

that recording may be made available in the public record in accordance with the commission's rules. Now we'll move to hear from members of the public. Each member of the public will be given two minutes to address the commission once I recognize them, and we will begin with Berin Szoka. Berin?

Berin Szoka:

Thank you. I'm President of Tech Freedom. The commission recently proposed to extend its new trade regulation rule on impersonation of government and businesses to include parties who provide goods and services with reason to know that those goods or services will be used in unlawful impersonations. But essentially all AI developers have reason to know that generative AI can be used for legal impersonations. Criminal scams that use generative AI are increasingly common and are highly publicized. So a constructive knowledge standard effectively means that all developers and distributors that offer generative AI services to the public, would be subject to the kind of know your customer obligations borne by financial institutions, so a higher standard is necessary. That standard must be consistent with how courts have interpreted Section 230, which might apply to AI services. In Accusearch, a company made a material contribution to the development of unlawful content because it, "Knowingly sought to transform virtually unknown information into a publicly available commodity."

No court has denied section 230 protection under some lower knowledge standard. Any means and instrumentalities rule should be modeled on the willful blindness standard of the telemarketing sales rule. A developer must either know or consciously avoid knowing, not merely that someone might misuse its tool, but that the particular party to which the developer provides an AI tool, will use it to violate the rule. The commission should clearly state the practical bottom line of this standard by adding an additional proviso as A16Z proposes. "Nothing in this section shall be interpreted to require a provider of goods or services to conduct prior due diligence on any or all parties that may use the goods or services." Such disclaimers against general monitoring obligations are commonly used to ensure that intermediary liability laws do not cast too long a shadow over legitimate operators. Setting the right knowledge standard is key. The proposed standard would be impossible for all but the largest, best finance companies to bear and would be crushing to all other developers. Indeed, a constructive

knowledge standard, could drive the development of AI technologies outside the United States entirely, which would only aggravate impersonation fraud. Thank you for your time today.

Doug Farrar:

Thank you. Next up we have Paul Steidler. Paul?

Paul Steidler:

Yes, thank you. My name is Paul Steidler and I'm a senior fellow at the Lexington Institute, a public policy think tank in Arlington. On May 17th, the Federal Trade Commission engaged in deceptive advertising when it claimed on Twitter and LinkedIn, to be one of the 10 best places to work in the federal government. The data tells a different story. The FTC owes all its employees, former, current and perspective, an explanation of the real statistics and what management is doing to recover from a precipitous decline in morale from 2021 to '22, that shook the agency to its core.

First, the numbers. Reading the fine print on the Twitter and LinkedIn posts, which is invisible without clicking a link and scrolling, may show that the FTC is in the top 10 for mid-size agencies, a small category with only 26 organizations. The FTC was in fact in a three-way tie for ninth place, and it is unclear whether the FTC would make the top 10 if more decimals were included in the calculations.

The study compiled by the Partnership for Public Service and Boston Consulting Group evaluated 73 government agencies in three different categories. The more troubling issue is that the FTC's index score was 75.4% in 2023, down sharply from 96.4% in 2020. Former FTC commissioner noted in her March 2023 resignation letter to President Biden, for more than a decade under the leadership of both Republicans and Democrats, the results of the Federal Employee Viewpoint Survey confirmed the excellence of the FTC. It ranked in the top five mid-size agencies between 2010 and 2018 and ranked either first or second between 2018 and 2020.

One factor driving the rise in FTC worker satisfaction in 2023 is many employees continue to work remotely. The FTC should address how this affects productivity. If there's no impact, the FTC should abandon its plans to spend 32 million on a new headquarters building in next year's Congressional

Doug Farrar:

Thanks, Andy. Next we have Danny Cook. Danny?

Danny Cook:

Thank you, Chair Kahn and commissioners for the opportunity to speak again regarding the nation's largest state sanctioned medical monopoly, Ballad Health, and your recent RFI on health care consolidation. Today I will show information obtained in the latest COPA Monitor Report submitted by Larry Fitzgerald. It begins talking about a complaint letter that was filed by a physician on July 1st of 2022, which was also signed by 14 other cardiologists regarding inadequate cardiac cath labs at Johnson City Medical Center.

