

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning
Bureau of Economics
Bureau of Competition

information. As the nation’s leading consumer protection agency, the FTC enforces (among other statutes) the FTC Act, which prohibits, *inter alia*, unfair or deceptive acts or practices in or affecting commerce.⁴ Using its deception authority, the FTC may bring an enforcement action against, for example, a health IT app developer whose promises—whether in the app’s privacy policy, user interface, FAQs, or elsewhere—depart from its practices.⁵ Using its unfairness authority, the FTC could also challenge a particular use or disclosure of health information as unfair if it causes or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.⁶

FTC staff recognize the complex regulatory and enforcement charge that ONC and the Department have sought to implement in the information blocking provisions of the Final Rule. Our formal and informal input to ONC has been based on our experience and expertise in competition and consumer protection matters generally, and in competition and consumer protection in the health IT space, where the FTC and the ONC have long worked to benefit health care consumers. We look forward to ongoing cooperation between our agencies to that end.

⁴ 15 U.S.C. § 45(a) declares unlawful “[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce” and empowers and directs the FTC to prevent most persons,