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RPTR WARREN

EDTR HOFSTAD

THE FISCAL YEAR 2025 FEDERAL TRADE COMMISSION BUDGET

TUESDAY, JULY 9, 2024

House of Representatives,

Subcommittee on Innovation, Data, and Commerce,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:30 a.m., in Room 2322, Rayburn House Office Building, Hon. Gus Bilirakis [chairman of the subcommittee] presiding.

Present: Representatives Bilirakis, Bucshon, Walberg, Dunn, Lesko, Armstrong, Fulcher, Harshbarger, Cammack, Obernolte, James, Schakowsky, Castor, Dingell, Kelly, Soto, Trahan, and Clarke.

Also Present: Representatives Carter of Georgia, Joyce of Pennsylvania, and Miller-Meeks.

Staff Present: Sarah Burke, Deputy Staff Director; Nick Crocker, Senior Advisor and Director of Coalitions; Nate Hodson, Staff Director; Tara Hupman, Chief Counsel; Sean

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Kelly, Press Secretary; Alex Khlopin, Clerk; Peter Kielty, General Counsel; Emily King, Member Services Director; Tim Kurth, Chief Counsel; Brannon Rains, Professional Staff Member; Lacy Strahm, Professional Staff Member; Teddy Tanzer, Senior Counsel; Keegan Cardman, Minority Staff Assistant; Waverly Gordon, Minority Deputy Staff Director and General Counsel; Daniel Greene, Minority Professional Staff Member; Tiana Hicks, Minority Intern; Lisa Hone, Minority Chief Counsel, Innovation, Data, and Commerce; and Joe Orlando, Minority Junior Professional Staff Member.

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Mr. Bilirakis. The committee will come to order.

The chair recognizes himself for an opening statement.

Good morning, everyone, and we appreciate you all being here. Welcome to the subcommittee's budget hearing for the Federal Trade Commission.

Unlike last year, this hearing will feature the full slate of all five FTC Commissioners' testimony. And I want to welcome the two newest Commissioners, Andrew Ferguson and Melissa Holyoak.

Thank you both for serving and being here. I look forward to hearing how you plan to balance out the perspective and representation of the FTC as it protects consumers.

Unfortunately, up until this year, the Commission has lost its balanced approach, in my opinion. Since being confirmed over 3 years ago, Chair Khan has taken an aggressive stance towards the use of its authorities, leading to internal discord. Employee staff morale fell from 83 percent in 2020 down to 53 percent last year.

I am afraid it has lost its roots as a well-respected, bipartisan law enforcement agency focused on protecting against bad actors.

Despite restraints on statutory authority, the FTC has plowed forward, out of bounds, with sweeping new rulemakings, attempting to create policy in the process. Most notably, the Commission's "Commercial Surveillance and Data Security" proposed rulemaking is an overreach, in my opinion, and raises significant legal concerns.

I was hopeful that today could be a new start, but I worry that releasing actions of the Commission less than 2 hours before this hearing commences is not a positive sign for transparency of the work you are engaged in.

For instance, on pharmacy benefit managers, there's no way for either side of the

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dais here to analyze the interim report announced this morning -- moreover, have a broader view on whether this means the Biden administration has failed to address this issue broadly at HHS.

Commissioner Holyoak said it best, and I quote: "Creating new law is the job of Congress, not the Federal Trade Commission." Yet many of these proposed rules generously interpret existing statutory authorities in the broadest terms -- the broadest terms, the broadest terms. Excuse me. This goes beyond the clear directives that Congress has provided.

Chair Khan, I fear that your approach can cause severe damage to innovators, who have become afraid of arbitrary and punitive actions by the FTC. These efforts, which erode public trust in the Commission, have not been successful in the courts.

I want to reiterate what I made very clear in last year's budget hearing: The existing charge and mission of the FTC is too important and must be prioritized. Every day, scam artists take advantage of seniors, children, and other unsuspecting Americans, defrauding them of billions of dollars. I want to ensure that the Commission is effectively using its existing authority to go after and hold these bad actors accountable, protecting Americans from deception and fraud.

Nonetheless, the committee has been hard at work, on a bipartisan basis, to provide new, proportionate authorities for the Commission. This includes the Protecting Americans' Data from Foreign Adversaries Act as well as other bipartisan efforts, like the Informing Consumers About Smart Devices Act and the No Hidden Fees on Extra Expenses for Stays Act and the TICKET Act. We have been very busy doing great bipartisan work.

We are actively working towards bipartisan agreements, as I said, on the American

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Privacy Rights Act to ensure we are providing one national privacy standard and protecting Americans' data from being manipulated and abused without their consent and the Kids Online Safety Act to safeguard our children from the online harms of Big Tech.

I assure you, this subcommittee will continue to work together to support and protect consumers from harmful and deceptive practices. But, in the process, you must regain our trust by ensuring any authority we provide will not be stretched or contorted to reach your desired result.

I implore the Chair to work with all the Commissioners, protect consumers from real bad actors, and be faithful stewards of the law.

I look forward to conducting this critical and necessary oversight and to hearing each of your testimonies.

With that, I thank the Commission, the entire Commission, for being here, and I yield back the balance of my time.

And now I will recognize Mrs. Dingell from the great State of Michigan. She is the acting chair -- or, excuse me, acting ranking member of the committee today, the full committee, even though we have a subcommittee today, and Mrs. Schakowsky is on her way.

So we recognize Mrs. Dingell first for your 5-minute opening statement. Thank you.

[The prepared statement of Mr. Bilirakis follows:]

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Mrs. Dingell. Thank you, Mr. Chair. And, no, I don't look like Frank Pallone.

The ranking member asked if I would give the opening remarks for him.

So we want to start by thanking Chair Khan and the other Commissioners for being here today. And I always like being here with my Republican colleagues. We don't always agree, but we work together.

The Federal Trade Commission fights unfair, deceptive, and anti-competitive conduct across the entire economy. Under Chair Khan's leadership, it has taken on some of the largest companies in the world, including Amazon, Facebook, and Google, on behalf of American consumers, workers, and small businesses.

Since Commissioners last testified before this committee, the FTC has finalized a rule banning noncompete agreements, proposed a rule to ban junk fees economy-wide, and exposed collusion between some of the world's largest oil and gas companies. It has also fought back against pharmaceutical companies' illegal hold on drug patents and ordered data brokers to stop selling American geolocation data.

I want to commend the Commissioners and their staff for this incredible work, especially in the face of attacks from Republicans who would like to see the FTC hobbled and ineffective.

I know Republicans don't like how the FTC fights to ensure a fair economy that will grow the middle class and protect consumers from corporate greed. What concerns me is that House Republicans are seeking to cut the legs out from under the FTC through extreme budget cuts. The Republicans' fiscal year 2025 appropriations bill would slash the FTC's budget by almost \$40 million.

It would also prohibit the FTC from finalizing or enforcing rules like the Combating Auto Retail Scams Rule, which bans certain junk fees, material misrepresentations, and

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omissions of key information that cost consumers when they are purchasing a car. The Commission has estimated this rule alone would save consumers \$3.4 billion and 72 million hours of time spent on car shopping each year.

In addition to repealing pro-consumer rules, the Republican budget cuts will hamper the FTC's ongoing work to protect Americans from scams, privacy violations, and corporate greed.

And Republicans want to go much further, with Trump's Project 2025 plan, which will eliminate expert agencies, gut the civil service, and consolidate power under the President. I don't care who is President, Republican or Democrat; that is not a system of checks and balances. This would have a devastating impact on the Federal Government's ability to protect consumers in the future.

The FTC is facing coordinated attacks from Big Tech and Republicans in Congress. For example, an FTC investigation found that, when Elon Musk took over Twitter, he directed employees to take actions that would violate a privacy and data-security consent decree between the company and the FTC. The Republican response to that investigation was to attack Chairman Khan and intimidate the FTC staff, in an attempt to protect X and its CEO.

These attacks, however, have not stopped the FTC from filling its mandate to protect consumers' personal information and ensure that companies are safeguarding Americans' data -- something all of us should be able to agree on.

The FTC has also taken historic action against data brokers hiding in the shadows while collecting and selling Americans' geolocation data.

It has also acted against large brick-and-mortar companies like Rite Aid, which has used faulty facial-recognition software to falsely identify people of color as shoplifters.

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The FTC is also working to reduce the number of unwanted robocalls that we are all sick of that afflict millions of Americans each year. Over the years, the FTC has filed 170 enforcement actions against more than 560 companies and 440 individuals alleged to have placed billions -- billions -- of unwanted robocalls, and, as a result, the Commission has collected nearly \$400 million in civil penalties and equitable monetary relief for these violations.

The FTC does all this work with fewer employees than it had 45 years ago, when the American economy was smaller and simpler.

In addition to ensuring the FTC is properly staffed, we must restore the FTC's full legal authority that was struck down by conservatives on the Supreme Court.

Last Congress, this subcommittee led legislation that passed the House that would restore FTC's authority to go to court to force scammers to return money to the consumers they harm. Unfortunately, the legislation never passed the Senate. We must continue to work to restore this authority.

We must also work to ensure the FTC has the authority to independently seek civil penalties against rule and order violations.

Again, I want to commend Chairman Khan, the other Commissioners, and the staff of the FTC for the work they do each and every day to protect American consumers.

And, with that, I yield back the balance of my time.

[The prepared statement of Mrs. Dingell follows:]

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Mr. Bilirakis. Thank you. I thank the gentlelady.

And now I will recognize the vice chairman of the full committee, Mr. Armstrong, to give a statement on behalf of Mrs. Rodgers, the chair of the full committee.

You are recognized for 5 minutes.

Mr. Armstrong. Thank you, Chair Bilirakis, for your leadership. And, again, I am giving this statement on behalf of Chair Rodgers.

Chair Khan, we appreciate your testifying today, along with Commissioners Slaughter and Bedoya.

And welcome to the newest Commission additions to the Commission, Commissioners Holyoak and Ferguson.

We appreciate all of you being here today and for your service.

Chair Khan, the last time you were here, I expressed my serious reservations over the court cases you have lost and some of the priorities you have unilaterally undertaken without clear review and purpose.

I know you and the FTC staff have a tough job. With what we have seen from Big Tech during my time on this committee, I certainly have my own concerns over how they abuse their power and how best to hold them accountable in order to protect Americans.

I continue to be concerned that the FTC's court losses are degrading the agency's effectiveness at a critical time when we are trying to modernize the Commission's authority to better protect Americans online, something that will be a fixture of the FTC long after the tenure of you or your fellow Commissioners.

The challenges we are working to address need strong bipartisan collaboration and consensus. That has always been my goal with Ranking Member Pallone, and it should be the goal of the FTC as well.

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The FTC also must live up to its tradition of remaining independent from political influence. Under this administration, we have seen time and again the FTC echoing the talking points of the White House.

Just last week, we saw President Biden blame higher costs for consumers on price-gouging by companies, ignoring how his own policies have caused out-of-control inflation, leading to the high costs across the board. Meanwhile, this subcommittee has been leading on several bipartisan solutions to address the root causes of increased costs by strengthening American supply chains and easing the barriers facing American businesses.

More can and must be done, and we need the FTC to foster an environment that both protects consumers and allows businesses to grow and innovate.

Eliminating guardrails designed to prevent government overreach -- like your removal of the longstanding phrase in the FTC mission statement, "without unduly burdening legitimate business activity," or violating due-process laws and the intimidation of business -- go against the FTC's core mission as directed by Congress.

Chair Khan, the last time you appeared before us, I asked you to convince us that the FTC's core mission to protect Americans was not taking a back seat to the Biden administration's radical agenda. You were unable to do so.

I still remain committed to establishing the FTC as the preeminent data-protection agency in the world at the direction of Congress, but, before that can happen, critical guardrails must be established to prevent the agency from further abusing its power and making sure it is transparent and accountable to the American people.

The FTC plays a critical role in protecting Americans -- here at home and threats from abroad. As you know, over a year ago, I laid out the case directly to the CEO of

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TikTok for the harms that his company perpetrated against our national security, American liberties, and the privacy and online safety of our kids. Had comprehensive data privacy and security legislation been in place, you would have had the tools to enforce against TikTok and other Big Tech for violating Americans' privacy rights.

These are goals that I know we share, and I hope that we can work together to achieve them.

Thank you, and I yield back.

[The prepared statement of Mr. Armstrong follows:]

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Mr. Bilirakis. I thank the gentleman for giving a statement on behalf of Mrs. Rodgers. We appreciate it very much.

Now I will recognize the ranking member of the subcommittee, Ms. Schakowsky, from the great State of Illinois, for her 5 minutes.

You are recognized.

Ms. Schakowsky. Thank you, Mr. Chairman. And I apologize so much for being late.

I think I have quite a different view from my colleague -- and he is my colleague -- Mr. Armstrong, about the role of the Federal Trade Commission.

And I am happy to see all of you, that the five of you are here, that we finally have a full array of all the Commissioners. And I thank you all for being here.

I think that the Federal Trade Commission fights higher than its weight, and I appreciate that. And I appreciate the work that all of you are doing to help consumers get the protection -- and small businesses -- the protections that they need, that we need.

And I just want to say that, with only 1,300 employees, that the Federal Trade Commission has been able to return \$14 for every \$1 that it costs taxpayers. So you do a pretty good job and bring in the money that we need to.

And, in particular -- I mean, there is a whole list of things that the Federal Trade Commission has done that has been very important for consumers that returned over \$280 million back to Americans in fiscal year 2013.

What we see is that it is making rules that will make sure that -- let's see. Let me make sure I do --

Staff. Noncompetes?

Ms. Schakowsky. Oh. Well, actually bans some noncompetes so that more

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people would be able to work and get the money that they deserve to make. But, also --

Staff. Junk fees.

Ms. Schakowsky. Yeah. And you have absolutely done great work on junk fees and protecting data privacy. This is also an issue of the Federal Trade Commission. We have seen lower costs for inhalers and EpiPens. That is a work of the Federal Trade Commission.

So, on and on it goes. And I really appreciate taking on the things that, every single day, consumers and all of the small businesses are really needing to go after scammers, which has been such an important thing.

So I look forward to your testimony. I look forward to asking some questions, some specific questions, about what the FTC is looking in the future to do and the leadership that you want to take that the consumers really need.

So, with that, I want to yield back my time.

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[The prepared statement of Ms. Schakowsky follows:]

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Mr. Bilirakis. I appreciate it very much. I thank the gentlelady.

Ms. Schakowsky. Oh, can I mention --

Mr. Bilirakis. Yes, please. You are recognized.

Ms. Schakowsky. -- one thing?

Mr. Bilirakis. You are recognized. You have plenty of time, yeah.

Ms. Schakowsky. Yeah, what is our -- our bill? What is our bill?

Staff. The TICKET Act?

Ms. Schakowsky. Yeah.

Okay, the TICKET Act. We got that passed in the Congress, and I am hoping that the Federal Trade Commission supports this effort to make sure that the overpricing that we are seeing for consumers is taken under control. I mean, we are so proud, both the -- our chair, that we were able to get that legislation passed in the House. But I think the Federal Trade Commission may have a -- that the hidden fees are dealt with.

So thank you. I am going to yield back for sure this time.

Mr. Bilirakis. I appreciate it. No problem. And, you know, let's hope that the Senate will take up our bill and get it done --

Ms. Schakowsky. Yeah, yeah.

Mr. Bilirakis. -- because I think it belongs in the legislative process.

So, in any case, thank you very much.

Our witnesses today are the five Commissioners of the Federal Trade Commission.

Our first witness is Andrew Ferguson, a Commissioner.

You are recognized, sir, for 5 minutes. Thanks for being here.

