

**Dissenting Statement of Commissioner Christine S. Wilson**  
**Trade Regulation Rule on Commercial Surveillance and Data Security**  
**August 11, 2022**

Throughout my tenure as an FTC Commissioner, I have encouraged Congress to pass comprehensive privacy legislation.<sup>1</sup> While I have great faith in markets to produce the best results for consumers, Econ 101 teaches that the prerequisites of healthy competition are sometimes absent. Markets do not operate efficiently, for example, when consumers do not have complete and accurate information about the characteristics of the products and services they are evaluating.<sup>2</sup> Neither do markets operate efficiently when the costs and benefits of a product are not fully borne by its producer and consumers – in other words, when a product creates what economists call externalities.<sup>3</sup> Both of these shortcomings are on display in the areas of privacy and data security. In the language of economists, both information asymmetries and the presence of externalities lead to inefficient outcomes with respect to privacy and data security.

Federal privacy legislation would provide transparency to consumers regarding the full scope of data collection, and how collected data are used, shared, sold, and otherwise monetized. In addition, a comprehensive privacy law would give businesses much-needed clarity and certainty regarding the rules of the road in this important area, particularly given the patchwork of state laws that is emerging. And Congressional action would help fill the emerging gaps in sector-specific approaches created by evolving technologies and emerging demands for information. Perhaps most importantly, a national privacy law would help curb violations of our civil liberties.<sup>4</sup>

While I have long been concerned about data collection and usage, the events of 2020 laid bare new dangers and served only to deepen my concerns. During that tumultuous year, I wrote and spoke on several occasions regarding pressing privacy and civil liberties issues.<sup>5</sup> In the face of continued Congressional inaction, I became willing to *consider* whether the Commission

---

<sup>1</sup> See Oral Statement of Commissioner Christine S. Wilson as Prepared for Delivery Before the U.S. House Energy and Commerce Subcommittee on Consumer Protection and Commerce (July 28, 2021), [https://www.ftc.gov/system/files/documents/public\\_statements/1592954/2021-07-28\\_commr\\_wilson\\_house\\_ec\\_opening\\_statement\\_final.pdf](https://www.ftc.gov/system/files/documents/public_statements/1592954/2021-07-28_commr_wilson_house_ec_opening_statement_final.pdf); Oral Statement of Commissioner Christine S. Wilson Before t

---

---

---

---

---

---

---

---

---

---

---

fit within the Congressionally circumscribed jurisdiction of the FTC. Neither has Chair Khan given me reason to believe that she harbors any concerns about harms that will befall the agency (and ultimately consumers) as a consequence of her overreach.

While baseline privacy legislation is important, I am pleased that Congress also is considering legislation that would provide heightened privacy protections for children.<sup>13</sup> Recent research reveals that platforms use granular data to track children's online behavior, serve highly curated feeds that increase engagement, and (in some instances) push kids towards harmful content.<sup>14</sup> More broadly, the research reveals a "catastrophic wave of mood disorders (anxiety and depression) and related behaviors (self-harm and suicide)" among minors, and particularly teenage girls, who spend a significant amount of time on social media daily.<sup>15</sup> The Kids Online Safety Act makes particularly noteworthy contributions, and I applaud Senators Richard

---

---

---

---

---

---

---

---

---

---

---

---