Now, the COPA investigation found that those claims were accurate and although there was an executed plan of action, it did not result in the operating hours of the cardiac cath labs, meaning the required minimum for any month in fiscal year 2023. Their quality sub index accounts for 20% of Ballad Health's total COPA score. For fiscal year 2023, they failed 47% of their target quality measures. They were unable to be scored for 27 of their quality monitoring measures, and for the 54 quality monitoring measures that they were scored on, they failed 50 of those because they didn't meet the baseline score, so they failed 93% of the quality monitoring measures, and yet remarkably, they received a passing score for their quality sub index.

Their access sub index accounts for 30% of their total score. They failed 4 of 25 measures, and one of those measures is the access for excessive emergency wait times. Of its 21 emergency care sites, 11 of those, 52.3% did not receive a passing score. They failed to meet monetary commitments for two of six plan areas required by the terms of certification. Those are non-compliance events, which can assess a fine of up to a million dollars each for each violation, nor did they say that, "Hey, we're going to have an event of noncompliance and give a report of action items to fix it," which those could also have fines. No fines have been imposed ever by the Department of Health at this point.

They've overspent their budget by 51 to 136%. They're not investing in their facilities, 74% of their depreciation expense for the last two fiscal years, and their new plan is only 60% of their protected depreciation expense. According to this report, the result will be that Ballad Health operates subpar facilities with older equipment without adequate cash flow. They will struggle to meet the objectives of the terms of certification. Thanks again, I'm always available for any questions or concerns, and I appreciate your efforts to assist us with our medical monopoly.

Doug Farrar:

Thank you so much. Okay, next we have Kowsillya Loomis.

Kowsillya Loomis:

Yeah. Good morning everyone. My urnme is Kowsilao is]TJETE9 (m)u4 241 yo

hardship. Excuse me. There is no coincidence that Unleashed Brands, CEO Michael Browning Jr. happened to be on the Board of the International Franchise Association. Unleashed Brands have used and continue to use bullying tactics of PMA franchisees for telling them the truth as they continue to steal from us and others.

Kowsilliya Loomis:

... a right for private action should be mandatory or else organization like Premier Martial Arts and Unleashed Brands will continue to be allowed to lie, cheat, steal, ruin the lives of more people by defrauding their savings and retirement. Please strengthen the standards for franchiser so others will never live in the 83l Br9lo.r0n72.024 6 793se'a ee 83l e chig rigs k-4 (y-5 (g) 4 91.l.r) (er)2 0 0 11.04 TmgnTQq0 0 (4D04

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consumer financial losses. According to an FTC data spotlight released just last month, nearly half of all frauds reported to the commission in 2023 involved government or business impersonation. And the financial injury from these scams is staggering with reported losses exceeding \$1.1 billion. That's more than three times what consumers reported in 2020. The FTC routinely prosecuted these kinds of impersonation scams and returned millions of dollars to defrauded consumers until the Supreme Court's April 2021 decision in AMG Capital Management significantly curbed our ability to do so. Next slide, please.

In December, 2021, the commission launched the rulemaking to consider whether it has reason to believe that government and business impersonation is prevalent, and if so, whether and how to proceed with rulemaking. On February 15th of this year, the commission voted to issue the statement of basis and purpose and the final rule. This followed careful consideration of the record, including public comments from a broad spectrum of commenters in response to the advanced notice of proposed rulemaking, notice of proposed rulemaking, initial notice of informal hearing and informal public hearing. While Ihtle l Qq0 stBT7T1 (n)2.024iraise(n)4 es b (wha (n)4 (u)71.bos and5 (t 4 érye)0 2 7 6)5 (pr)4 h) é5 p3

becoming easier to execute and more common, it is important to amend the impersonation rule to help the commission protect consumers from such scams.

Given the ongoing surge in impersonation frauds, continuing to get reports from the public about what they are seeing and experiencing is critical to our law enforcement work. To this end, we urge consumers to file complaints, even in instances where they did not lose money, because every piece of information helps the commission to identify, investigate and prosecute such scams. Next slide, please. I want to thank Chair Khan and Commissioners Slaughter, Bedoya, Holyoak and Ferguson again for the opportunity to present on this important matter today.