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STATEMENTS OF THE HONORABLE ANDREW N. FERGUSON, COMMISSIONER, FEDERAL TRADE COMMISSION; THE HONORABLE REBECCA KELLY SLAUGHTER, COMMISSIONER, FEDERAL TRADE COMMISSION; THE HONORABLE LINA M. KHAN, CHAIR, FEDERAL TRADE COMMISSION; THE HONORABLE ALVARO BEDOYA, COMMISSIONER, FEDERAL TRADE COMMISSION; AND THE HONORABLE MELISSA HOLYOAK, COMMISSIONER, FEDERAL TRADE COMMISSION

STATEMENT OF THE HONORABLE ANDREW N. FERGUSON

Mr. Ferguson. Chairman Bilirakis, Ranking Member Schakowsky, and members of the subcommittee, thank you for the opportunity to discuss the important work of the Federal Trade Commission.

The Commission serves a critical role in the American economy. It ensures that the free-enterprise system works for everyone, not just the rich and powerful, by enforcing our competition laws and protecting consumers from fraud and unfair practices.

What I have learned in my brief 3 months at the Commission is that our most valuable asset and our most important tool in fulfilling our important mission is our people. Our lawyers, economists, and professional staffers are the lifeblood of the agency. They are consummate professionals, dedicated to the vigorous enforcement of our competition and consumer protection laws protecting our free-enterprise system. Every win the agency claims on behalf of the American people is ultimately a victory won by the hardworking staff.

The vast majority of our work is bipartisan and unanimous. I have joined my

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fellow Commissioners in supporting a number of important competition and consumer-protection matters, and I think the agency is at its best when we work together.

But I am not naive, and I recognize that Congress has created a Commission run by both Democrats and Republicans and we will not always agree. I have not hesitated to oppose my colleagues when I believe they are leading the Commission in the wrong direction.

That is particularly true for rulemaking. The Supreme Court has been steadily clawing back the power of the administrative state over the last decade. It recently discarded the Chevron doctrine that required courts to defer to agency regulations. But the Commission is going in the opposite direction, undertaking a rash of major rulemakings in the last 18 months, including the Noncompete Clause Rule. I dissented from that rule, and it has since been preliminarily enjoined by the U.S. District Court for the Northern District of Texas.

I will continue to speak out when I think the Commission has overreached its authority.

The Commission confronts many important challenges. For example, the last time I testified before Congress, I told the Senate that confronting Big Tech is the fundamental competition question of our day. This is even more true today than it was last year.

The Supreme Court has recently expressed skepticism about State efforts to regulate Big Tech, and section 230 of the Communications Decency Act forecloses many of the efforts of private parties and State officials to provide much-needed accountability. Antitrust and consumer-protection laws are therefore one of the last available avenues to

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address the many challenges posed by Big Tech.

For example, I agree with my friend, Commissioner Holyoak, that the Commission should examine whether social media platforms were knowingly violating their terms of service when they deplatformed customers in 2020. And although it lies outside of the FTC's jurisdiction, the practice of debanking by large U.S. banks cries out for regulatory and congressional scrutiny for the same reasons.

Similarly, the House Judiciary Committee recently released a report describing alleged collusion among large asset management firms intended to drive up the price of fossil fuels in order to meet emissions targets set by those firms.

At least some European countries are becoming more permissive than the United States regarding exemptions for anti-competitive behavior so long as that behavior has some connection to environmental goals. In America, we have rightfully rejected excusing anti-competitive behavior to further other social goals.

Plainly, anti-competitive conduct in the form of horizontal restraints of trade -- agreements between competitors to drive down output or to drive up prices -- is illegal, no matter the reason for it. The collusion alleged by the Judiciary Committee, similarly, should be the subject of scrutiny by the Commission.

We cannot confront these challenges without the ability to retain our talented staff and to hire more like them. As the Congress weighs how to fund the Commission, I hope it will keep in mind the importance of the Commission's mission in protecting the American economy from monopolists and fraudsters and that we cannot fulfill that mission without our hardworking and devoted staff.

I look forward to your questions.

[The prepared statement of Mr. Ferguson follows:]

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Mr. Bilirakis. Well, I thank the Commissioner. I appreciate that.

Our next witness is Rebecca Slaughter.

Commissioner, you are recognized for your 5 minutes. Welcome.

STATEMENT OF THE HONORABLE REBECCA KELLY SLAUGHTER

Ms. Slaughter. Thank you, Chairman Bilirakis, Ranking Member Schakowsky, and subcommittee members. I am really grateful for your invitation to testify today about the vital work of the FTC and how we carefully budget the appropriations you provide in support of that work.

We last appeared before this subcommittee, as you recognized, Mr. Chair, about 15 months ago, and I want to begin by acknowledging a small but essential set of new expenditures that arose in that time: the salaries of Commissioners Holyoak and Ferguson and their staffs.

I am really thrilled that the FTC has been restored to full strength with the addition of my Republican friends. The FTC delivers best for the American people when our work benefits from different perspectives and ideas and even disagreement.

We have already found many areas of common ground, as Commissioner Ferguson said, and some areas of dispute. But wherever we end up on a given matter, I know outcome is better because of the rigor, wisdom, and care that our two newest colleagues bring to bear.

Turning to the subject of today's hearing, I want to discuss an area of vigorous agreement among all five of us. Again, as Commissioner Ferguson just said, the FTC's brilliant and dedicated staff are the lifeblood of our work.

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Their expertise allows us to understand complex markets when evaluating mergers under tight timelines. Their creativity enables us to continue to deliver redress to your constituents who got scammed 3 years after the Supreme Court took away our best tool for doing so. Their technical sophistication helps us tackle novel challenges such as those posed by AI. And their commitment means that they do this work often on nights and weekends and always at salaries far less than they would command in the private sector.

I foreground our staff's tremendous value at the outset of a budget conversation because personnel account for the supermajority of our expenditures. Generally speaking, when Congress increases appropriations for the FTC, we hire staff and put them to work, whether stopping robocalls or protecting kids online or advancing the right to repair.

Likewise, if Congress were to cut appropriations, we would have to consider furloughs or reductions in force and pass up important investigations and enforcement matters.

Fifteen months ago, my message to you was one of sincere appreciation. Congress had invested substantial new appropriations in the FTC. So let me say again, thank you.

I work hard and our staff works hard to use those resources efficiently. Returning money wrongfully taken from the American people is only part of what we do, but we do an astounding amount of it -- delivering redress in each of the last 5 years of between \$324 million and \$483 million.

But the FTC's value can be measured not only in the money we return but also in the harm we prevent when we halt and deter illegal conduct. I know that you and so

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many of your colleagues recognize that value. We regularly receive letters from Members of Congress asking us to investigate consumer protection and competition practices of all types across the economy.

My message to you today is to please stay the course.

Let me sketch out two scenarios. In one, imagine that our 2025 funding level is a 1-percent bump over 2024. In the other, imagine that our 2025 funding level is a 10-percent cut from 2024.

The first scenario, with a 1-percent bump, does not put the FTC on a primrose path. Far from it. The reality is that a 1-percent bump and far more would be consumed by rising payroll costs, even with limited hiring and some attrition.

In this scenario, we will likely cut back on some enforcement actions that require expert witnesses. I do not want to mince words: Some illegal deals and conduct would proceed unchallenged, and our ability to fulfill our mission would be constrained.

In the other scenario, in which our 2025 funding levels are a 10-percent cut from 2024, the impacts would be nothing short of dire.

As you know, the FSGG Subcommittee received an allocation for 2025 that is 10 percent less than 2024, and the full Appropriations Committee recently voted to cut the FTC's appropriations by 9 percent or \$37 million.

Under this scenario, our mission will be imperiled. We may have to furlough large cohorts of our staff. We will be unable to make necessary investments in IT infrastructure. Mergers we cannot afford to challenge will result in higher prices and less choice. Fraud will multiply unchecked. And we certainly will not be able to tackle the additional work that Members of Congress regularly suggest.

You may know that the word "decimate" comes from the ancient Roman practice

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of killing 1 in every 10 soldiers after a loss in battle. Our staff have been working so hard for the American people, and they win far more tough battles than they lose. Please, please, do not imperil our mission and the Americans we all serve by decimating the FTC. I implore you instead to stay the course.

I thank you and look forward to your suggestions.

[The prepared statement of Ms. Slaughter follows:]

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Mr. Bilirakis. Thank you, Commissioner Slaughter. We appreciate it very much.

Now, our next witness is Chair Lina Khan, Chair of the FTC.

And you are recognized, ma'am, for your 5 minutes of testimony.

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STATEMENT OF THE HONORABLE LINA M. KHAN

Ms. Khan. Great. Thank you so much, Chair Bilirakis, Ranking Member Schakowsky, and members of the subcommittee. Thank you for inviting me to testify today.

I am glad to appear here alongside my four fellow Commissioners, including Commissioner Holyoak and Commissioner Ferguson. We welcomed them to the FTC just a few months ago, and their thoughtful engagement is already enriching the Commission's work.

I am happy to share with you some of the critical work that the FTC has advanced this past year and to discuss with you the Commission's budget request for fiscal year 2025.

Our North Star at the FTC is fulfilling the important mandate that Congress gave us: to check unfair methods of competition and unfair or deceptive practices. At its best, the FTC's work ensures that Americans can enjoy the opportunity and freedom that fair and honest and competitive markets provide.

Our agency is small but mighty. For every \$1 the FTC receives in funding, we provide \$14 in benefits to the public. For the American people, there is no doubt that resourcing the FTC is an excellent return on investment.

Of course, none of this work would be possible without the talented and dedicated staff of the FTC, whose hard work and fidelity to the FTC's mission protect Americans' pocketbooks, their privacy, and their economic liberty.

As American families continue to struggle with higher prices for daily necessities,

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the FTC's work helps ensure that Americans can keep more of their paychecks. By preventing unlawful business practices, our work improves families' bottom lines and lowers costs, be it at the grocery store, at the pharmacy counter, or the gas pump.

No American should pay higher prices because of illegal business practices. Accordingly, the FTC is taking on some of the most widespread consumer frauds and pain points.

We are using all of our tools to protect Americans from hidden, deceptive junk fees that cheat them out of tens of billions of dollars a year.

We are taking on auto dealers that trick or take advantage of Americans buying a vehicle, one of the biggest purchases that people make.

We proposed a click-to-cancel rule that would make it as easy to cancel a subscription as it is to sign up for one, freeing people from subscription traps that can leave them paying hundreds of dollars for services they no longer want.

And we finalized a rule to protect Americans from government and business impersonation scams, which are becoming ever more sophisticated with the adoption of AI.

We also initiated the largest crackdown on illegal telemarketing in FTC history, working with all 50 State attorneys general to target those who distributed or facilitated billions of illegal calls.

We recognize that there is much more work to be done, and, as AI turbo-charges scams, we are focusing on shutting down fraud affecting older Americans, veterans, and other underserved populations.

The Commission is bringing all of its tools to bear to protect Americans' privacy. As Chair McMorris Rodgers recently said, quote, "At its core, the massive commercial

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surveillance of data is fueling the problem. Nearly every data point imaginable is being collected on us, with no accountability," end quote.

Against this backdrop, the FTC is harnessing the full suite of its tools and authorities to protect the American public from unlawful tracking and misuse of their data. Over the last year, we have taken on unscrupulous data brokers and secured bans on firms who exploit or endanger people's sensitive health or geolocation data, including by sharing it with entities in China. We have pursued major enforcement actions against companies that endanger kids' privacy by unlawfully hoarding their data or exposing them to harassment online. And we are securing effective relief, banning companies from using facial-surveillance tools they have recklessly misused and requiring them to use settings that protect kids by default.

No doubt, threats to Americans' privacy and security continue to loom. And I was grateful for this committee's work getting a law passed that will prohibit data brokers from selling Americans' sensitive data to foreign adversaries and charging the FTC with enforcement.

I also hope this committee can continue its important work to guarantee strong privacy protections for all Americans, especially as AI tools further incentivize firms to vacuum up people's data, magnifying the privacy risks that people already face.

Ensuring an effective FTC requires adequately resourcing it. Thanks to increased funding from Congress these past few years, we have been able to invest in our technological skills and IT infrastructure so that we can continue to keep pace with continued digitization across the economy.

I was pleased that last year we launched a new Office of Technology and have been steadily recruiting great expertise to balance out the already-talented staff we have

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at the agency. Ensuring the FTC can continue its good will require further support from Congress.

In short, the FTC is firing on all cylinders to protect the American people. Unfortunately, the House has proposed a steep budget cut for the FTC for this upcoming year, and, as my colleague Commissioner Slaughter just laid out, the consequences of this would be dire.

Thank you so much to the committee for your support of the FTC's mission, and I look forward to your questions.

[The prepared statement of Ms. Khan follows:]

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Mr. Bilirakis. Thank you, Chair Khan. I appreciate it very much.

Our next witness is Alvaro Bedoya.

Commissioner, you are recognized for 5 minutes, your 5 minutes of testimony.

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STATEMENT OF THE HONORABLE ALVARO BEDOYA

Mr. Bedoya. Thank you, Mr. Chairman.

Mr. Bilirakis. Thank you for being here.

Mr. Bedoya. Thank you.

Thank you, Ranking Member Schakowsky and members of the subcommittee.

Before I start, I want to note, I am speaking just for myself, and when I talk about corporate conduct, I am talking about allegations from FTC charging documents.

I think a lot of people don't realize that the FTC is actually a relatively small agency with a very broad mandate. So, to give you a sense of how far a dollar goes at FTC, I would love to describe just 1 month in the life of our agency. And I would love to start in mid-December, when we had a case involving Pompe disease, which some of you may know is a debilitating genetic disease which can kill a child in its first year of life.

Just one company has a monopoly on treatment for this disease. It charges a family hundreds of thousands of dollars for 1 year of treatment. When that monopolist found out a new company was developing new treatments, it tried to lock down those treatments through an exclusive license. On December 12th the FTC staff sued, and 2 days later they stopped that.

Three days after that, we stopped an anti-competitive hospital merger in the I-680 corridor of California. Three hospitals competed there. Two were more expensive. Those two were owned by one company. Those two more expensive hospitals tried to buy the third less expensive hospital. FTC staff sued, and the merger was dropped.

That same day, December 15th, we had a big decision on cancer tests. Cancer

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unfortunately is usually discovered after symptoms occur, and unfortunately that is often too late. So, right now, lots of companies are racing to develop tests that will detect cancer in the asymptomatic before symptoms show up. But just one company has the ability to actually run those tests in its platform. And so that platform company went out and bought one of those test companies in what FTC staff allege was an effort to corner the whole market. FTC sued. And on that day, December 15th, a court agreed with the FTC, and soon thereafter the company announced plans to unwind that purchase.

Three days after that, we announced new merger guidelines. It has been clear since 1890 that competition law should make sure that companies compete for labor. They should compete on the pay they offer workers, on the benefits they offer workers. Yet, in well over a century, only one merger has been stopped because of how it would affect labor markets and labor competition. So FTC and DOJ issued new guidelines to help law enforcers find and stop those mergers.

The next day, we announced a major case on algorithmic fairness. There was a retailer that was trying to spot shoplifters by scanning the face of every single person who walked in that retail store. The only problem was, the algorithm did not work. Thousands of times, it identified completely innocent people as shoplifters. They were stopped, they were searched, they were accused, they were detained. This even happened to an 11-year-old girl. So FTC staff sued and stopped that.

The day after that, we proposed updates to our children's privacy rules to address changes in how kids are taught in schools -- voice-enabled technology, the nudges they receive online.

Then, after that, it was Christmas. But in between Christmas and New Year's,

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right in that period, a Federal judge granted the FTC's petition to preliminarily enjoin a merger that would have let a company corner a market on healthcare ad technology. A few days after the new year, they dropped that.

Four days after that, we turned to medical privacy. There was a company that was actually tracking people when they went to the cardiologist, the endocrinologist, the gastroenterologist, bundling up that data and using it to sell for advertising. So FTC staff sued, and we stopped that.

