



Office of Commissioner
Melissa Holyoak

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Concurring and Dissenting Statement of Commissioner Melissa Holyoak

In re Evolv Technologies, Inc., Matter No. 2323013

November 26, 2024

I support today’s settlement with Evolv Technologies, Inc., which allegedly made false or unsubstantiated claims about its “AI-powered” security screening system’s ability to detect all weapons, ignore harmless personal items, and perform these tasks better than traditional metal detectors. The Commission’s action today is important to stop deception in the security screening market for schools, and protects not only Evolv’s school customers, but also the children and teens whose safety depends in part on the efficacy of security screening systems. I am grateful to the talented staff who have brought this important matter.

While I support the complaint, I do not support Part II of the proposed order, which requires Evolv to notify its school customers of their right to unilaterally cancel multi-year subscription contracts with Evolv. The notice, in effect, creates a cancellation right in Evolv’s contracts where one does not otherwise exist.¹ And, by declaring that school customers can “exercise the right to cancel their contracts” and that such school “[c]ustomers shall owe no more money to Defendant after the effective cancellation date[,]”² the notice pr6-S7 (p)-10 12 Bi7In 7.6882 0 Td[(s)-1 (c)4 (hool Bi 0.204 Tc they tt

as this notice provision contemplates. Indeed, whereas the language of Section 19(b) of the FTC Act expressly gives the Commission authority to obtain rescission or reformation of contracts,⁵ Section 13(b) does not.⁶ The Supreme Court’s decision in *AMG Capital Mgmt., LLC v. FTC*, unanimously holding that the Commission lacks authority under Section 13(b) to obtain redress or disgorgement for garden-variety Section 5 deception and unfairness counts,⁷ reinforces this conclusion. The absence of this language in Section 13(b), in contrast to its presence in