Lina Khan:

Thanks so much, Christopher. And a big thanks to you and the full rulemaking team spanning the Bureau of Consumer Protection, our Bureau of Economics, and the Office of General Counsel

Lina Khan:

... For getting this rule over the finish line. As we heard from Christopher, unfortunately, impersonation fraud remains a big problem. And so you still have, for example, fraudsters calling up people pretending to be IRS agents and threatening to cut off government benefits, or even put people in jail unless they

colleagues here at the Federal Trade Commission, and that's just the tip of the iceberg because I don't get the impression that artificial intelligence was used to impersonate us.

But I've read and heard from consumers in a number of situations that have just been harrowing where

To walk us through this request for information, I'm going to welcome Michael Aaron from the Bureau of Competition's Healthcare Division to walk us through this. So Michael, whenever you're on over to you.

Michael aaron:

Thank you, Chair Khan and Commissioner Slaughter, Bedoya, Holyoak, and Ferguson for the opportunity to speak about the request for information on serial acquisitions. Under competitive con3 6)44m659.0 011 (J)TJE3i7r 3 T€

Congress passed so that enforcers could intervene in individually minute lessenings of competition rather than having to wait to use the Sherman Act until a firm had illegally monopolized a market.

The same set of concerns were top of mind when lawmakers passed the 1950 Celler-Kefauver Act, which as the Supreme Court is noted was specifically intended to address the rising tide of economic concentration in its incipiency to break the force at its outset and before it gathered momentum. And so really glad that we're able to continue in that tradition to put a light on some of these issues. In recent years, as we heard from Michael, there's been growing concern about the effects of roll-ups and stealth consolidation schemes.

Much of the focus has been on private equities firms use of these buy and build strategies where a portfolio company will buy a firm, oftentimes the market leader, and then roll up a series of smaller competitors. But this is not just happening in the private equity context. We've seen, for example, large digital platforms and dominant technology companies also engage in serial acquisition strategies. And so I'm really excited that we are launching this initiative and request for public comments so that the public can help us identify where this may have happened.

As Michael also mentioned, this inquiry is part of a broader set of projects right now to make sure that our tools as antitrust enforcers are keeping pace as business strategies evolve. And so the 2023 merger guidelines, for example, expressly acknowledge that enforcers will look at a series of acquisitions or a potential pattern of serial acquisitions rather than just looking at each deal in isolation. We've also proposed an update to the HSR form, which could give us more insight into some of the prior acquisitions and let us spot roll-ups at earlier stages.

The last thing I'll mention briefly is that the commission recently got an important win in our first roll up case, which we filed last fall, and where we alleged that US Anesthesia Partners had pursued a multiyear roll up strategy to buy nearly every large anesthesiology practice in Texas. And two weeks ago, the district court in Texas denied USAP's motion to dismiss and upheld the commission's serial acquisitions claim in full as it concerned USAP. So really just want to express my congratulations to the team for this important win.

With that, I will now turn it over to my colleagues for any remarks and we'll just go in the same order. So starting with Commissioner Bedoya.

Commissioner Bedoya:

Thank you, Chair Kahn. I just want to say I'm particularly interested in reading the comments that come in on healthcare. The start of the session, we heard from at least two people making some grave allegations about the impact of private equity in healthcare and how it was harming patient health. And I have to say, I have heard so many other comments like this and read so many other accounts like this, and so for me, that is top of mind. I also just want to communicate my gratitude to the staff putting forward this RFI and all the work that went into it.

So thank you for this and I'm looking forward to reading the comments. Thank you.

Lina Khan:

Commissioner Holyoak.

Commissioner Holyoak:

Thank you, Chair. Thank you to Michael. And I'll just add, I do look forward to seeing the responses and learning more about this issue from the staff. Thank you.

Lina Khan:
Commissioner Ferguson.

Commissioner Ferguson:
Thank you, Madam Chair. Thanks to the staff as well. I also look forward to reading what the public has to say and particularly learning about the effects of this phenomenon in rural communities. Thank you, Madam Chair.