Finally, 3 days after that, we had a major win on crop control products, on pesticides. These are major line items for farmers, and so ensuring them access to cheaper generics is really, really important. But two of the biggest pesticide brands were actually paying money to block the sale of those cheaper generics to farmers. So FTC sued alongside 10 attorneys' general -- bipartisan group. And on January 12th a Federal judge blocked an effort by those two companies to stop our lawsuit.

Mr. Chairman, Ranking Member Schakowsky, members of the subcommittee, in a single month, FTC staff worked to keep healthcare accessible, affordable, effective, private; they worked to keep our kids safe online; they worked to make sure that algorithms don't hurt people and that companies compete for our labor; and they worked to protect the American farmer, to try to keep those farmers in the black. And this is just what is public, and these are just the highlights.

I respectfully urge you to continue what you are doing, which is strongly supporting the people and the work of the FTC.

Thank you.

[The prepared statement of Mr. Bedoya follows:]

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Mr. Bilirakis. I thank the gentleman and appreciate it.

Now I will recognize and welcome to the Commission Ms. Holyoak.

You are recognized for 5 minutes. Thank you.

STATEMENT OF THE HONORABLE MELISSA HOLYOAK

Ms. Holyoak. Thank you, Chairman. I appreciate that. And thank you, Ranking Member Schakowsky and members of the subcommittee. Thank you for the opportunity to appear before you today. I am grateful be here, and I welcome this hearing.

Congressional oversight is vital. The Federal Trade Commission's authority comes from Congress. Among the many critical powers vested in Congress is its authority to set the funding level for the Commission. Our Constitution forces agencies like the Federal Trade Commission to regularly come to Congress and demonstrate why their budget requests are warranted. So it is right that Congress consider the agency's stewardship of what has been entrusted to it. Your oversight helps ensure our faithful execution of the law.

I will note at that outset that, since being confirmed in March, I have been fortunate in getting to know and work with a number of the public servants at the Commission. Career staff at the agency make important contributions every day, both here in Washington and in the Commission's regional offices. These women and men enable us, as Commissioners, to do our jobs. And, ultimately, staff's hard work benefits the American people.

A significant part of staff's most important work goes on behind the scenes and

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takes the form of investigations. These investigative efforts lay the groundwork for public enforcement actions and enable the Commission to bring lawsuits against wrongdoers.

In my opinion, the agency is at its best when it robustly enforces the law and does so consistently with the authorities Congress has given us. Since being confirmed, I have voted on a number of these enforcement matters. I would like to highlight just a few examples of the Commission's activities in this area.

In April, I voted for the Commission to file a complaint against a bill payment company and two of its co-founders. The Commission alleged that the company used misleading advertising to impersonate legitimate billers. These deceptive practices misled consumers, and thousands of consumers complained about this company's deceptive practices. The Commission alleged violations of section 5 of the FTC Act, the Gramm-Leach-Bliley Act, and the Restore Online Shoppers' Confidence Act.

I also voted for filing a complaint against a payment facilitator and two of its executives. The Commission alleged that the defendants knowingly processed payments for deceptive and fraudulent merchants, in violation of section 5 of the FTC Act and the Telemarketing Sales Rule. The defendant agreed to settle on terms requiring the return of \$10 million for refunds to consumers and not processing payments for certain high-risk companies.

I am grateful for the opportunity to have participated in these and other important enforcement efforts.

As a general matter, I believe the Commission is at its best when it focuses on enforcing the law, not writing it. Creating new laws, as the chairman mentioned, is the job of Congress, not the Federal Trade Commission.

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With that said, I am not reflexively opposed to rulemaking where Congress has delegated the agency such authority. Accordingly, since arriving at the agency, I voted to amend or update several rules, such as the Eyeglass Rule.

When engaged in rulemaking, though, the Commission should recall that Article I of the Constitution vests legislative powers in Congress, not with agencies. Congress, therefore, sets the requirements and boundaries the Commission must follow. We should never act inconsistently with the authority Congress has entrusted to us.

Likewise, any rulemaking should rest on the sound economic and factual analysis that the law and good policy development require.

Finally, I will flag one other matter that is of great concern to me. As I have suggested recently, one of our country's most pressing issues is the relationship between large technology companies and individual liberty. The concern is one that should go beyond party politics, and I believe the FTC has more work to do on this front.

My concern about large corporations and individual liberty has consumer-protection implications. For example, when technology or financial services companies use ambiguous or unclear terms of service to shield assessments of consumer conduct in ways that are inconsistent with consumers' reasonable expectations -- and sometimes in response to political or other pressure unrelated to traditional market constraints -- those companies may violate the law. And when platforms take steps based on their terms of service, that can have significant ramifications.

Put bluntly, denying access to financial services, or deplatforming, can reduce these consumers to second-class citizens. In an era when cancel culture is rampant, including in corporate America, such concerns are far from hypothetical. To the extent we at the Commission can wield our existing enforcement authorities to combat some of

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these problems, we should do so aggressively.

I also believe the Commission should seek to better understand the role that platforms play in controlling and denying access to the digital commons. The Commission should use its 6(b) authority to better understand how platforms enforce relevant contract terms and how the enforcement of those terms affects consumers.

I again thank you for the invitation to appear, and I am happy to answer any questions you have.

[The prepared statement of Ms. Holyoak follows:]

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Mr. Bilirakis. I thank you very much for your testimony.

And I will begin the questioning and recognize myself for 5 minutes.

Chair Khan, welcome back.

As you know, the third branch of government spoke once again on how government agencies should be conducting their work. On June 28th, the Supreme Court, as you know, in its decision on Loper Bright Enterprises v. Raimondo, overruled the 1984 decision in Chevron v. Natural Resources Defense Council in a six-three majority.

This will certainly impact the FTC's authority and how it enforces its regulations currently on the books and how it issues new rules. Can you explain how this will now frame your work going forward, please?

Ms. Khan. Thanks, Congressman.

So, at the FTC, we have been following closely a lot of the developments across the courts, including at the Supreme Court, where, as you just noted, there have been a set of opinions recently that deeply implicate administrative agencies. And so we have been digesting those opinions and making sure that, across the board, our work closely hews to what those rulings say.

I will say a general matter: A core pillar of my approach to the FTC is making sure that we are being faithful to the text of the laws that Congress has written and making sure that we are honoring all of the provisions and not, you know, as unelected bureaucrats by de facto nullifying authorities or tools that Congress has given us.

And so that has really informed my approach to the FTC's enforcement work, and we will continue to do that in adherence with all court rulings.

Mr. Bilirakis. Thank you.

Commissioner Slaughter, same question. Can you discuss how this is going to

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impact how you review rulemakings going forward, please?

Ms. Slaughter. Yes. Thank you, Mr. Chair.

Yeah, I will associate myself with the chair's remarks. I agree that there are a lot of opinions to digest. We always have to make sure we are faithfully following not only the statutory texts but the court interpretations of those texts, and we will look at them closely and understand how we will proceed.

I note that, as a general matter, much of the rulemaking that we have done at the FTC for decades, since the 1970s, has not been general APA rulemaking; it has been under the specific framework in the Magnuson-Moss Act which provides both structural guardrails on how we do rulemaking, in terms of additional procedural steps, and also substantive guardrails that are really important for us to follow.

We cannot, by rule, proscribe or prohibit conduct that would not be prohibited by the FTC Act at all. In fact, by rule, we can only address conduct that is already an unfair or deceptive act or practice and is prevalent in the economy.

So those guardrails are really important, and we will continue to apply them faithfully, consistent with the Supreme Court precedent.

Mr. Bilirakis. Okay.

Commissioner Ferguson, same question.

Thank you very much. Appreciate it, Commissioner.

Commissioner Ferguson, you are recognized.

Mr. Ferguson. Thank you, Mr. Chairman.

I think it is going to discipline agency process across the board.

Commissioner Slaughter is right that a lot of our rulemakings are governed by a different statute than the APA, but I think, since 1984 and especially over the last

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20 years, agencies have relied on Chevron to get away with a lot of stuff that I think they would have a hard time defending if they just had the text of the statutes to rely on and couldn't rely on judicial deference.

That has come to an end. I think that Loper Bright is going to sort of discipline internal agency behavior as they come up with their rules. And if it doesn't, the courts of appeals will.

Mr. Bilirakis. Thank you very much.

Commissioner Bedoya, you are recognized. Same question, please.

Mr. Bedoya. Yes, sir, Mr. Chairman.

I will add to the chorus you are hearing here. Of course, you know, we have to take into account these decisions, and if it is a different level of deference, obviously our staff and we have to take that into account.

At the same time, as my colleagues have said, you know, I will say that the court didn't overrule our authorities under Mag-Moss Act to issue rules in our mandate to identify prevalent unfair trade practices and make sure the American people are protected from them.

And so that process has guardrails. We have to follow them. And that, I think, is what you will see us doing.

Mr. Bilirakis. Thank you very much.

Commissioner Holyoak, again, can you discuss how this is going to impact how you review rulemaking --

Ms. Holyoak. Absolutely.

Mr. Bilirakis. -- going forward, please?

Ms. Holyoak. Yes, thank you. As Commissioner Ferguson said, I think it will

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discipline the agencies.

As I review Loper, I particularly paid attention to something that Justice Gorsuch was talking about in terms of what is required. We need to be looking at statutory text, linguistic context, and the canons of statutory interpretation.

And that will be our burden. We have to be prepared to go to court and defend what we are doing, going back to the statute and looking at those, and not just a permissible interpretation of a statute but the right interpretation. And that is what we will have to do.

And I have done that just recently in one of my dissents, in the Health Breach Notification Rule -- relied on statutory canons of interpretation, when I said that the rule was overbroad with respect to the specific statute at issue.

Mr. Bilirakis. Thank you very much. I appreciate that.

I would like to remind all the Commissioners how important the consumer-protection mission is on fraud and deceptive practices. As it is invited to debate, again, we can talk about the antitrust theory. The single most important thing, to me, is how consumers are getting ripped off -- and they are getting ripped off and scammed -- by bad actors. Especially, you know, I am concerned about our seniors.

I ask you not to lose sight of that, none of you. Please don't lose sight of that. It should be a priority. Not divert resources under the assumption that it is best left to State attorneys general.

And I have to yield back, because I want to be fair to my ranking member. So I yield back.

And I recognize the ranking member of the subcommittee, Ms. Schakowsky, for her 5 minutes of questions.

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Ms. Schakowsky. Thank you, Mr. Chairman, and I agree with everything that you have said.

Let me just say this. I know that some of my colleagues, the Republicans, proposed cuts to your budget. And I would like to ask you, Chair Khan, what would be the effect of nearly a 9-percent cut in the budget of the Federal Trade Commission?

Ms. Khan. Thanks, Congresswoman.

I mean, it would be extraordinarily dire.

As Commissioner Slaughter laid out, we would be in a very difficult position of most likely having to furlough staff. We would undoubtedly be further shrinking the size of the FTC. And, as you know, we are actually 400 people smaller today than we were in the early 1980s, even though the economy has grown 16 times over.

And so that would mean that our work across the board would be diminished. And so we are talking about work taking on fraud and scams, including those that are targeted at elderly Americans, as we just heard, at veterans, at underserved communities.

It would mean we wouldn't be able to take on "Made in USA" fraud, when companies say their products are made in America but actually they are made elsewhere.

It would mean we wouldn't be able to go after, as much, companies that, through lawbreaking, are inflating costs for Americans across the board, be it their healthcare costs, be it how much they are paying for groceries.

It would mean that our work protecting Americans from data abuse would suffer.

And so, across the board, we would be able to do less of the fantastic work that our staff have been doing, and Americans would be more exposed to corporate lawbreaking.

And so, you know, the prospect here is quite dire. And so I really hope that

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Congress can instead continue to support the FTC's mission and fully resource us.

Ms. Schakowsky. Thank you for that. And I agree that we need to fight for that.

As I mentioned earlier, the chairman and I have been working on some junk -- some surprise fees on the TICKET Act. But what are you doing? Because this is certainly only one example of what happens with surprise fees. So what is the FTC doing on that?

Ms. Khan. So we are pursuing action against unfair or deceptive fees both through our law enforcement work as well as through rulemaking.

Just the other month, we pursued an enforcement action against a company that had basically included these deceptive early-termination fees. And so, when people were signing up for subscriptions, they were not being told clearly that trying to exit the subscription would actually require paying hundreds of dollars. And so we are going to continue to do that enforcement work.

We have also proposed a rule that would prohibit junk fees and basically require companies to, up front, include in the price all of the mandatory charges, rather than saddle people with surprise fees after they are already captive to the process.

And so we hear time and time again just what a big pain point this is. That rulemaking is ongoing, but we have already gotten 60,000 comments.

Ms. Schakowsky. Thank you.

Let me ask one more question. In 2021, the Supreme Court said that the FTC did not have to give money back to consumers, which had been in place.

And I am just wondering -- if I could go one by one, from left to right -- if you could tell me if you think that there should be a change in -- what is the name of it?

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Staff. 13(b).

Ms. Schakowsky. -- 13(b) that would allow money to go to consumers.

Could I start with you?

Mr. Ferguson. Thank you, Madam Ranking Member.

Yes, I think AMG was correct, but I think it is super-important that Congress restore the authority we thought we had under 13(b) as soon as possible.

Ms. Slaughter. Agree that restoring this authority would be critical for our ability to protect consumers.

Ms. Schakowsky. Thank you.

Ms. Khan. Absolutely.

Mr. Bedoya. Yes.

Ms. Holyoak. I agree.

Ms. Schakowsky. Thank you.

And, with that, I am going to yield back.

Mr. Bucshon. [Presiding.] The gentlelady yields back.

I now recognize myself for 5 minutes.

I want to thank Chair Bilirakis for calling today's hearing and to all the FTC Commissioners for being here today. Oversight is a critical part of this committee's job, especially over parts of the government that impact the lives of every American and nearly every industry.

With Chevron, Congress needs to aggressively reclaim our authority and stop allowing Federal agencies to create laws where they do not exist and force them to follow congressional intent when they do. It is really important.

Frankly, honestly, from my perspective, agencies have -- and I am speaking of all

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agencies; I am not singling out the FTC -- have had minimal accountability to the American people. With Chevron, I think we had some accountability, even though it is in the courts.

Since June of 2022, the FTC has been studying the contracting practices of pharmacy benefit managers, PBMs, and their impacts on patients getting access to lifesaving drugs they need.

I am in full support of injecting transparency into their operations. In fact, I believe their compensation needs to be decoupled from drug list prices. They do add value, but we need to tighten up the ship.

I am concerned about the market impacts of both consolidation and vertical integration in the PBM market and find it puzzling that, even with all the power PBMs have amassed over the years, they felt the need to create whole new entities called GPOs, or group purchasing organizations.

As I am sure you are aware, the Ohio attorney general recently filed a lawsuit against one of these GPOs and several PBMs, alleging that these entities were engaged in anti-competitive behavior.

Very little is known about these GPOs except that they have created new revenue streams for PBMs and insurers that own them. I know that two have been set up offshore, in Ireland and Switzerland, and there are indications they did that to take advantage of lower foreign corporate tax rates and privacy laws.

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RPTR MCGHEE

EDTR CRYSTAL

[11:32 a.m.]

Mr. Bucshon. Chair Khan, is this something the FTC is examining?

Ms. Khan. Thanks for the question, Congressman, and on both fronts yes.

As you noted, the FTC has been scrutinizing the pharmacy benefit managers for a couple of years now. We just released an interim report with some of our staff's initial findings laying out, as you just noted, the significant vertical and horizontal consolidation as well as the concerns we have heard from independent pharmacies, for example, as well as the risk of potentially inflated prices. We do two case studies in the report specifically on cancer drugs showing some potentially troubling outcomes there.

