Dissenting Statement of Commissioner J. Thomas Rosch

Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies October 22, 2012

I tgurgevhwnn { fkuugpv htqo vjg kuuwcpeg qh vjg Svchh Rgrqtv gpvkvngf, õFcekpi Fcevu: Bguv Ptcevkegu hqt Cqo oqp Uugu qh Fcekcn Rgeqipkvkqp Tgejpqnqikguö (õRgrqtvö qt õSvchh Rgrqtvö). Anvjqwij I crrtgekcvg Svchhøu ghhqtvu vq gzcokpg vjg kuuwgu uwttqwpfkpi vjg fgxgnqrogpv cpf wug qh hcekcn tgeqipkvkqp vgejpqnqi {, I dgnkgxg vjg Rgrqtv iqgu vqq hct, vqq uqqp. M { tgcuqpkpi ku vjtgghqnf.

Fktuv, I qdlgev vq vjg tgeqo o gpfcvkqpu o cfg kp vjg Svchh Rgrqtv vq vjg gzvgpv vjcv vjg{ ctg tqqvgf kp Svchhøu kpukuvgpeg vjcv vjg õwphcktpguuö rtqpi, tc eqpuw o gt rtqvgevkqp rqtvkqp qh Sgevkqp 5 qh vjg Fgfgt

rtcevkegu tgncvkpi vq hcekcn tgeqipkvkqp vgejpqnqi {. Sgevkqp 5(p) nk o kvu qwt wphcktpguu cwvjqtkv {
vq cp cev qt rtcevkeg vjcv õecwugu qt ku nkmgn { vq ecwug uwduvcpvkcn kplwt { vq eqpuw o gtu y jkej
ku pqv tgcuqpcdn { cxqkfcdng d { eqpuw o gtu vjg o ugnxgu cpf pqv qwv y gkijgf d { eqwpvgtxcknkpi
dgpgŁvu vq eqpuw o gtu qt vq eq o rgvkvkqp.ö¹ Au I jcxg rqkpvgf qwv dghqtg, vjg Cqo o kuukqp
tgrtgugpvgf kp kvu 1980 cpf 1982 Svcvg o gpvu vq Cqpitguu vjcv kv yknn igpgtcnn { gphqteg vjg
eqpuw o gt rtqvgevkqp õwphcktpguuö rtqpi qh Sgevkqp 5 qpn { yjgtg vjgtg ku cnngigf vcpikdng kplwt {,
pqv uk o rn { õ]g_o qvkqpcn ko rcev cpf qvjgt o qtg uwdlgevkxg v { rgu qh jcto.ö² Tjg Svchh Rgrqtv
qp Fcekcn Rgeqipkvkqp Tgejpqnqi { fqgu pqv ó cv ngcuv vq o { ucvkuhcevkqp ó rtqxkfg c fguetkrvkqp
qh uwej õuwduvcpvkcn kplwt {.ö Anvjqwij vjg Cqo o kuukqpøu Pqnke { Svcvg o gpv qp Uphcktpguu uvcvgu

^{1.} Fgfgtcn Ttcfg Cq o okuukqp Aev A o gpf o gpvu qh 1994, Pwd. L. Nq. 103-312.

^{2.} See Lgwygt htqo vjg FTC vq Hqp. Ygpfgm Fqtf cpf Hqp. Jqjp Dcphqtvj, Cqookwyg qp Cqoogteg, Sekgpeg cpf Ttcpurqtvcvkqp, Upkwgf Svcvgu Sgpcvg, Cqookuukqp Svcvgogpv qh Pqnke qp vjg Seqrg qh Cqpuwogt Uphcktpguu Jwtkufkevkqp (Dge. 17, 1980), reprinted in International Harvester Co., 104 F.T.C. 949, 1073 (1984) (õFTC Pqnke Svcvgogpv qp Uphcktpguuö) available at jwr://y y y.hve.iqx/der/rqnke (uvov/cf-wphckt.jvo; Lgwygt htqovjg FTC vq Hqp. Bqd Pcemyqqf cpf Hqp. Bqd Kcuvgp, Cqookwyg qp Cqoogteg, Sekgpeg cpf Ttcpurqtvcvkqp, Upkvgf Svcvgu Sgpcvg, reprinted in FTC Apvkvtwuv & Ttcfg Rgi. Rgr. (BNA) 1055, cv 568-570 (õPcemyqqf-Kcuvgp ngvvgtö); cpf 15 U.S.C. È 45(p), y jkej eqfklgf vjg FTCøu oqfgtp crrtqcej. Cqookuukqp ngvvgt vq Sgpcvqtu Pcemyqqf cpf Kcuvgu tgchltokpi Svcvgogpv (Mct. 5, 1982).

cfgswcvgn{ mggr wr ykvj kv yjgp, cpf kh, c eqpuw o gtøu fcvc ugewtkv{ ku eqortqokugf qt hcekcn tgeqipkvkqp vgejpqnqi{ ku wugf vq dwknf c eqpuw o gt rtqŁng. Op vjg eqpvtct{, vjg Cqookuukqp jcu ujqyp vjcv kv ecp cpf yknn cev rtqorvn{ vq rtqvgev eqpuw o gtu yjgp vjcv qeewtu.