Lina Khan:
Great. So everybody can find the request for information on the FTC's website, and it'll take you to a portal where you can submit comments. So please do submit comments and input. It really does end up affecting how the commission learns about these issues and how we prioritize our work. The final item on our agenda is to have staff present the winners of the FTC's Voice Cloning Challenge. As we heard earlier, AI tools in particular are turbocharging sophisticated voice cloning scams where fraudsters are pretending to be somebody else by impersonating their voice.

Lina Khan:
Voice given what a serious challenge this could pose to people being able to tell which voices are fake or which voices are real, we also launched a competition to invite the public to submit ideas for how we can be better detecting and stopping voice cloning fraud. So we're really taking a multipronged approach as an agency. We got dozens of submissions and I'm just so grateful to everybody who took the time to submit an idea. We also recently announced several top winners who were picked by a panel of experts, and so our staff is going to go through and describe each of the winning proposals. With that, I will now turn it over to James Evans from our Bureau of Consumer Protection and Ben Swartz from our Office of Technology to go through the winners.

James Evans:
Thank you so much, Chair Khan and commissioners for the opportunity to present today the winners of the FTC Voice Cloning Challenge. Good afternoon, everyone. I'm James Evans, an attorney in the FTC's Bureau of Consumer Protection in the Division of Marketing Practices.

Ben Swartz:
And good afternoon. I'm Ben Swartz, a senior technology advisor in the FTC's Office of Technology.

James Evans:
As the Chair just mentioned, we heard earlier from my colleague Christopher Brown about how the commission is using rulemaking as part of our efforts to address the dangers of AI enabled voice cloning. Ben and I are here today to talk about another part of those efforts, the FTC Voice Cloning Challenge. Last November, the commission launched the challenge. It was an exploratory challenge to the public to encourage the development of multidisciplinary solutions from products to policies to procedures aimed at protecting consumers from the harms of AI enabled voice cloning fraud.

Ben Swartz:
Last month, the Federal Trade Commission announced that it had chosen four winning submissions, three of which from individuals and small organizations will split a total of \$35,000 in prize money and

one large organization that won a non-monetary recognition award. Today, we wanted to present the four winners of this challenge and briefly go over their solutions. Next slide please.

James Evans:

The first winner of the FTC Voice Cloning Challenge is AI Detect from OmniSpeech, which is led by David Przygoda and Dr. Carol Espy-Wilson. This solution is aimed at consumer and enterprise applications and devices and would use AI to detect AI. In real time, this solution can distinguish subtle discrepancies between authentic voices and their artificial counterparts. AI Detect also proposes a framework for increased public and private sector responsibility, suggesting that service providers that leverage voice as a modality integrate this technology to safeguard their users proactively. Next slide, please. David Przygoda, the CEO of OmniSpeech said about the challenge, "Innovation in this area is crucial because AI enabled voice cloning technology presents both an opportunity and a threat." And the next slide, please. And Dr. Carol Espy-Wilson, the founder and CTO of OmniSpeech said, "This award reaffirms our dedication to developing cutting edge technology that not only advances AI capabilities, but also prioritizes the safety and security of consumers against the latest AI voice clones." Next slide, please.

Ben Swartz:

Next is De-Fake from Dr. Ning Zhang, Assistant Professor in the Department of Computer Science and Engineering at Washington University in St. Louis. Given that voice cloning relies on the use of pre-existing speech samples to clone a voice, this approach adds carefully crafted distortions to voice samples which are imperceptible to the human ear, but protect the voice from being cloned. When such a voice sample is used for speech synthesis

Thank you, Chair Khan. I share your enthusiasm for this project, and I was particularly a fan of the winning entry that used adversarial design to fool some of these voice cloning efforts. I think my personal favorite from the field of face recognition was the ability to change a few pixels in an image of a face that would completely crash the face recognition system that was operating on that image. And it's neat to see that kind of thinking applied here.

I'm a long time and big fan of the vision of marketing practices and their work in this space here. I want

Thank you. And thanks to each of you for your thoughtful comments and reflections, to all of the staff for the really terrific presentations and all the work that led up to those and to members of the public who joined at the beginning to share your views and thoughts. That concludes today's open commission meeting. Thanks so much again to everybody. Nice to see you all.