On GPOs specifically, we have heard concern from doctors in particular that shortages in areas like antibiotics and chemotherapy may be driven in part by the practices of these GPOs, and so a few months ago, in partnership with the FDA, we launched an RFI to collect comments from the public on these GPOs and we are continuing to review those comments.

Mr. Buchson. Commissioner Holyoak, you want to comment on that? Do you have any comment or anybody else have a comment on that subject?

Ms. Holyoak. On that subject? Certainly.

As you may know, I dissented this morning from approving this report. I don't believe the report is sufficient. I think it lacks economic and empirical evidence. I think it doesn't look at all of the players in the pharmaceutical field. I think it doesn't look at all at consumer prices and how consumers are impacted.

I am also concerned -- there was a very thorough report from 2005. It doesn't

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attempt to look at that report and describe the changes from the market conditions from that report. It doesn't explain why those changes exist.

I think the two case studies are not -- we don't know if they are representative of the field there. It is too early to know. It is not sufficient. It doesn't provide enough evidence to understand what that actually means.

Those two case studies also talk about reimbursement rates to the PBM-affiliated pharmacies but don't tie that to actual consumer harm in what is happening with prices, and I think there is a lot of work that needs to be done still on that, and I hope that the Commission can commit to doing that work and providing a fulsome report.

Mr. Buchson. Thank you for that.

I have a few seconds. So, Chair Khan, how did we lose the UnitedHealth Group-Change Healthcare case?

Ms. Khan. So that was one --

Mr. Buchson. The government. It may not have been just exclusively you.

Ms. Khan. Yeah --

Mr. Bucshon. Because you see what happened, right? Subsequently, Change Healthcare was hacked because their security wasn't properly evaluated in this process.

And so how did we lose?

Ms. Khan. This was a Justice Department effort to block that merger.

Mr. Bucshon. Right.

Ms. Khan. Unfortunately, as you noted, they lost in the D.C. District Court.

That was a vertical merger, and the judge ultimately ruled that he didn't think the risks of anti-competitive effects would be resulting and he thought that some safeguards that the companies had promised they would put in place would be adequate.

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I do want to just step back and note a broader trend here where we see time and time again, as companies become more dominant, we are seeing how a single data breach or a single hack can have cascading consequences, be it in healthcare, be it for auto dealers. There was just a big hack that rendered auto dealers kind of captive to a single company.

So this is a broader trend, especially for the FTC that oversees both competition and data security. Being able to connect the dots here is going to be critical.

Mr. Buchson. Fair enough. And I think in the PBM space and in this type of situation that Congress, in light of Chevron, needs to put some laws in place potentially -- or at least debate them -- to help us and help you.

I now yield -- I yield back, and I yield to Mrs. Dingell 5 minutes.

Mrs. Dingell. Thank you, Mr. Chairman.

Privacy should be a fundamental right in this country, and this committee has been diligently working to advance privacy protections. I am hopeful that this Congress we can pass comprehensive Federal privacy law. Hope springs eternal.

We must focus on ensuring that consumer data collection is minimized and that only necessary data is collected, used, retained, and transferred. Building consumer trust requires robust protections for sensitive data and stringent enforcement mechanisms for when those protections are violated.

As vehicles become increasingly connected and capable of collecting vast amounts of data, it is essential to understand the implications of potential privacy risks associated with this technology and its impact on consumers.

Recently, my colleague Rep. Castor and I wrote the Commission to express concerns around automotive manufacturers' data privacy practices. I appreciate your

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timely response and I want to follow up with some questions.

And I am going to say, again, I think the American people have no idea how much of their privacy is being given away, and until they read in The New York Times that car companies were giving their data to insurance companies and it was hiking up their prices, it wasn't real, it didn't cost them money, and maybe -- maybe -- we will start to see more emphasis on why we need to do something.

Chair Khan, can you elaborate on proactive steps to prevent future privacy violations and talk about enforcement mechanisms related to connected vehicles?

Ms. Khan. So this is an important area of inquiry for us. We read a lot of those reports. We separately had been hearing a lot of concern about this. And I think for a lot of people, they assume that when you are driving in your car there is a base level of freedom that you have, right? You are not being surveiled.

And I think across the board people have been waking up to the reality that, unfortunately, their precise geolocation is not only being collected and tracked by private companies, but oftentimes is being trafficked, being bought and sold, including to foreign adversaries, to companies across the world. And so this is a major, major issue.

At the FTC, we have kind of put market participants on notice about how we would view some of these data-sharing and collection practices. We need to make sure at the very least that people are not being deceived. I am limited in what I can share about any nonpublic investigations, but I can assure you that we are tracking this closely.

Mrs. Dingell. Thank you.

Chair Khan, what measures are being taken to ensure that consumers are fully informed about their data in relation to connected vehicles, third parties, and data brokers?

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Ms. Khan. So if companies were to engage in certain data-collection practices that they were not being fully up front with users about, that could give rise to potential deception violations.

More generally, the FTC has been very focused on categories of sensitive data. So that includes health data, it includes geolocation data. And through our enforcement actions, we have made clear that there has to be a presumption against selling this sensitive data.

And so if you are collecting somebody's geolocation data, you can't just share it or sell it without getting their affirmative permission. And so that is a principle that would apply across the board, be it an app or a car.

Mrs. Dingell. Chair Khan, given the rapid evolution of connected vehicle technology, how does the Commission plan to stay ahead of emerging data privacy challenges and ensure comprehensive protection for consumers?

Ms. Khan. So we have fantastic experts on board that are studying this closely that are really looking under the hood to understand what are the precise mechanisms by which some of this data is being collected, how can it be used.

We have our law enforcement work ongoing. We have potential rulemakings underway. And so we will faithfully continue to use all of our tools and authorities to make sure that people's sensitive data is protected.

Mrs. Dingell. Thank you.

I am going to do a really fast question on the total pricing rule and probably do more follow-up.

Will you be working on the total pricing rule with the industry-specific regulatory agencies, including the FCC, which is testifying before the Communications and

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Technology Subcommittee downstairs today, to ensure that your rules are harmonized with the rules of other Federal agencies? You two run up -- the FCC and FTC run up against each other.

Ms. Khan. Yeah. As a general matter, we are always keen to be learning from our sister agencies. We have a great relationship with the FCC.

As you know, there are areas where our jurisdictions do not overlap, and so they have oversight over common carriers and other providers that we cannot oversee. But nonetheless, it is always very useful to be learning from one another.

Mrs. Dingell. Thank you. I am going to send more questions for the record on that.

And I am just going to say as I close, I remember sitting with my colleagues on both sides of the aisle several years ago when I was bringing up issues and someone said, "What do you do? Do you take drugs and think about these things at night?" People had no idea that cars are smart cars, just like they are on phones, and that is one of the serious issues facing us.

I yield back, Mr. Chair.

Mr. Buchson. The gentlelady yields back.

I recognize Mr. Walberg for 5 minutes.

Mr. Walberg. Thank you, Mr. Chairman.

And to my colleague from Michigan, I never thought whether you took drugs. I wouldn't have suspected that.

[Laughter.]

Mr. Walberg. Protecting kids and my colleagues and teens online is a top priority for me and so many others across the country and on this committee.

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I led COPPA 2.0, along with my friend Representative Castor, which would update and strengthen the Children's Online Privacy Protection Act by expanding protections for teens, prohibiting targeted ads, and establishing clear data minimization requirements.

Commissioner Holyoak, welcome. Can you speak to the importance of COPPA in the past and how we can continue to improve online protections for minors?

Ms. Holyoak. Absolutely. Thank you for that question.

This is an important issue for me. I have four kids, and tracking what they do online sometimes feels like a second full-time job.

So it is tough. And the COPPA is an excellent, excellent tool for the Commission. Just today we announced a settlement with a company and it was a complaint that included a COPPA claim. And this is an app that would send anonymous messages to teens saying things like, "I know what you did," "I see you on Instagram." I mean, it is terrible things. There are terrible problems out there, and so it is an important tool for that.

And I thank you for your leadership on this, and I think Congress should continue to look at these issues and continue to see if we can find ways to strengthen our enforcement efforts. And if those laws are passed, I will vigorously enforce those.

Mr. Walberg. Yeah. Well, we need to work together strongly on that, and I think the time has come. Well past come.

Chair Khan, the Northern District of Texas preliminarily enjoined the FTC's noncompete rule, stating that the rule likely exceeds the agency's authority and that it is arbitrary and capricious. Strong words.

Assuming this is the final decision of the court, will the FTC stop trying to promulgate this rule?

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Ms. Khan. So, as you know, this was a preliminary injunction hearing, and the judge has said that she will issue a full opinion by the end of August, so we will wait to see what happens there. And of course we would proceed in accordance with court decisions that come down. We are still reviewing and proceeding accordingly.

More generally, I mean, noncompetes now trap over 30 million American workers, and we have heard from over 25,000 people across the country about how noncompetes are keeping them locked into their current job, preventing them from going to get a better opportunity elsewhere.

We actually brought a case involving janitors and security guards in Michigan who were making close to minimum wage, who wanted to be able to switch jobs to get a higher wage, and instead they were threatened with lawsuits for tens of thousands of dollars.

So we are talking about real harms to real people. As our rulemaking lays out, we think that not only are American workers less free, but our economy is worse off, less dynamic, less competitive.

Mr. Walberg. Well, we will look forward to the court having a final decision on that, and I am encouraged that you say you will follow that.

Commissioner Holyoak, the court's decision largely tracks your dissent. What is your assessment?

Ms. Holyoak. Thank you for the question.

Yes, my dissent points out that first and foremost when we are doing a rule we need to look and see what is our source of authority. Here the noncompete relies on both Section 5 of the FTC Act and Section 6 working together.

Section 5 is where unfair methods of competition is contained, but Section 5 sets

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forth a really comprehensive adjudication framework.

Section 6, by contrast, sets forth our authorities relating to investigations. And inside Section 6 is a rule, Section 6(g), that says that we can classify corporations or make rules in furtherance of the provisions of this act. So that is where that the source of authority -- the noncompete claims to have that authority.

But the question is we have to look at the entire text and structure of the act. Does that little provision, that ancillary provision in section 6(g), what kind of rules does that allow? Does it allow procedural rules, internal operating rules, or legislative rules, which is what the noncompete alleges it does. And to understand that, we look at the entire text and structure.

Section 5 has absolutely no mention of rulemaking. It talks, again, as I mentioned, adjudication, but not even any sort of adjudication of prescribed rules.

So looking at the text and structure together, there is -- I believe, and as I explained in my consent, that no reviewing court would find that there is rulemaking authority under Section 6 and Section 5 together for unfair methods of competition, and that is what the court held.

The court, as Chair Khan mentioned, is a preliminary injunction. But the standard for a preliminary injunction is the likelihood of success on the merits. So that is what the court held.

Mr. Walberg. Thank you. My time is expired. I yield back.

Mr. Buchson. The gentleman yields back.

Now recognize Ms. Kelly, 5 minutes.

Ms. Kelly. Thank you, Chair and Ranking Member, for holding this important hearing this morning. I also want to thank the commissioners for their testimony.

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Artificial intelligence will lead to positive advancements. However, we also know that there are real concerns, especially as fraudsters and scammers are using AI tools to impersonate individuals, causing Americans to lose thousands of dollars.

In fact, the FTC estimates that impersonation scams cost consumers more than a billion dollars over the course of just last year.

We must ensure that Americans are equipped with the necessary information to identify these scams and our government agencies, like the Federal Trade Commission, have the necessary tools and resources.

That is why I recently introduced the Protecting Seniors From Emergency Scams Act, which will help older adults identify scams before it is too late.

Similarly, I am pleased that the FTC finalized the government and business impersonation rule, which gives the agency stronger tools to combat scammers who impersonate businesses or government agencies. And I appreciate that you have issued a supplemental notice on prohibiting individual impersonation because of rapid improvements on AI.

Chair Khan, may you please discuss the genesis of the government and business impersonation rule and explain how it will help empower the FTC to handle such scams, and also tell us what the next steps are for the individual impersonation rulemaking?

Ms. Khan. Happy to.

So, unfortunately, despite vigorous enforcement by the FTC, these types of imposter scams remain quite prevalent. It is actually one of the biggest sources of fraud that we get reported from the public.

And so you will have, for example, somebody pretending to be an IRS agent and call up an unsuspecting victim, tell them that they owe thousands of dollars and risk

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arrest if they don't pay up. I mean, these are really awful scams that fall on people.

And so we proposed a rule that would basically allow us to get money back for people who are defrauded from those scams. It would also unlock civil penalties. And I know there has been a lot of discussion about should we just do lawsuits, should we also do rulemaking.

These things are actually deeply connected, because after the AMG decision, we are not able to get money back for people who are defrauded by these imposter scams.

And so, because we have done the rulemaking, now if we allege a rule violation, we will be able to get that money back. We will also be able to levy civil penalties, which is incredibly important for deterrence.

You need to make sure that the scammers can't profit from scamming, and that is what these rules will help us do.

Ms. Kelly. Thanks so much.

Commissioner Slaughter, would you like to add anything as it relates to the agency's work on mitigating scams?

Ms. Slaughter. Sure. I think it is a really important topic.

I would note that in this rulemaking, we had very widespread support from the business community, because they -- businesses suffer when they are impersonated to perpetrate fraud. And so it is an example of a rule that helps us utilize the statutory tools that we have.

As Chair Khan said, we have a long enforcement record behind it. And what we have found is that case-by-case enforcement was not sending enough clarity to the markets about what conduct was illegal and was not putting enough deterrent thumb on the scale to prohibit that conduct.

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So, again, we can't go beyond practices that are unfair or deceptive, so barred by the FTC Act, and we can only address by rule those practices that were prevalent in the economy, and we had to do that after a very extensive, engaged public participatory record process.

But we are really proud of this rule and excited to make sure that we continue to adapt our enforcement efforts to the patterns that we are actually seeing in the marketplace.

Ms. Kelly. Thank you so much.

I am also concerned about the American workforce largely due to the emergence of AI, but also because industries are still recovering from the COVID pandemic. Simply put, we need to ensure our job market is strong and that both future employees and employers have the necessary resources to find the right fit.

For the last couple of decades, as we have all witnessed the emergence of the internet, companies have revolutionized the recruitment industry by making user-generated resumes and professional profiles publicly accessible, creating an invaluable resource for employers and job seekers alike.

Yet it is my understanding that companies are now taking aggressive actions to dominate the digital recruiting industry by putting these public professional profiles behind pay walls.

I am concerned that the consumers who are seeking jobs and choose the option of making their information public would be surprised to learn that not all would-be employers can view their profiles and that this move could also reduce competition in the recruitment industry and therefore have a negative impact on hiring activities across the country.

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Commissioner Khan, is this an issue that you and your staff are aware of, and is it something you can look further into? In ten seconds. Oh, I am over already.

Ms. Khan. As a general matter, we are very aware of how digital markets in particular can tip and result in more dominance and monopolization in ways that can harm competition. Happy to be in touch about the specific issue you raised.

Ms. Kelly. Thank you, and I yield back.

Mr. Bilirakis. [Presiding] Thank you. I appreciate it.

Now, Mrs. Lesko from the great State of Arizona, you are recognized for your 5 minutes of questioning.

Mrs. Lesko. Thank you, Mr. Chair.

Chair Khan, how many employees or consultants has the FTC hired from the Open Markets Institute, American Economic Liberties Project, and Capitol Forum?

Ms. Khan. Congresswoman, we have been really fortunate to be able to recruit top talent from across all sorts of workplaces and all sorts of forms of expertise, including private sector, including public sector, including nonprofits.

Mrs. Lesko. Do you know the number from those particular organizations that you have hired?

Ms. Khan. Not off the top --

Mrs. Lesko. Can you --

Ms. Khan. But we can look into it.

Mrs. Lesko. Well, can you send it to me and the committee, please, once you check into it?

