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UNITED STATES OF AMERICA  
**Federal Trade Commission**  
WASHINGTON, D.C. 20580

**STATEMENT OF COMMISSIONER REBECCA KELLY SLAUGHTER  
REGARDING THE COMMISSION'S REPORT TO CONGRESS:  
*COMBATTING ONLINE HARMS THROUGH INNOVATION***

*Open Meeting of the Commission*  
June 16, 2022

I support sending the Commission's report: "Combating Online Harms Through Innovation" to Congress. In the 2021 Appropriations Act, Congress directed the FTC to study and report on whether and how AI "may be used to identify, remove, or take any other appropriate action necessary to address" a wide variety of specified "online harms." Congress specifically sought our opinion on online harms such as scams, deepfakes, fake reviews, opioid sales, child sexual exploitation, revenge pornography, harassment, hate crimes, election-related disinformation, counterfeit products, and the glorification or incitement of violence. In addition, Congress sought recommendations on "reasonable policies, practices, and procedures" for such AI uses and on legislation to "advance the adoption and use of AI for these purposes."

The Commission report provides a comprehensive review of the efforts to use AI to combat each of the categories of harm outlined by Congress. While some efforts to use automated-decision making tools as part of a harm-mitigation strategy have shown promise or produced positive results, overall, the use of AI has not significantly curtailed online harms. The report makes a number of practical recommendations to limit the negative effects of using AI tools for harm mitigation<sup>1</sup> and I endorse the conclusion of the Commission's report that governments, platforms, and others must exercise great caution in either mandating the use of, or over-relying on, AI tools even for the important purpose of reducing harms.

Though I believe the Commission's report does an excellent job of answering the questions posed by Congress, there are a number of other critical questions regarding the use of AI and online harms that fall outside of this Congressional request. Perhaps the most critical of these alternative questions are: (1) How does the use of AI contribute to the proliferation of online harms? and (2) what can lawmakers and regulators do to limit and prevent these harms from the start, as opposed to focusing on technological measures to minimize harm on the back-end?

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<sup>1</sup> For example, the report recommends that users of AI to detect online harms implement: meaningful human oversight and intervention; transparency for AI-based decisions, such that the decisions are explainable and contestable; and accountability measures for their data practices and any resulting harms.

We know that AI can directly cause significant harm to consumers—this is something that I’ve talked about at length before.<sup>2</sup> Developers create algorithms with faulty inputs and flawed conclusions. They fail to test their models and rely on proxies that foster and often exacerbate discrimination. These flaws can limit economic opportunities and deny access to fundamental services and benefits including credit, housing, healthcare, jobs. And too often users of AI-tools fail to acknowledge or take responsibility for harmful outcomes.

But AI is also used by the platform ecosystem in a way that can amplify the most harmful content, whether it be extremist, exploitative, deceptive, abusive or otherwise illegal. Today’s digital economy is fundamentally geared toward maximizing consumer attention and then monetizing it without regard to the dangers of what is being used to grab that attention. Unlike the attention ecosystems of old, opaque, data-hungry algorithms are ubiquitous in our lives; it is functionally impossible to escape their reach. Machine learning enables this pervasive web of algorithms to process immense pools of consumer data, often in real time. Through constant, data-driven adjustments, algorithms evolve and “improve” in a relentless effort to capture and monetize as much attention from as many people as possible. The proliferation of machine-learning algorithms and behavioral advertising has created a staggering and fundamentally different system of “surveillance capitalism” that relies on AI to “optimize” for consumers’ attention with little regard for downstream harms.

These business models are especially concerning when deployed against children and teenagers. We have seen and heard heartbreaking evidence of the ways in which AI promotes dangerous content to which young people are particularly vulnerable, including around addiction, eating disorders, self-harm, suicide, bullying, and radicalization. This is something that Senators Blumenthal and Blackburn have particularly recognized in their Kids Online Safety Act, which prohibits algorithmic recommendations to kids.<sup>3</sup>

In addition to considering whether there are specific uses of AI that should be prohibited, we must also recognize that the unfettered collection of data fuels the destructive algorithms and the panoply of problems under the umbrella of “online harms.” This understanding helps point to one potentially effective solution: brightline purpose and use restrictions that minimize the data that can be collected and how it can be deployed. This data minimization approach would turn off the data pump and deprive the surveillance-economy engine the fuel it needs to run. Data minimization should mean that companies collect only the information necessary to provide consumers with the service or product they actually request and use the data they collect only to provide that service or product. Data minimization should be coupled with further use, purpose, sharing, and security requirements to ensure that the information companies can permissibly collect isn’t used to build tools or services—including AI tools—that imperil people’s civil rights, economic opportunities, or personal autonomy. Critically, users of AI tools must be held accountable for damaging and discriminatory outcomes.

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<sup>2</sup> See Rebecca Kelly Slaughter, *Algorithms and Economic Justice*, Yale J. L. & Tech. (Aug. 2021), [https://yjolt.org/sites/default/files/23\\_yale\\_j.l.\\_tech.\\_special\\_issue\\_1.pdf](https://yjolt.org/sites/default/files/23_yale_j.l._tech._special_issue_1.pdf).

<sup>3</sup> Text - S.3663 - 117th Congress (2021-2022): Kids Online Safety Act, S.3663, 117th Cong. (2022), <https://www.congress.gov/bill/117th-congress/senate-bill/3663/text>.

In short, lawmakers and regulators should focus on preventing companies from using limitless data and unchecked AI to create online harms rather than on how to use AI to ameliorate these harms; an ounce of prevention is worth a pound of cure. On that note I am encouraged to see bipartisan efforts to address data privacy concerns making real progress right now—the time for effective comprehensive federal privacy legislation that empowers and funds the FTC to protect consumers from abusive data practices is long overdue.

Finally, I want to echo my thanks to Mike Atleson and everyone else who contributed to this report and today's presentation—well done all.