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UNITED STATES OF AMERICA
Federal Trade Commission
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**Prepared Remarks of
Federal Trade Commissioner
Rohit Chopra**

“Tech Platforms, Content Creators, and Immunity”

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Thank you for inviting me to discuss the blurry line between tech and media. As always, these remarks are my own and do not necessarily reflect the views of the Commission or any other Commissioner.

The exchange of information is the lifeblood of a democratic society and a vibrant economy. The founders of our country knew this when they named Benjamin Franklin as the first Postmaster General nearly two-and-a-half centuries ago.

Our postal system was created to allow Americans to freely transmit letters, periodicals, and other content to other citizens, providing a critical piece of infrastructure for our infant country. The importance of free exchange of communications through a neutral delivery platform has not

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couldn't deny anyone access and couldn't decide what content was communicated. In this environment, early internet platforms were neutral, decentralized, and user-controlled. This was – and continues to be – an ideal market structure for encouraging

actively shaping and profiting from user communications. Gone are the incentives to attract a community by offering privacy, control, and other user-centric benefits. In their place are incentives to not only track user activity, but also generate high user activity by promoting clickbait over content shared organically by other users.

Merging into “a unified whole” with ad networks created the financial incentives to go on spending sprees to buy up others with valuable data. This data enhanced the value of the individual digital dossiers that fuel behavioral advertising. Digital dossiers are proprietary and populated by a secret, unknown, and increasingly expansive universe of activity tracked by tech firms. By combining histories of what we search and view, where we have been, who we have been with, and thousands of other data points, these digital dossiers map our life and mind. In assembling and selling all of our personal information, companies are creating a new kind of content – a detailed profile of a one-person demographic.

Indeed, the industry has invested significant resources into surveillance technology to support behavioral advertising’s seemingly unquenchable thirst for personal information. This technology can also be used to monitor and classify a broad range of content and activity, from active communication like social media posts to passive information like location. They rely on algorithms and artificial intelligence to monitor and censor content in order to generate attention, data, and advertising clicks.

In this new online market, content’s value is derived from having intimate knowledge of its specific viewers. The theory is that the more platforms know about users, the easier it is to predict what content they will want to see – and deliver it to them. But when that prediction is used to promote certain content to users, at what point does it become a self-fulfilling prophesy? When does the content stop reflecting users’ organic preferences and start shaping them?

I would argue that once platforms started prioritizing their paid predictions, the content became more a reflection of advertisers targeting users, than users’ own preferences. I would also note that behavioral advertising isn’t the only market structure or practice changing platform incentives towards content. Mergers and acquisitions, profit-sharing agreements, service-provider relationships, market challenges by content competitors, and other financial factors have the potential to fundamentally impact the platform business model.

Dealing with Double Agents

So what are these companies? Are they platforms or content producers? The Communications Decency Act creates a clear distinction between platform and content. But up until now, tech companies haven’t been forced to apply that distinction to their converged business.

In fact, platform companies are clearly trying to use the legal uncertainty around convergence to their advantage. In one instance, a dominant tech platform reportedly claimed in a legal filing that, as a publisher of data, it has the discretion to withhold access to its data as a right of free speech. In making this claim, the company identified itself with traditional media saying, “A newspaper has a publisher function whether they are doing it on their website, in a printed copy or through the news alerts.” However, the firm also claimed immunity under Section 230.

I want to conclude by offering a more narrow set of observations to consider. We face a serious dilemma when it comes to the convergence of media and tech. The deployment of online behavioral advertising distorts the incentives of technology companies that might ordinarily be seen as neutral intermediaries. In particular, the share of ad spend captured by news outlets has declined rapidly, despite generating significant readership.

One answer to this problem could lie in our current laws and their application. When companies