Ms. Khan. We are happy to look into it and be in touch over writing.

Mrs. Lesko. Okay. So you are going to give me the answer, correct?

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Ms. Khan. I don't know if there are kind of HR rules that we would be running afoul of. But assuming we are able to share that information in accordance with agency policy, we would be happy to share what we can.

Mrs. Lesko. Thank you.

Chair Khan, I am hearing that there are significant leaks coming out of the FTC, especially to left-wing news organizations, including Capitol Forum and The New York Times. The House Judiciary report concluded that the FTC's explanation of the leaks was implausible.

What have you instructed Commission staff concerning these continued leaks? And has anyone at the FTC leaked stories to the press during your tenure ahead of public announcements?

Ms. Khan. So I couldn't agree more that ensuring the integrity and security of nonpublic law enforcement information is absolutely paramount. Before I arrived at the FTC, the Inspector General actually did a survey and identified some vulnerabilities. And so since I have joined, we have been taking steps to put those safeguards in place.

Of course, we continue to remind our staff of the importance --

Mrs. Lesko. Excuse me, just because I am running out of time.

Have you instructed Commission staff concerning these continued leaks? Have you talked to the staff about it?

Ms. Khan. As a general matter, I believe our General Counsel has reminded everybody of the importance of maintaining the security and integrity of law enforcement information.

Mrs. Lesko. And do you know personally if anyone at the FTC leaked stories to the press during your tenure?

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Ms. Khan. No, I don't know that.

I will say as a general matter, one pattern we often detect is once we are interviewing third parties as part of our investigation, that ends up being a moment at which some of this information also can become public.

So we will do everything we can to keep nonpublic information nonpublic, but sometimes other actors have this information as well.

Mrs. Lesko. Thank you.

Chair Khan, the national debt is approaching \$35 trillion. I believe this year our interest payment on the debt will exceed the entire budget of the Department of Defense.

With that in mind, can you provide justification for the 25 percent increase in the FTC's budget request for fiscal year 2025?

Ms. Khan. Yeah, I would be happy to.

So a significant amount of this would actually cover unfunded pay increases. Seventy percent of our budget goes to our -- covers FTEs. And so when there are 5.2 percent statutory increases in how much we have to pay but we are not getting money for that, that really pinches us.

In that budget request also is included funding for critical upgrades to our IT infrastructure. As we are doing more of these investigations in AI and looking at monopolies in digital markets, we end up having to analyze a lot of big data, reams and reams of data, and so we need to make sure we actually have the capacity and the infrastructure to do that analysis.

Beyond that, there are non-pay-related cost increases that we are running up against, and so that is what this would cover as well. But the vast majority, 70 percent,

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would cover employees.

Mrs. Lesko. And, Chair Khan, can you expand on why you would give pay increases if you don't have the budget?

Ms. Khan. So we don't -- we can't unilaterally decide to pay employees more. That is something that Congress has done. Congress through statute said these employees need to be given increases in pay, and so we are following what Congress has told us to do.

As a general matter, I fully understand being concerned about spending, but I will just underscore, for every \$1 the FTC receives, we return \$14 back to the public.

Mrs. Lesko. You know, we just -- we always talk about the debt, and I am really concerned about our debt and the amount of interest that is accumulating. When it exceeds the Department of Defense budget, that is a national security risk.

And so I guess, in my personal budget, if I go over budget, I would probably have to say, okay, maybe we can't employ as many people, and that type of thing. So that we have to start addressing our national budget or everything is going to be a problem.

And with that, I yield back.

Mr. Bilirakis. I tell you what, we are going to miss you, Representative Lesko. That is for sure.

Now I will recognize my colleague from the great State of Florida, Ms. Castor, fellow colleague from the Tampa Bay area.

You are recognized for your 5 minutes of questioning.

Ms. Castor. Thank you, Chair Bilirakis and Ranking Member Schakowsky.

And welcome to our FTC Commissioners. Thank you for all that you do, standing up to scam artists and fraudsters. Our neighbors back home really need you. We need

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the cops on the beat of the FTC rising up against the folks who are trying to deceive our neighbors and use unfair, deceptive trade practices.

So I want to associate myself with the remarks of Ranking Member Schakowsky. This is not the time to take the cops off the beat. The scam artists aren't taking a vacation. The fraudsters aren't saying, "Well, oh, okay, if you are going to cut the budget, we will take a vacation." They are not. They are going to double down if we take FTC cops off the beat.

So thank you, Ranking Member Schakowsky, for that, and hopefully we can fend off harmful cuts.

The last time you all were here we had a larger discussion on comprehensive data privacy. It is good to see that this hearing is also focused in on how we protect Americans from just the incessant surveillance, tracking, collection of our personal private data and then the sale of it.

Commissioner Holyoak, you framed it as big tech corporations versus individual liberty, and I think when Rep. Dingell talks about the average person does not understand how they are being constantly turned into a product and their personal data is being sold, that example of smart cars gathering the data and your data being sold to insurance companies, does help tell the story.

We have been focused, especially I have, on the impact on kids. That is why I introduced the bipartisan COPPA 2.0 with Vice Chair Walberg. COPPA passed more than two decades ago, but think about the evolution in technology and the ability of big tech to track and deceive our children. And parents just feel like they are over the barrel right now.

COPPA 2.0 still has not been marked up in the full committee. But thankfully the

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FTC has been undergoing rulemaking under the authority that you currently have. I understand your proposed rule. It requires opt-in consent for third-party behavioral advertising. It strengthens retention limitations and data minimization requirements. It codifies current guidance on ed tech, strengthens transparency and accountability for safe harbor programs.

But, Chair Khan, now that you -- the Commission has undergone rulemaking and a comment period, can you share some of your findings, and what is the outlook?

Ms. Khan. Well, first let me just say thank you for your leadership on this key issue.

And I couldn't agree more that kids need to be able to play and learn online without being endlessly tracked and surveiled by companies that are selling their data for profit.

We were really glad to be able to propose an update to COPPA that would strengthen the rule in the ways that you mentioned. Our folks have been digesting the thousands of comments that have come in, and so we are not quite ready to kind of share what the final rule will look like, but we are moving forward on this work steadily.

We are also continuing with our law enforcement. And so just over the last year we secured a record-breaking COPPA penalty with Epic Games, which we found had been collecting data on kids without getting parents' consent.

We also brought a case against Amazon's Alexa which we found had been storing kids' sensitive geolocation and voice data and not allowing parents to delete that data as they are supposed to be able to under COPPA.

One principle that we are making clear, as you know, COPPA has a limit on indefinite retention on data. And one thing we are increasingly hearing from companies

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is that in this age of AI, they have a business reason to endlessly hoard data because they want to continuously refine their model.

And so we have made clear, including through that Alexa matter, that there is no AI exemption to the COPPA limitation on indefinite retention. So that is another area where we are continuing.

Ms. Castor. That is good.

Commissioner Slaughter, you have been very active and outspoken on this topic. What is your view?

Ms. Slaughter. Yeah, I think that is right. We are going to do whatever we can with the tools that we have. But I think this is an area where it is really critically important for Congress to act.

COPPA was groundbreaking and revolutionary and changed the landscape, but I think it is past time to update it. We can't do everything that you can do. As we have said a couple of times, we can implement the COPPA law that was passed in the past, we can do new rules that address unfair deceptive acts and practices, but you can go much further than that with clarity and specificity to markets.

So we stand ready to help and support in those efforts, and we are really grateful for them.

Ms. Castor. Thank you very much. I yield back.

Mr. Bilirakis. Gentlelady yields back.

Now recognize the next governor from the State of North Dakota, Mr. Armstrong.

Mr. Armstrong. I actually had a whole line of questioning on something, but something Ms. Castor just said, I may ask all five of you this question, because I think it is fairly important.

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You just said there is no indefinite retention on AI and we are not going to exclude that, correct, Chairwoman Khan?

Ms. Khan. Under COPPA. So for certain entities and certain contexts.

Mr. Armstrong. So my question is, once information is generated into AI, how is it not retained permanently?

Ms. Khan. So you mean basically how can you require unlearning from the model?

Mr. Armstrong. Yeah.

Ms. Khan. Yeah. I think that is a great question.

As far as we know, it is not possible, and that is why timely action is incredibly important and making sure firms are not in the first instance able to use unlawfully collected data to train their AI.

It also -- your point raises another issue, which is businesses could face an incentive to actually play fast and loose with the rules, because their monetary gain from that and the value they will generate from training their AI could be so important.

And so for all of these reasons, kind of stronger rules of the road are going to be critical.

Mr. Armstrong. I am going to ask the two new commissioners one at a time their thoughts on this, because I think this is the next big conversation. Anybody has heard me talk about this, whether it is government related, Fourth Amendment related, privately related, if you have a 16-year-old daughter and a 14-year-old son, privacy in the 21st century is going to be the conversation we have and how we monetize all of these things.

So what tools do you need from us?

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Ms. Holyoak. To your question on what do you do once that data is captured, it is an interesting question. I would say, I mean, these emerging technologies, we don't fully understand exactly what they are capable of.

But I think what is interesting is I think there will be more technologies that may help us in terms of fighting some of these issues. The FTC's work on the voice cloning challenge is a great example of where we are concerned about voice cloning, the use of AI, where you have fraudsters calling up grandmas and saying this is your grandson using a voice clone, and worried about that.

So the agency, we just had a voice cloning challenge where we had companies come in and say, "What can we do to fight this?" And they provided different technologies that could help assess that.

And I think the same is possible with these types of issues where you are going to have -- we are going to see these types of problems arise in the markets.

I think we will also see solutions arise too. And I think we can let the markets develop and understand where those -- with constantly assessing where the markets are, remaining vigilant, using the tools that we have to address the concerns they have when there are unfair and deceptive trade practices and/or if there are competition issues as well.

Mr. Armstrong. And I know coming in when we talked about the TICKET Act, and one of the things that concerns me about AI is somehow it is the enforcement, right? If you use five other songs to create a song, you have to pay royalties for it. We all know if you don't, you get sued, and if you can prove it, you end up losing on a royalty case. There are famous ones.

My concern is we don't know the five inputs. And there is this fight between

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open source and nonopen source. And so I don't want to live in a world where every musician is created by AI. I don't think you get Nirvana in 1991 off of Motley Crue in 1987. I think AI is pretty smart. I don't think it is smart enough to do that.

I also think by the time we get around to regulating it or legislating on it in a meaningful way, the technology is going to be so far past us that we are -- I mean, there are very few times that I can say that up here, because the Music Modernization Act became law before I got here and it has actually worked.

It is not perfect in the new environment, but it was originally started to be written under Napster and LimeWire and all of those things, and it still exists.

But, I mean, what different enforcement challenges do you see moving forward in this space, Mr. Ferguson?

Mr. Ferguson. So the Commission's guidance, like speed of statutes that it enforces, and most of them are relatively old, and they are very old compared to AI, and the stuff that you are talking about involved these, like, massive tradeoffs between promoting the innovation -- I mean, look, AI will be a super important tool for new challengers to come and challenge big tech incumbency, and we don't want regulators sort of strangling that in the cradle early on. At the same time, tremendous risks are associated with AI.

But these are like huge political sort of national economic tradeoffs that Congress needs to make afresh. It can't be that the agencies take these statutes from the 1910s and 1930s and tries to sort of fit AI into that system. Congress has to tell us or whichever agencies they are going to empower to do this enforcing how to do these tradeoffs.

Mr. Armstrong. Well, and I think one of the first questions we have to answer,

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which is really actually hard, is how do we define open source.

Open source is very different now than it was 5 years ago. I mean, if you can get a song online and feed it into an AI generator, I can't play that song at my business without paying royalties, but once I put it into an AI generator, I don't know.

I mean, so I understand the regulatory side of it. I am very concerned about how we actually -- you all do it and we do it -- how you actually figure out a mechanism to enforce it.

Because stealing something and making something not original your own is -- I mean, we have the rules in place. We just don't -- I don't know if we are -- I think we are massively inadequately prepared to enforce it.

And with that, I yield back.

Mr. Bilirakis. Okay. I now recognize Ms. Clarke from the State of New York. You are recognized for your 5 minutes of questioning.

Ms. Clarke. Thank you very much, Mr. Chairman, and I thank our Ranking Member Schakowsky, for holding this hearing today. I would also like to thank our commissioners for being here to testify.

In our increasing complex society, the FTC provides clarity for businesses and consumers alike, protecting the American public from deceptive or unfair business practices and methods of competition.

Under the leadership of Chair Khan, the FTC has taken important steps to combat unsolicited robocalls, scams turbocharged by AI tools, junk fees, dark patterns, and much, much more.

And while I am concerned about our lack of Federal data privacy standards and the ability for unchecked automated critical decisionmaking processes like algorithms to

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produce biased or discriminatory outcomes, I am confident that the FTC, once properly empowered by Congress, can rise to meet the challenges presented by rapid advances in artificial intelligence.

Though in this Congress we have thus far been unable to move through the full committee comprehensive Federal data privacy legislation that appropriately centers algorithmic accountability, the FTC has taken steps, important steps, to addressing potential algorithmic discrimination, including through its commercial surveillance rulemaking.

Chair Khan, what do you see as the Commission's current role in addressing algorithmic discrimination, and what kind of authority might the Commission need in the future to stay ahead of advancements in technology?

Ms. Khan. Thanks, Congresswoman.

And of course any new statute that Congress passes directing the FTC to take specific action here we will follow.

As a general matter, in the commercial surveillance rulemaking, we have issued an advance notice of proposed rulemaking that primarily asked questions. We got thousands of comments that our team has been digesting.

The FTC also a decade ago launched something called the Every Community Initiative where we specifically look at how particular communities might have been especially targeted by certain types of fraud, certain types of underserved communities. And so that work still continues.

We also are charged specifically by Congress under the Equal Credit Opportunity Act to enforce that law and its prohibition on discrimination. And so through all of these statutory tools and authorities we can act where we can, but I think this in particular is an

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area where greater clarity and direction from Congress is going to be key.

Ms. Clarke. Very well, because I was going to ask whether you felt that that was sufficient. Let me thank you.

Algorithmic discrimination can rear its ugly head in a multitude of settings beyond just automated critical decisionmaking processes which impact consumer access to essential services, programs, or opportunities.

Facial recognition technology is yet another tool powered by artificial intelligence which has the serious potential for harm and bias, particularly for communities of color.

The collection and use of biometric information in any instance, but particularly with respect to AI tools, is fraught with the potential for harmful outcomes and must be subject to rigorous oversight.

The FTC's recent action against Rite Aid perfectly encapsulates these concerns. For years, Rite Aid used facial recognition technology to identify customers it deemed likely to engage in shoplifting and alerted store employees to their presence, subjecting customers to additional surveillance and unwanted searches.

While, though we all know these systems often fail to accurately identify people of varied gender, age, and racial backgrounds, Rite Aid never actually tested their system for accuracy. As a result, many Black, Asian, and Latino customers faced unnecessary additional surveillance and harassment from employees.

While I was pleased to see that the FTC took action to defend shoppers from this kind of discrimination, I am worried. I am worried about the ongoing potential for harm from this kind of technology.

Chair Khan, what can Congress and the FTC do moving forward to prevent this kind of discriminatory behavior in the future and what can be learned from the Rite Aid

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case?

Ms. Khan. Thanks, Congresswoman.

So, as you noted, that was a case involving the use of facial recognition surveillance tools. There were very reckless practices that resulted in really horrible outcomes for underserved communities and for certain customers.

As a general matter, I think you are right that as these algorithms and AI tools are being used to automate decisionmaking, there is a tremendous amount of opacity.

We basically have these black box algorithms. We don't know what is going in them, and they are spitting out decisions that can be enormously consequential for people and determine who is getting access to housing, who is getting access to credit.

