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Dissenting Statement of Commissioner Noah Joshua Phillips
Regarding the Combatting Online Harms Through Innovation Report to Congress

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Commission's approach here departs from typical practice. In the past, the Commission has prepared congressional reports by issuing compulsory process, interviewing market participants, or conducting surveys. I do not understand why we did not follow this approach for this AI Report.⁵

Take, for example, the Report's discussion of how AI can be used to combat fake reviews, a target of recent FTC enforcement. Congress specifically directed us to study whether and how AI can be used to identify and remove fake reviews. The Report acknowledges that many large platforms use machine learning tools, often in conjunction with human review, to spot and remove fake reviews. Presumably, they do so for a reason. It would have been useful to ask the platforms how they view the efficacy of these tools. We did not do that. The closest the Report comes is to cite the results of a survey done by FakeSpot, a company that developed a machine learning tool to help identify potentially fake reviews, which found that approximately 31 percent of product reviews on Amazon, Walmart, eBay, Best Buy, Shopify, and Sephora

Contract Terms that May Harm Consumers (Aug. 5, 2021), <https://www.regulations.gov/document/F-2021-0036-0022>.

⁴ See, e.g., Fed Trade Comm'n, 2021 Report on Ethanol Market Concentration (Dec. 2021), www.ftc.gov/system/files/documents/reports/2021-report-ethanol-market-concentration/p063000-2021_report_on_ethanol_market_concentration.pdf (relying on publicly available data from a 2014 survey of ethanol producers).

I do not believe the Report spends enough time grappling seriously with the benefits and costs of using AI to combat online harms, and spends too much time on detours out of the topics Congress identified for the Commission to study. One example is the plight of information technology workforce. We were not asked to opine on employer-employee relations, an area where the FTC lacks jurisdiction and expertise and on which we are ill-suited to provide Congress with advice. The Report also preoccupied itself with advocating for researchers and journalists to have broader access to companies' AI tools. On the flip side, it also criticizes technology companies (DOI)-2.4(s)21954(TW)2020(6)25(h)-ssadv(p)13(4)3(C)-2004(tom(a)2(4)G4(s))

so it seems prudent to hold off on requiring their use as a matter of law and excluding from that
