolies.¹² Structural separations that get at the conflicts of interest up and down the AI stack allowing these firms to capture the AI market,¹³ while it matters.

Second, don't let companies co-opt the solution space

This playbook is not new. Congresswoman Jayapal, in 2019, calls grew in your home state to ban police use of facial recognition. When you answered this call, tech companies pivoted from

⁸ Meredith Whittaker, "The steep cost of capture," *Interactions* 28, no. 6 (November 2021): 50–55, <https://interactions.acm.org/archive/view/november-december-2021/the-steep-cost-of-capture>. See also Amba Kak, Sarah Myers West, and Meredith Whittaker, "Make no mistake—AI is owned by Big Tech," *MIT Technology Review*, December 5, 2023, <https://www.technologyreview.com/2023/12/05/1084393/make-no-mistake-ai-is-owned-by-big-tech/>.

⁹ Federal Trade Commission, *Report Regarding the State of Artificial Intelligence Partnerships and Investments* (January 17, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/p246201_aipartnerships6breport_redacted_0.pdf. See also Ganesh Sitaraman and Ramsi Narechania, "An Antimonopoly Approach to Artificial Intelligence Governance," *Yale Law & Policy Review* 43, no. 1 (2024): 95–170, https://yalelawandpolicy.org/sites/default/files/YLPR/narechania_sitaraman_anantimonopolyapproach_ylpr_2024.pdf.

¹⁰ Cecilia Kang and Eli Tan, "Meta to Pay Up to \$17.1 Billion in Landmark Settlement Over Social Media Addiction Claims," *New York Times*, August 26, 2026, <https://www.nytimes.com/2026/08/26/technology/meta-settlement-social-media-addiction-lawsuit.html>.

¹¹ Proton, Big Tech Fines Tracker, accessed September 16, 2026, <https://proton.me/tech-fines-tracker>.

¹² Meredith Whittaker, "The steep cost of capture," *Interactions* 28, no. 6 (November 2021): 50–55, <https://interactions.acm.org/archive/view/november-december-2021/the-steep-cost-of-capture>.

¹³ Kate Brennan, Amba Kak, and Sarah Myers West, "Heads I Win, Tails You Lose: How Tech Companies Have Rigged the AI Market," in *Artificial Power: 2025 Landscape Report* (AI Now Institute, 2025), <https://ainowinstitute.org/publications/2-heads-i-win-tails-you-lose-how-tech-companies-have-rigged-the-ai-market>.

fighting regulation to claiming to support it, pushing a state bill that established optional audits and "stakeholder engagement"¹⁴ instead of the outright ban demanded by advocates.¹⁵

Last year Microsoft executives endorsed licensing for advanced AI, as long as the standards were shaped behind closed doors,¹⁶ a self-serving regime that pulls up the drawbridge for incumbents. Congress must act on behalf of the public, not boardrooms acting on behalf of investors. We've seen privacy used by Big Tech as a shield for hoarding data: your data is safe and private, as long as it stays in the family of Big Tech's walled garden.

And this weekend, we saw the largest AI firms with record levels of financial interdependence and enmeshed trajectories, asking for a pass against collusion with safety as the guise.¹⁷ To put this in perspective, Nvidia, who holds the dominant position as provider of advanced chips that are in short supply, has poured billions into its biggest customers like OpenAI, and is backstopping up to \$105 billion for OpenAI's Ohio data center.¹⁸ This month Nvidia agreed to buy Hugging Face, the very company OpenAI's AI agents broke into this summer, and one that might otherwise have taken OpenAI to court.¹⁹ We don't know to what extent their ongoing discussions may have influenced decisionmaking here.

A handful of firms this entangled,²⁰ agreeing among themselves how fast the "frontier" moves and who gets to be on it, is not a plan that keeps the public safe. It's a cartel that shuts the door behind them. Safety standards must be set, monitored, and enforced by public institutions, with public capacity, not by the companies they're meant to constrain.

Third, end AI exceptionalism and enforce the laws on the books: As former FTC Chair Lina Khan reminded us just days ago, there is no AI exemption from existing law.²¹ Shipping unvetted AI agents without safeguards to detect and stop them can be unfair or deceptive practice under

¹⁴ See Washington State Senate Democrats, "Governor Signs Facial Recognition Regulations into Law," press release, March 31, 2020, <https://senatedemocrats.wa.gov/nguyenarchive/2020/03/31/governor-signs-facial-recognition-regulations-into-law/>; and Microsoft, "Washington Facial Recognition Legislation," *Microsoft On the Issues Blog*, March 31, 2020, <https://blogs.microsoft.com/on-the-issues/2020/03/31/washington-facial-recognition-legislation/>.