Commissioner Holyoak earlier mentioned debanking or deplatforming, and these decisions about who is getting access to these essential services is going to be critical. And it can harm people on all sorts of dimensions, right? I mean, companies can discriminate against you because of your race. They can discriminate against you because you are a gun owner, because you go to church, right?

The dimensions on which companies can discriminate could be quite significant, and I think it is something that we all need to wrap our heads around.

Again, I think this is in particular an area that the more Congress is able to legislate and give direction, be it to the FTC or others, that will be essential, and we will continue to use our tools as we can.

Ms. Clarke. Very good.

And I again thank you all for your service.

With that, Mr. Chairman, I yield back.

Mr. Bilirakis. Thank you. Thank the gentlelady.

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Now I will recognize Mrs. Harshbarger from the State of Tennessee.

You are recognized for your 5 minutes of questioning.

Mrs. Harshbarger. Thank you, Mr. Chairman.

And thank you to the witnesses for being here.

And welcome to the new commissioners. We are glad to have you. You should have been here 2 years ago. We have had a lot of fun since then.

Chair Khan, I have scanned the PBM interim report, and PBMs have failed to reimburse pharmacies adequately for years. I have been one of them for over 30 years. And it has led to pharmacy deserts. People can't find a pharmacy because they have put the independents out of business.

Inadequate reimbursement leads to another problem. Patients that have a nearby pharmacy are still unable to get their medications because certain PBM requirements on the drug or reimbursement on the drug is so low they can't afford to keep the drug in stock, and so, therefore, they can't dispense it because they lose medicine.

My question to you is, is the FTC investigating these PBM practices that keep patients away from the drugs they need?

Ms. Khan. Thanks for the question.

And I couldn't agree more. I mean, I have had the chance to hear from community pharmacists in Philadelphia and Kansas City. They all share a version of what you just said, which is that there are a whole set of practices that are squeezing them.

Top of the list is this underreimbursement issue. I mean, I have had pharmacists say, "I am basically auctioning off customers I have had for decades because I can no

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longer make money."

Mrs. Harshbarger. Yea, you absolutely are. That is a good way to put it.

Ms. Khan. I know my colleague Commissioner Bedoya has also heard from pharmacists across the country.

So we recognize this is a major, major issue, especially for rural communities that depend on these pharmacies for essential healthcare. And so we were pleased to be able to share some of our interim findings from the orders we sent a couple of years ago and we are going to continue to proceed with this inquiry.

I should also note that our authority to conduct market studies is not mutually exclusive with our ability to also conduct law enforcement. And so if in the course of this work we identify practices that we believe violate the law, I will be supportive.

Mrs. Harshbarger. Well, that is my next question.

Independent pharmacists and their patients, they are hurting. And that was my question. Will the FTC promptly begin enforcement action if it uncovers illegal practices waiting for a final 6(b) study to be issued? So that is a yes.

Commissioner Holyoak, I understand what you are saying. It is not comprehensive enough. I think the other two commissioners that resigned did not -- the study wasn't comprehensive enough.

We talked to Commissioner -- I mean, to Chair Khan about helping her on the front end. Let us give you the questions. This is our area of expertise, mine and Representative Carter. We have dealt with this our whole lives, so we understand this issue.

And, Commissioner Bedoya, you talked to the AG in Tennessee and community pharmacists. This is a huge issue. I can help you in any way you want, because I have

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the information. I have been asking somebody to look at them for over 25 years.

And I understand what you are saying. I hope that it goes in depth the rest -- you know, when you continue this. I can give you plenty of questions to ask.

But, Commissioner Bedoya, we talked a little bit a while ago. In the interim report, our previous conversation, you said there was a lot more left to do. And I want you to expand on what is left to study and have you created new questions or concerns from what you have already found. You know, they are pretty resistant about giving information. Am I correct in my assumption?

Mr. Bedoya. Thank you for that question, Congresswoman.

Indeed, the report mentions on page 1 about the noncompliance with the orders that our staff is facing from these PBMs.

And I will note quickly, I personally am looking forward to -- well, let me actually take a step back.

I could not be more proud of this interim report. It marries rigorous quantitative analysis with actual documents we have obtained from these PBMs or pharmacists that, for example, completely change the terms of a pharmacy's agreement through a fax.

And that fax -- this is 2023 -- says if you do not reply via fax to this fax expressing your objections, you will be auto enrolled in these massive changes to your agreement.

Mrs. Harshbarger. Yeah. Fax. That is a fax.

Mr. Bedoya. And so I think we are going to see more qualitative evidence, even more quantitative evidence, and I know our staff is going to press these entities to comply with the law.

Mrs. Harshbarger. Well, how are you going to force them to -- look, how resistant have they been about giving you information?

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Mr. Bedoya. I will put it this way. It is not every day that on page 1 of an FTC report it says these entities have failed to comply fully with this market study.

Mrs. Harshbarger. I wonder why. Talk to me later. No, I understand. And when you talked to community pharmacists and they get two contracts, one says, well, this is your rate if we are continuing to do, for example, the 340B program, and this is your rate if that goes away.

Do you think that is a problem, anybody? Anybody can answer that. I will tell you the answer.

Mr. Ferguson. It sounds like a problem, yes.

Mrs. Harshbarger. Yes is the correct answer. It is a problem.

I guess -- well, let me just change gears. I have got 40 -- no. I am over time.

Well, Gus, you just let me go on. Thank you, sir. I yield back.

Mr. Bilirakis. I know better. I am not going to cut you off. That is for sure.

We will recognize Mrs. Trahan for her 5 minutes of questioning.

Mrs. Trahan. Thank you, Chair Bilirakis and Ranking Member Schakowsky, and thank you for the full slate of FTC commissioners for being here today.

While I am glad that this committee is continuing to work hard to protect consumers' privacy, I am shocked once again that Republican appropriators are suggesting that we hamstring the FTC by slashing its budget.

It is important to remember that while Congress fails to pass legislation to rein in bad actors, regulators like the FTC are making a meaningful difference protecting consumers from harm.

In the past year alone, the FTC has taken major actions against big tech's privacy abuses, online scammers, data brokers, junk fees, and pharmaceutical price gouging.

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Every dollar that Congress appropriates for the Commission results in \$14 of benefits to our constituents by driving down inflationary prices and penalizing bad actors for breaking the law.

And given the Commission's track record of delivering for the American consumer, it is embarrassing that we are even debating adequately funding the agency.

Commissioner Bedoya, we are considering numerous proposals to protect children's privacy and safety online, an issue that I know you have worked exceptionally hard on. It is great that the FTC is updating the COPPA rule, and I support your proposals to require opt-ins to targeted advertising, stop platforms from retaliating against minors who exercise their privacy rights, and limit the use of minors' data to drive addictive features and notifications.

Given the Supreme Court's recent decisions in that choice, Commissioner Bedoya, how do you believe that Congress and the Commission can best act to further protect children's safety and privacy online?

And additionally, do you believe that greater research, transparency, and accountability into the content moderation and algorithmic amplification decisions made by online platforms would be helpful in that goal?

Mr. Bedoya. Thank you, Congresswoman. Thank you for your leadership on this.

To answer that last question, absolutely yes.

Let me offer two other thoughts.

First, net choice is fundamentally about content moderation. And I think what we cannot forget is that if you look at the allegations of mental health harm against teens, that is just one source.

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You also have research suggesting that the sleep deprivation and anxiety that comes from extended use, quote, unquote, designs that many people consider promoting addiction in the technology, that is another source.

And then a final source is harassment that is made possible online.

And I am really proud that the Commission has voted out cases from our staff shutting down -- making sure that there is a maximum of privacy settings that prevent strangers from harassing our teens.

Commissioner Holyoak mentioned a terrific case came out today where teens were being falsely told that their peers wanted to know, "Have you had any surgeries? Are you straight?" when in reality it was the company that would then charge those teens money to try to find out who that was.

And so the Commission feels strongly, I think I can say, that these companies shouldn't profit off of harassing teens online.

The second item is expertise expansion. You look at the rosters of these companies. They don't just have lawyers. They don't just have economists. They don't just have technologists. They have psychologists and brain experts.

Last year I talked to a law clerk. She looked at just one of these companies. They had 140 Ph.D.s in psychology and brain science.

And so one thing we are moving to do with Chair Khan's support is to expand our roster of in-house expertise to include pediatricians, psychologists. And I hope to have -- that we are able to share more about that in the fall as we assemble this team.

Mrs. Trahan. Thank you for that, Commissioner Bedoya. As a mother of two young girls, I really appreciate the work.

Chair Khan, as the FTC has been the most aggressive agency in terms of regulating

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tech platforms and products, I would like to ask you about the Commission's effort to bring in technological expertise in-house. We just heard about the expansion, but I do think the technological expertise is important.

In February 2023, the Commission stood up the Office of Technology, which according to your budget request now employs a wide range of experts who assist both the Bureaus of Competition and Consumer Protection in their law enforcement mission.

Chair Khan, how would the Office of Technology help the FTC hold technology companies accountable and how does it work with the FTC's other branches to lend expertise to the agency's investigations and enforcement actions?

Ms. Khan. Thank you.

I have been so thrilled that we have been able to stand up this office. We had had previously some technologists, but putting this office together and being able to hire has been a game changer.

We had heard we might face challenges when looking to hire because we can't compete with private sector salaries, but when we put out these postings, just within a week, we actually got 600 applications.

I mean, there is just enormous hunger among technologists to come serve the public and make sure that these technologies are not harming people, be it kids, be it facilitating fraud.

And so these technologists are on board. They are embedded across our investigative teams. They are working side by side, looking at the documents, looking under the hood, trying to figure out how are these algorithms working.

And that has already paid off. I mean, it is making a difference in the lawsuits we file, the counts we are able to include. And it is just really fantastic to be able to

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continue to build that expertise.

I also really appreciate Commissioner Bedoya's encouragement for us to further think about other forms of expertise that are going to be needed as we continue this work.

Mrs. Trahan. Thank you. I yield back.

Mr. Bilirakis. The gentlelady yields back.

Now my pleasure to recognize my good friend from the great State of Michigan, Mr. John James.

You are recognized for 5 minutes.

Mr. James. Thank you, Mr. Chairman.

I have only been in this town for about a year and a half, and I have become convinced that a large proportion of this city's functions could be constitutionally and physically sent back to the States or streamlined with a good app or eliminated altogether.

We have become far too used to accepting mediocrity from our Federal Government. Every industry. I come from the automotive industry. We are expected to get more efficient, better, safer, faster, with less resources, though things become more complex. Air travel has gotten more complex, but more safe over the past 40 years. Our medicine, our phones. Everything we expect to be better than it was in the past without an exponential increase in cost.

What is embarrassing is the fact the Federal Government is the only place that is not expected to get more efficient and better with less resources over time.

Folks in America have not lost faith in America. Folks in America have lost faith in Washington, D.C., because we have failed to live under the same standards of

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excellence and efficiency that they have.

And so for the private sector, those who do expect to get better over time, I just have a couple of questions based upon the feedback I have been getting from the innovators, the job creators, the business sector of how they have been experiencing the FTC. I am hearing that your staff is engaged in the following activities.

One, issued guidance to Section 5 of the FTA Act which at times runs contrary with decisions that are made in court cases involving the FTC.

Two, issued hundreds of warning letters regarding companies, products, or income claims, and threatened civil penalties, even in the absence of an administrative finding with respect to the companies.

And three, used settlements and the threat of litigation to try to drive change in different industries.

That sounds like bullying to me. That sounds like bullying the very sectors that are actually getting more efficient and doing more with less.

Chairwoman Khan, after Chevron will you commit to changing your practices, or do you plan on continuing doing business as usual?

Ms. Khan. Thanks, Congressman.

Let me just say, first of all, the FTC staff is second to none, and I would disagree with any characterization or suggestion that they are mediocre. We are fortunate to have extraordinarily talented people who could be making multiple in the private sector.

Mr. James. I classified this town and its wasteful spending as mediocre and expecting to have the same amount of money or higher spending when every other industry in the private sector is expected to do more with less.

What is your commitment to efficiency, doing more with less, rather than

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complaining that you don't have the resources that you need to execute your job?

Ms. Khan. So we are day after day forced to be efficient. I mean, we have no choice. And one of the situations that we --

Mr. James. Well, that is great to hear. So will this be a commitment on the record to change your ways rather than targeting or bullying in establishing standards unilaterally and a presumption of guilt with letters like the notice of penalty offenses concerning deceptive and unfair conduct around endorsements from every organization from Abbott to Zulily? Would you back away after Chevron and maybe have a presumption of innocence for most of these companies as they try to do their business?

Ms. Khan. So I don't believe that that Supreme Court decision affects the notice of penalty offense authority, which is really laid out in Section 5(m)(1)(B) of the FTC Act, and it is a very explicit authority that allows us to do this.

As a general matter, of course we are always going to do our work in accordance with any Supreme Court rulings that come down.

One thing on just your efficiency point, our job -- our agency is smaller today than it was in the 1980s. The economy, meanwhile, has grown 16 times over. The mergers that are coming in the door are multiples of what they were decades ago when --

Mr. James. That is right, and decades ago the company that I used to run, it was echelon smaller and more complicated and grew larger.

That is the expectation, Ms. Khan, is that you have to do more with less of the American taxpayers' dollars while executing at a higher level. That is the expectation the American people have of themselves. That is the expectation they have of you.

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RPTR WARREN

EDTR CRYSTAL

[12:32 p.m.]

Mr. James. My next question. Shifting gears to something that I have heard of everyone, protecting our kids on social media. My West Point classmate Pat Ryan and I have the Protecting Kids on Social Media Act I introduced.

Unfortunately, there are hardly any rules governing what can be done with the information of a child once it is collected.

Would you agree and would you support Congress' efforts to act on data privacy to protect our children?

Ms. Khan. Yes, absolutely. I mean, day after day we see the real dangers of allowing companies to endlessly surveil kids, to harvest that data, to buy and sell it online.

And through our enforcement track record, I think we have made clear that we will continue to be aggressive here. But, of course, additional authority from Congress, including for the reasons Commissioner Slaughter laid out, given some of the outdated features of COPPA, is going to be critical.

Mr. James. Thank you, Mr. Chairman. I am out of time.

Mr. Bilirakis. Appreciate it. Thank you. Thank you for yielding back.

Mr. Soto, you are recognized for 5 minutes for your questioning.

Mr. Soto. Thank you, Chairman, so much.

You know, technology is emerging at an astounding rate. And when you look at artificial intelligence and e-commerce online, your charge to protect consumers is tougher than it ever has been, and you are doing that in the largest economy in the world.

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And I served in the State legislature for 10 years, and we used to refer it to as the Tallahassee Two-Step, where an agency is underfunded and then attacked for not doing their jobs.

This is a budget hearing. We need to get you all the money that you need to be able to protect the American consumer. And I appreciate the work that you are doing.

We recently passed out of this committee in a bipartisan fashion the Consumer Safety Technology Act. It also passed out of the House.

One of the key provisions is to have the Artificial Intelligence Pilot Program that would allow you to consult with stakeholders and use AI to track trends and injuries involving consumer products and identifying consumer product hazards, monitoring the sale of recalled consumer products, identifying consumer products that do not meet specified importation requirements related to safety, and then produce a report.

Chair Khan, how do you think artificial intelligence is being used right now to help be the cops on the beat and how this bill may help you going forward? And how do you envision AI going forward in helping you do your job at the FTC?

Ms. Khan. Yeah, it is a good question.

I mean, I think there is no doubt that we are trying to closely track how these AI tools could actually make our jobs easier and better and try to figure out how might we be able to harness some of those advances, from improving our doc review process to making sure that our investigations are able to be more thorough.

I think there are a lot of open questions about how we could actually benefit from some of these tools.

I wouldn't say that right now we are at the stage where we are fully able to harness that potential. And, partly, that is because we haven't been able to make the

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critical investments that we would need in things like data storage and having greater cloud capacity in-house rather than having to contract externally for those types of things.

So I think there could be a world in which we are able to get there, but it will require upfront investments, and we can only make those investments with continued support from Congress.

Mr. Soto. Commissioner Bedoya, what are your thoughts on the future of using AI to help protect consumers online and in the marketplace?

Mr. Bedoya. I appreciate that question, Congressman.

There is one example I would love to highlight for you.

So you come from Florida. A lot of folks from Florida speak Spanish as their first language. Up until recently, the Commission could field complaints from consumers in English, sometimes, in certain settings, in Spanish, sometimes not.

We recently acquired the ability through AI, in part, to automatically receive complaints in English translated from 13 languages, obviously including Spanish. And so that allows us to talk to 99 percent of the American population or at least receive complaints from them that our staff can read in English using the power of AI translation.

Is it perfect? No. Does it help consumers speak to us so that we can take it from there? Yes.

Mr. Soto. Thank you.

Commissioner Slaughter, where do you envision artificial intelligence in the future helping FTC to protect consumers?

Ms. Slaughter. Yeah, I will associate myself with the remarks of Chair Khan and Commissioner Bedoya.

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I think our focus on AI has been very respectful of the incredible power that it can provide in terms of new tools, new innovation, not only in private markets but also for government players.

And I think that, as Chair Khan noted, for us to really be able to utilize the benefits of the service, even as we police potential misuses or abuses in the market and are obviously vigilant about those ourselves, it is just really expensive, is the short version.

And I will tell you that I think our focus right now is covering the costs that we have to do our job every day. And I would love to be in a universe where we can envision extra spending on new innovative tools, but I think we are not quite anywhere close to that from a budgetary perspective yet.

Mr. Soto. And, Chair Khan, if we got you the funding for this, do you think it could make the agency more efficient, be able to cover more ground, with the use of AI to assist you?

Ms. Khan. We are very keen to figure out how might we be able to deploy those tools. And we have been in touch with enforcers in other jurisdictions that are actually further ahead than we are in deploying technological expertise, not just in how they do their enforcement work but also internally to further develop their institutional capabilities and capacities.

And so those conversations have been very fruitful in trying to horizon scan and figure out what might that look like. And so if we were in the fortunate position of having those resources, it is absolutely something that we would benefit from.

Mr. Soto. Well, we know the crooks have AI. So we want to make sure the cops on the beat, all of you have those resources, too.

And I yield back.

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Mr. Bilirakis. The gentleman yields back.

We will recognize Mr. Fulcher for his 5 minutes of questioning.

Mr. Fulcher. Thank you, Mr. Chairman.

And, Chair Khan, my questions concern the recently finalized CARS Rule. And if this is duplicative, please forgive us because we have -- some of us have competing committees today.

The FTC's website states the primary purpose of the CARS Rule is to add truth and transparency to the car buying and leasing process. However, it is my understanding that your contention that this rule also sweeps in regulation of heavy truck and heavy truck dealers who sell business to business.

Heavy duty truck dealers, retail cement mixers, garbage trucks, and the like, these vehicles cost hundreds of thousands of dollars and are not bought by consumers as they are not consumer products.

So my question is, is it fair? And is that accurate? Is that your intention? And is it fair for heavy duty truck dealers to bear the regulatory costs of the CARS Rule?

Ms. Khan. Thanks for the question.

And I will just note we pursued this rule after a decade of enforcement and finding that, unfortunately, all too often people were getting --

Mr. Fulcher. Well, it is there. And so I am asking the question. And I don't have much time. So please.

Ms. Khan. So as a general matter the CARS Rule applies. We are happy to look into whether it applies to some of these more specific types of vehicles. But the bread and butter is really regular auto dealers that are selling cars to people.

Mr. Fulcher. Okay. So you are not saying that this is absolutely going to

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encompass truck transactions.

Ms. Khan. I would want to double-check with our team before.

Mr. Fulcher. Okay. Thank you.

The website for the FTC states that the new requirements mandated by the CARS Rule are already business as usual for honest dealers.

You have also stated that the purpose of the CARS Rule is merely to stop bait-and-switch tactics and junk fees.

Aside from the fact that bait-and-switch tactics and fees are for products that have no value, are already illegal, I am curious as to why the FTC never mentions the rest of the rule's numerous requirements, for example, record-keeping requirements that mandate a dealer capture and store for 2 years every text from every customer they sell a vehicle to, no matter how trivial, or risk being fined up to \$51,744 per violation. And there are other things.

But to save time, wouldn't it make more sense to focus on pursuing the bad actors instead of making these broad mandates?

Ms. Khan. We have tried a strategy that just focused on the bad actors, and, unfortunately, it wasn't enough. Thousands and thousands of Americans complain to us every year about getting tricked at the auto dealer. As you know, this is one of the biggest purchase people make.

On this record-keeping issue, the proposed rule had actually contemplated requiring auto dealers to actually maintain greater records. In the final rule, we have really slimmed it down to just focus on instances in which auto dealers would want to be able to verify, right? What we don't want is --

Mr. Fulcher. So \$24.1 billion and an additional 60 to 80 minutes to the car

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buying process, is that slimming it down?

Ms. Khan. Compared to what initially was proposed.

But just to be clear, ultimately we don't want auto dealers to be levied with an accusation and for them not to be able to substantiate their side of the story.

And so the record-keeping requirements are focused on protecting the auto dealers to make sure that they are able to verify what their claims might be.

Mr. Fulcher. Okay. I am just going back. \$24.1 billion is the estimate of the cost, 60 to 80 minutes to the car buying process, and the mandate to store and capture 2 years of every text from a customer they sell a vehicle to, no matter what?

Ms. Khan. So, as you know, a lot of rules both include costs but also benefits. And the benefits here we estimate would be \$3.4 billion to the American public.

Mr. Fulcher. Okay. Well, that doesn't really match the \$24.1 billion cost. So I might just point that out.

You noted in last year's questions for the record that car prices have contributed significantly to inflation. But there is also inflationary impact of the regulatory costs the government imposes on small business.

For example, the CARS Rule acknowledges that it will cost over a billion dollars. A study for the Center for Automotive Research points out the \$24.1 billion cost. Every small business owner knows someone must pay for all the new disclosures, record-keeping, and so on and so forth.

So, Ms. Khan, I am out of time, but I would just encourage you to take a look at this. The cost and the imposition on the dealers is making this very, very difficult.

With that, Mr. Chairman, I yield back.

Mr. Bilirakis. Thank you. Thank you. I appreciate it, Mr. Fulcher.

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Now I will recognize Dr. Joyce from the great State of Pennsylvania, my fellow Pittsburgh Pirate fan.

Mr. Joyce. Thank you, Chairman Bilirakis, for allowing me to waive onto today's hearing.

And thank you, Chair Khan and the commissioners, for being with us here.

As mentioned earlier in this hearing, Representative Duncan and I co-led a letter to the FTC, USTR, and DOJ on the decision to abandon decades-long bipartisan trade policies proposed by the World Trade Organization.

By abandoning these established international standards, we are abdicating our lead on the world stage and risking cross-border data flows in each and every sector, all under false guise of regulating big tech.

It is clear from a FOIA recent request by the U.S. Chamber of Commerce that USTR coordinated these actions with left-leaning organizations, such as Open Markets Institute, which Chairman Khan was previously the legal director.

These questionable interactions are indicative of a type of closed-door dealings that are being used to pursue anti-digital trade policies throughout the Biden administration.

Chair Khan, we risk cutting off every sector in the economy, from agriculture to medical diagnostics, from the international market by abandoning these trade policies. In fact, my district, Pennsylvania-13, had over \$300 million in exports of digitally tradable services just in 2022 alone.

Do you believe, Chair Khan, that by abandoning these provisions of established international standards that there is potential of hurting American businesses and hurting my constituents?

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Ms. Khan. Congressman, thanks for the question.

The FTC was not involved in that decision relating to WTO digital rules, and so I would defer to USTR.

As a general matter, when other agencies seek our expertise on consumer protection or privacy or competition, we are happy to provide it. And especially when certain trade agreements are implicating those issues, we think it is important to be able to share that expertise.

But the specific decision you mentioned, I would defer to USTR because we were not involved.

Mr. Joyce. So as I asked in my letter from January, is it appropriate for the FTC, along with USTR and DOJ, to conduct backroom deals on foreign trade policies without informing Congress?

Ms. Khan. So that doesn't characterize how the FTC operates. If other agencies seek our expertise, given the tremendous expertise of our staff on consumer protection, privacy, antitrust, we readily provide it.

As you know, a lot of the trade discussions are nonpublic, and so that necessarily doesn't happen out in the open. But I would defer to USTR on any specific questions around that.

Mr. Joyce. Well, did you or to your knowledge did USTR inform other government agencies, such as the State Department, that the U.S. was withdrawing from our proposed digital trade policies?

Ms. Khan. I am not aware. I would defer to USTR.

Mr. Joyce. Do you think that DOJ was made aware?

Ms. Khan. I wouldn't want to speak for DOJ. So I would defer to USTR.

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Mr. Joyce. So in effect these decisions appear to have been made in a vacuum. These decisions, as you said, are often under closed door circumstances and we in Congress are not made aware of how these decisions are made. This is quite concerning to me.

Did you ask USTR to remove due process and consumer welfare safeguards from upcoming trade agreements?

Ms. Khan. Congressman, we share our expertise with USTR. And so when they seek our input on documents -- and we want to make sure that we are not embedding in trade agreements policies that would undermine FTC enforcement, our ability to stop abuses of Americans' privacy, to be able to stop fraud, to be able to make sure illegal big tech monopolies are not misusing their powers.

Mr. Joyce. And if this involved removing due process?

Ms. Khan. Congressman, we follow due process in all of the FTC's work as the FTC acts in accordance with the FTC Act, and will continue to do that.

Mr. Joyce. Chair Khan, will you commit to disclosing all communications between Antitrust Division staff that were formerly employed by the American Economic Liberties Project or the Open Markets Institute and USTR staff that were formerly employed by either of these organizations?

Ms. Khan. Congressman, we are happy to look at your request and be able to engage however we can.

Mr. Joyce. I think this is important information. I would really look forward to seeing your response to that. I think this information will allow us to have a better trustworthy relationship with you and with your Commission.

I thank the chair for allowing me to waive onto this important hearing.

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And I look forward, Chair Khan, to your response.

Thank you, Mr. Chair. And I yield.

Mr. Carter. [Presiding.] The gentleman yields.

The chair now recognizes the gentlelady from Iowa, Dr. Miller-Meeks, for 5 minutes of questioning.

Mrs. Miller-Meeks. Thank you. I thank the chair for allowing me to waive onto this committee hearing today.

I was pleased to see the FTC launch an inquiry to investigate the role of vertically integrated PBMs back in June of 2022.

I will also state that as a State senator in my first year in the State senate in Iowa, I actually did my first bill on PBMs and transparency and rebates. The rebate part did not get through.

I recognize the value of PBMs, but I think that we have been remiss in the vertical integration.

You may be familiar with the graphic that is there, and what this is showing is -- the document that you have in requesting -- requests to the six largest PBMs. They control over 90 percent of prescriptions filled in the U.S. today.

When I started Congress just in 2021, it was 70 percent. Then it is 80 percent. And now it is over 90 percent.

The FTC's interim report, which was just released this morning, highlights several concerning trends in the PBM space, including how this extremely concentrated market continues to allow middlemen to squeeze independent pharmacies and patients all at the expense of access and affordability.

Independent pharmacies, as the report notes, are subject to unfair and arbitrary

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contracts which continue to contribute to the closure of these vital providers.

Mr. Bedoya, thank you for testifying before the subcommittee today.

You stated in the interim report that dominant pharmacy benefit managers can -- or it was stated in the report that they can hike the cost of drugs, including overcharging patients for cancer drugs, and that PBMs can squeeze independent pharmacies that many Americans, especially those in rural communities, depend on for essential care. And I have had several of those independent pharmacies recently close in my district.

It is further noted that the FTC will continue to use all tools and authority to scrutinize dominant players across healthcare markets and ensure that Americans can access affordable healthcare.

Do you believe vertical integration in healthcare has benefited patients?

Mr. Bedoya. Thank you, Congresswoman, for your concern. I share your concern.

Of course, in certain circumstances it has. What has jumped out to me from conversations with pharmacists across the country is how sometimes it backfires terribly. Let me give you two examples quickly, if I could.

I met with a group of pharmacists from Louisiana. Hurricane came through. Two parishes used to be served by roughly two dozen pharmacists. Suddenly that was five -- four independents, one Walmart.

People were walking into the independents with prescriptions for insulin and were being told, "No, you have to go down the street to the chain pharmacy," which was under several feet of water.

Another example. A family walks in a pharmacy in West Virginia, prescription for

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cancer medicine for their child. Pharmacist is told, looks at their screen, says, "Sorry, you have to go home. The PBM is telling me you have to go home and wait for your child's medicine in the mail."

Mrs. Miller-Meeks. To be mailed.

Mr. Bedoya. Thankfully, that pharmacist worked with the Insurance Commission, and they figured it out.

But sometimes steering hurts people horribly, and I know that is something that staff spoke about in the report and something that I am keenly concerned with.

Mrs. Miller-Meeks. Do you believe it has lowered premiums, the cost of drugs or the cost of care delivery?

Mr. Bedoya. That is a critical question. I would want to -- that has economic stakes -- and I would want to -- certainly I am concerned that it has not. But I would need the support of staff to give you a firm answer on that.

Mrs. Miller-Meeks. In contrast to my experience in Iowa, where they had a year to be transparent with the data that we had requested and it was just aggregate data on administrative fees rebates and administrative fees that were not passed on to the insurance companies, have PBMs and GPOs been complying with requests from the Commission? And if not, what enforcement steps are you taking?

Mr. Bedoya. Page 1 of our interim report indicates that in many instances they have not fully complied. And I know this is of great concern to myself and something that we will be looking into.

Mrs. Miller-Meeks. Have you seen further consolidation in healthcare markets since launching the inquiry 2 years ago?

Mr. Bedoya. Certainly there have been attempts to consolidate. In my opening

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statement, I mentioned a couple of them. And when those proposed mergers have threatened to raise prices on consumers, degrade services for them, FTC hasn't hesitated to step in.

Mrs. Miller-Meeks. Well, I know that we are all very concerned about this. As I said, PBMs have a role and a valuable role that they play in prescription drugs. But there also is a lack of transparent opaqueness and a lack of responsiveness by the PBMs to questions we would both ask at the State level and the Federal level.

And I would encourage you to continue into that and then hopefully respond to the vertical integration that is causing increased prices and less access.

Thank you. With that, I yield back.

Mr. Bilirakis. [Presiding.] The gentlelady yields back. We appreciate you.

Next, we will have Mrs. Cammack from the great State of Florida to ask questions.

I didn't do that, Buddy. Just because you are a Georgia Bulldog, I didn't put -- I didn't do that. And she is a Gator. Hey, I am just being fair.

You are not on the -- you are recognized for your 5 minutes of questioning, Mrs. Cammack.

Mrs. Cammack. And it is because we are Gators. Go Gators.

Mr. Bilirakis. I have to be fair. Go Gators.

Mrs. Cammack. Thank you, Chairman Bilirakis.

And thank you to our witnesses who are appearing before us today.

As you can see, we are ready for football season, despite it being 109 degrees here in Washington, D.C.

Ms. Khan, I am going to start with you. And I apologize if these questions have been asked. I am in three competing hearings at the same time. So my apologies.

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Ms. Khan, according to the Office of Personnel Management, 87 percent of surveyed FTC employees agreed that senior agency officials maintained high standards of integrity and honesty.

In 2021, this percentage plummeted to 53 percent and dropped further to 47 percent in 2022. This is all under your leadership.