¹⁵ American Civil Liberties Union, "Community Control over Police Surveillance," accessed September 16, 2026, <https://www.aclu.org/community-control-over-police-surveillance>.

¹⁶ Steven Overly, "It's time to regulate AI like cars and drugs, top Microsoft exec says," *Politico*, September 13, 2023, <https://www.politico.com/news/2023/09/13/its-time-to-regulate-ai-like-cars-and-drugs-top-microsoft-exec-says-00115445>.

¹⁷ Ece Yildirim, "OpenAI, Anthropic, and Google Join Forces for Safety as Antitrust Concerns Mount," *Gizmodo*, September 15, 2026, <https://gizmodo.com/openai-anthropic-and-google-join-forces-for-safety-as-antitrust-concerns-mount-2000811888>.

¹⁸ Ian King and Will Wade, "Nvidia Will Back First Phase of OpenAI Project With as Much as \$105 Billion," *Bloomberg*, August 17, 2026, <https://www.bloomberg.com/news/articles/2026-08-17/nvidia-to-invest-up-to-105-billion-for-openai-data-center-in-ohio>.

¹⁹ Matt Novak, "Hugging Face Doesn't Want to Sue OpenAI. It Does Want \$100 Million," *Gizmodo*, July 31, 2026, <https://gizmodo.com/hugging-face-doesnt-want-to-sue-openai-it-does-want-100-million-2000793453>.

²⁰ Cedric Sam, Rachael Dottle, Agnee Ghosh, and Kyle Kim, "A Guide to the Circular Deals Underpinning the AI Boom," *Bloomberg*, January 22, 2026, <https://www.bloomberg.com/graphics/2026-ai-circular-deals/>.

²¹ Lina Khan, Twitter/X post, September 13, 2026, <https://x.com/linamkhan/status/2099204390548639960>.

the FTC Act and state law, and states are already acting, from California's investigation into OpenAI over the Hugging Face hack²² to Florida's criminal probe.²³

Competition law applies too, and much of the conduct that deserves scrutiny is about who controls data and access. Meta shut rival AI assistants out of WhatsApp so that Meta AI would be the only option,²⁴ until European enforcers ordered access restored in June.²⁵ Amazon invoked a federal hacking law to keep Perplexity's shopping agent, used by Amazon's own customers, off its store.²⁶ And even Microsoft's CEO has warned that businesses building on AI models are “paying twice” handing the labs the know-how to compete against them.²⁷

So where does this leave Congress? We do need new rules, and we don't have to invent them from scratch. We have a long history of governing banks, utilities, critical infrastructure —, with tools like structural separation, nondiscrimination, and supervision. In all of these, we have leverage over market interests, and the ability to gate access to the market on the condition that the public interest is protected. That is the right lineage for a federal charter for large AI companies. And new rules must come alongside enforcement, not instead of it.

Nothing about this trajectory is inevitable. “Bigger is better” is a choice that Big AI firms have gone all in on, and so is letting a few companies write their own rules. Congress can and must choose otherwise. This is the moment to move.

²² Chase DiFelicianantonio, “California’s Rob Bonta investigating OpenAI over Hugging Face hack,” *Politico*, September 4, 2026, <https://www.politico.com/news/2026/09/04/california-investigation-openai-hugging-face-hack-01065800>.

²³ CBS Miami Team, “Florida proposes fines, monitorship, and state suspension for AI companies that abet crimes,” *CBS News*, September 8, 2026, <https://www.cbsnews.com/miami/news/florida-attorney-general-ai-new-laws-crime-tech-companies-september-2026/>.

²⁴ Michael Muchmore, “Meta Will Ban Rival AI Chatbots from WhatsApp,” *TechRadar*, October 24, 2025, <https://www.techradar.com/ai-platforms-assistants/meta-will-ban-rival-ai-chatbots-from-whatsapp>.

²⁵ European Commission, “Commission Orders Meta to Restore Free WhatsApp Access for Rival AI Assistants,” press release, June 9, 2026, https://ec.europa.eu/commission/presscorner/detail/en/ip_26_1276.

²⁶ Blake Brittain, “Amazon loses US court ban on Perplexity’s AI shopping tools,” *Reuters*, August 4, 2026, <https://www.reuters.com/business/retail-consumer/amazon-loses-us-court-ban-perplexitys-ai-shopping-tools-2026-08-04/>.

²⁷ Satya Nadella, Twitter/X post, July 14, 2026, <https://x.com/satyanadella/article/2076323181154230284>.