Why under your leadership has this number continued to decline?

Ms. Khan. Thanks, Congresswoman.

And let me just say it is such an honor to serve alongside the talented and dedicated staff of the FTC.

Those numbers have actually increased. The FTC this past year was among the ten best places to work among midsize government agencies, and we will continue to identify additional ways that we can make sure we are able to recruit and maintain the best talent.

One source of complaint that we hear a lot about is pay. We know that we can't compete with private sector pay. But, increasingly, we also can't compete with pay of other Federal agencies, like the Federal Reserve, the Consumer Financial Protection Bureau, the Securities and Exchange Commission.

And so one way that I think Congress could be really helpful is actually putting the FTC's pay scale on parity with the pay scale of the financial regulators.

Mrs. Cammack. So in 2021 and then in 2022, it dropped in half, right? And then you say it is coming back up. Is that because those that have been dissatisfied with your leadership have since left rather than some radical turnaround happening at the agency?

And I will use that as a segue because, in the same vein, your former colleague,

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Christine Wilson, Commissioner Christine Wilson, outlined concerns about your leadership in a 2023 Wall Street Journal editorial, and one example she used was the FTC challenge to Meta's acquisition of the virtual reality gaming company Within.

Now, Ms. Wilson said, quote, "Consider the FTC's challenge to Meta's acquisition of Within, a virtual reality gaming company. Before joining the FTC, Ms. Khan" -- you -- "argued that Meta should be blocked from making any future acquisitions and wrote a report on the same issues as a congressional staffer. She would now sit as a purportedly impartial judge and decide whether Meta can acquire Within. Spurning due process considerations and Federal ethics obligations, my Democratic colleagues on the Commission affirmed Ms. Khan's decision not to recuse herself," end quote.

Ms. Khan, you investigated Meta as counsel for the House Judiciary Committee as a congressional staffer, correct?

Ms. Khan. That is correct.

Mrs. Cammack. Now, would your remarks towards Meta and your investigative history against the company not be grounds for recusal from the case?

Ms. Khan. So the Federal ethics laws require recusal if you have financial conflicts of interest, so if you own, like, huge amounts of Facebook stock, for example, or if you have close family ties to Facebook.

I have neither of those, and so I followed the standard that was laid out that ultimately led me to conclude that I was not required to recuse.

As a general matter, I think there has been a broad recognition that dominant technology companies have been able to get away with gobbling up a lot of their competitors and that we need to be more vigilant.

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And I have been really pleased at the FTC that we have been scrutinizing these dominant technology companies when they are making acquisitions that we have reason to believe might violate the law.

Mrs. Cammack. But as you laid out, you said you followed that to the letter of the law, right, that the ethics guidelines say that as long as you don't have any stocks, right, or financial obligations or considerations with that company, that makes it okay, despite the fact that you investigated them, were critical, derogatory even, in your work against Meta previously and then now you are supposed to be impartial.

I mean, but by the standard of as long as you don't have financial obligations or an interest -- I mean, heck, half of Congress -- I mean, Speaker Pelosi -- Speaker Emeritus Pelosi has financial ties and stocks with all these companies, and yet here we are making laws, which is why I think it should be prohibited that Members of Congress own individual stocks of companies personally.

But if you were faced with a similar case with a company that you had investigated as a staffer, made disparaging remarks about, in the future would you consider recusing yourself? Because the optics are pretty damning, don't you agree?

Ms. Khan. Congresswoman, I would just disagree with that characterization. I have certain expertise in certain markets, and I think that is what contributed to my being appointed in this role. And I think it would be really dangerous if we allowed companies that accumulate a lot of economic and political power to start picking and choosing which enforcers get to oversee them and which enforcers don't.

And so I followed to the letter the legal standard that says if you have made up your mind entirely about the facts and the law then you should recuse yourself, but if not, there is no requirement. I think we need to keep the bigger picture in mind, as well.

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Mrs. Cammack. And I know my time has expired.

But just yes or no. Do you believe that the current concentrated app marketplace is fair for consumers and developers, yes or no?

Ms. Khan. Congresswoman, certainly we have heard a lot of concerns about that concentration. There are lawsuits that have been filed, including by our colleagues at the Justice Department.

Mr. Bilirakis. The gentlelady yields back.

Mrs. Cammack. Thank you. Thank you, Mr. Chairman.

Mr. Bilirakis. Thank you.

I will recognize Mr. Obernolte for his 5 minutes of questioning.

I am sorry, Buddy. I have to follow the rules. I apologize.

Mr. Obernolte. This is a rare occurrence where I go before Buddy Carter.

Thank you very much, Chair Khan and the rest of the commissioner, for being here today. I have enjoyed the testimony.

Chair Khan, I want to thank you for some of the great work you are doing on trying to protect consumers from the malicious use of artificial intelligence.

As you know, I am the chair of the House Artificial Intelligence Task Force, and we have been working on putting in place a regulatory framework that will guard against some of those same harms. I know you and I have had a number of discussions on this topic, and I think some of the work you are doing is wonderful.

I wonder, though, that sometimes we need to do a better job of educating the public about the fact that AI is largely regulated with respects to its malicious use.

I mean, you make a great point in some of the testimony that you have given that AI is a tool and we regulate outcomes. And so that is why the FTC has the authority to

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regulate, for example, the impersonation of individuals and businesses, which is some of the actions you have taken recently.

The use of AI to impersonate someone for the purpose of deception and theft is already illegal. It doesn't matter if you use AI or something else to do it. And that is why the FTC is empowered to stop it, and I am glad you are.

Recently there had been a string of Supreme Court decisions that have made it abundantly clear that the Court is reining back the ability of agencies to exercise authority that wasn't expressly delegated to them by Congress. And I am sure that this is going to become an issue in a larger sense in the future, particularly with respect to AI, because it is so new.

So can you tell me where do you think the FTC lacks authority to go after the malicious use of AI? And what more authority do you think you need?

Ms. Khan. Thanks, Congressman.

I mean, this is a critical issue. And I think it implicates the FTC but implicates a whole set of agencies since the way that AI is impacting the public is just so multidimensional.

You are right that there have been a whole string of Supreme Court decisions that could limit the authority of agencies like the FTC, and so we are following all of that closely.

I think as a general rule of thumb, the more Congress legislates, and the more Congress legislates very clearly, the better things will be. And so we would encourage the continued efforts by this committee and others to make sure that that type of legislation, especially addressing some of these new technologies, are absolutely critical.

The FTC Act does ban unfair methods of competition and unfair or deceptive acts

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or practices, and I have been very clear that I don't believe there is an AI exemption from those laws.

And so if companies are using AI or algorithms to engage in price fixing, for example, or using AI to deceive the public, I believe our authorities would still cover that.

But you are absolutely right that in the current environment, again, the more Congress is legislating and the more Congress is legislating supremely clearly, the better off we all will be.

Mr. Obernolte. Right. Well, let me just encourage you. Let's work together on this. I mean, I think we are all on the same team here in our efforts to try and protect consumers against the malicious use of AI. And I don't want that conversation to devolve into an argument about who has authority to do what.

So to the extent that you want authority to do something that you might not have, please come and ask us. To the extent that you discover things that require congressional action or legislation, please come tell us and let's get that done together.

It is ironic. This is the second time today I have had this discussion. Earlier today we had a hearing with FCC Chair Rosenworcel in which I had exactly the same discussion with her, because there is this issue of the use of AI in political ads. And no one can decide if it is the FTC that has authority, the FEC.

And to everyone, I say we are all on the same team here. Let's sit down, and let's try and get the problem solved.

Ms. Khan. I really appreciate that and look forward to working together on it.

Mr. Obernolte. Excellent.

A separate topic, a question for you, Chair Khan.

You are, I am sure, familiar with the section of the Magnuson–Moss Act that

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requires the Commission to provide Congress with a 30-day notice of proposed rulemaking to provide for congressional input, which I think is an important part of the open dialogue that we have between the branches of government.

Do you have a notice of proposed rulemaking that you think will be coming up soon?

Ms. Khan. Is the question are we planning to issue an ANPRM in the next 30 days?

Mr. Obernolte. Well, and particularly the commercial surveillance rulemaking that you have been considering.

Ms. Khan. So we are not able to publicly disclose nonpublic deliberative process, but we across the board will be very careful to follow to the tee the requirements of Section 18 under the FTC Act.

Mr. Obernolte. How many of those notice of proposed rulemakings has the Commission issued?

Ms. Khan. So under Mag-Moss there have been a few rules that we have issued. One is the Impersonator Rule that you mentioned. There is another one that would take on this epidemic of fake reviews online which can really pollute the online ecosystem and make it difficult for people to comparison shop.

We have other rules that would be going after similar types of deceptive or unfair conduct online. And so across the board, we have been very careful to follow the special procedures laid out in Section 18.

Mr. Obernolte. Okay. Well, I am out of time.

But I just want to encourage you. This is an important part of our partnership, is giving us the notice when you are going to do something, which allows us some time for

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us to give you our input. So please be conscientious about that.

Ms. Khan. Absolutely.

Mr. Obernolte. All right. Thank you very much.

I yield back, Mr. Chairman.

Mr. Bilirakis. Thank you. I appreciate it very much.

Next, we will hear from the gentleman from Georgia, Mr. Buddy Carter, for his 5 minutes of questioning.

Mr. Carter. Thank you, Mr. Chair, for allowing me to waive onto this committee.

And thank you-all for being here. And thank you for the interim report that was released this morning about PBMs and the impact they have on independent pharmacies. I believe that is the focus of the report, and I appreciate it.

I became a Member of Congress 9-1/2 years ago. The first thing I did when I got here was to go to the FTC and ask them to look at the vertical integration that exists within the drug pricing chain. Two years ago you did that, and I want to thank you-all for that.

Now, Chair Khan, can you share very quickly what the FTC has discovered with these PBMs' practices and their impact on pharmacies, on doctors, on patients, on payers?

Ms. Khan. Thanks, Congressman. And thanks so much for all of your encouragement and support of the FTC as we have endeavored to scrutinize what, as you know, is an extremely opaque part of the market.

So the report lays out that there has been a continued trend of vertical integration, as well as horizontal concentration, that the handful of larger PBMs have increased their share of the prescription drug market.

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We lay out in the report a lot of the concerns we have heard from independent pharmacies, which range from chronic underreimbursement, to steering, to arbitrary auditing, to all sorts of practices that I think at the end of the day to pharmacists make them feel like they can't get a fair shake.

I mean, what I often hear from community pharmacists is they are serving their communities, their communities depend on them, but their ability to survive on the marketplace is subject to the whims of these actors that they increasingly find themselves competing with.

Mr. Carter. And is it true -- and I don't mean to interrupt you -- but is it true that we are losing about one pharmacy every day now? We are on pace this year to lose one independent pharmacy every day.

Ms. Khan. Yeah, we lay out in the report what --

Mr. Carter. Exactly.

Ms. Khan. -- some of those declines have looked like.

Ms. Carter. And I might point out that, whether you are a Republican, a Democrat, or an Independent, we all want the same thing. We want accessible, affordable, quality healthcare.

Pharmacists are the most accessible healthcare professionals in America. If one pharmacy every day is closing, accessibility to healthcare is going to be impacted.

Mr. Bedoya, earlier we were talking about steering. I don't want to put words in your mouth, but did I understand you to say that there were some instances where steering was beneficial? Can you --

Mr. Bedoya. No, sir. I was responding to part of the question. It was a broad question. Is vertical integration good in healthcare? And I said certainly in some

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instances it has been. I used to be part of a vertically integrated healthcare provider. I like that. Right?

I did not say -- I am not aware of instances of steering that I have found beneficial, although obviously I haven't studied this as carefully.

Mr. Carter. Okay. Chair Khan, have you seen instances of steering, of patient steering?

Ms. Khan. So the report does lay out instances where we have seen that. There has also been research suggesting that not only is this steering happening but the steering is actually inflating drug prices and drug costs.

And two decades ago there was a view that this vertical integration could actually lower costs of drugs in healthcare overall. And I think two decades on we are having to take a clear look and try to see was that assumption accurate or have things actually become more expensive through some of these conflicts of interest.

Mr. Carter. And just for the record, in this committee, in the Energy and Commerce Committee, we have had a member meeting with the CBO. And I have asked them not only just in pharmacy but in healthcare in general, give me one example, one example of where consolidation in healthcare has saved money. And they have not been able to give me one yet. I think that speaks for itself.

Commissioner Holyoak, I wanted to ask you. I know that you and I have spoken, and I just want to ask you, are you supportive of the FTC's 6(b) study into the inquiry into the PBMs?

Ms. Holyoak. Absolutely. But I am supportive of a comprehensive study. I don't believe that this report does an adequate job of comprehensively looking at the industry, of understanding the competitive markets here and all of the players in that

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system. I don't think it does an adequate job at all looking at any -- it doesn't do any job of looking at the economics.

Mr. Carter. So you voted against the release of the study?

Ms. Holyoak. Correct.

Mr. Carter. But I want to make sure we all understand that you are not in favor of PBMs and you are not saying -- I will let you explain.

Ms. Holyoak. I am in favor of -- I am in favor of --

Mr. Carter. I will let you explain your vote.

Ms. Holyoak. Oh, absolutely.

And I will step back for a second and talk about when I was solicitor general in Utah, I was in favor of a lawsuit that we brought against PBMs because I was very concerned, we were concerned about some of their practices and their pricing, and particularly whether they were, in that instance, whether they were misrepresenting prices and savings to payers.

And so I think I am very supportive of a study that actually looks at the business model, that uncovers what is happening here, that can shed some light into some of these practices.

Mr. Carter. Again, and I am running out of time, I don't want to put words in your mouth, but I just want to make sure we understand that your vote in no way indicates that you think that PBMs are helping the healthcare system.

Ms. Holyoak. My vote is because I don't think the study is accurate.

Mr. Carter. Okay.

Ms. Holyoak. I committed to a full, comprehensive study of PBMs --

Mr. Carter. Right.

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Ms. Holyoak. -- and so that we can fully, objectively evaluate this industry and understand their business models.

And without that, without a comprehensive study, we can't take any action.

Mr. Carter. Okay. Okay. Well, I don't want us to let perfect get in the way of very good. And I want to thank you for this.

This is the interim report. The final report hopefully will be forthcoming. And I hope that we can get a more comprehensive, if you will, report.

I cannot stress to you how important this is. Folks, I was a pharmacist for 40 years. I am the one who had to go to the counter and tell the patient how much the medication was. I am the one who had to do that.

People can't afford their medications. They are getting ripped off. This has got to be busted up. No insurance company should own a PBM. No PBMs should own a pharmacy. Period.

Ms. Holyoak. I share your concerns, Congressman, with better understanding that this.

Mr. Carter. Okay.

Ms. Holyoak. And I am fully committed to ensuring that the Commission continues its work here and provides a fully comprehensive study.

Mr. Carter. Okay.

Chair Khan, any?

Ms. Khan. I would just say, Congressman, to the extent that you have concerns about vertical integration, I mean, that is something that antitrust enforcers may be able to address through litigation. But it takes a long time.

And bills that are clearly decoupling in those ways could be the most efficient way

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to potentially --

Mr. Carter. And I agree. We have got a big role to play in Congress. But when you say it takes time, one pharmacy every day is closing. Accessibility to healthcare is decreasing in this country.

Ms. Khan. Yeah, I couldn't agree more. There is enormous urgency here. And that is why we thought better to provide the public with the information we have already today rather than, as you said, let the perfect be the enemy.

Mr. Carter. I apologize, Mr. Chair.

Mr. Bilirakis. No, hey.

Mr. Carter. I yield back.

Mr. Bilirakis. Just don't forget that I gave you that extra time.

Mr. Carter. I won't.

Mr. Bilirakis. All right. I appreciate it. You will pay me back one day. All right.

I had a question, but I think we have gone long enough.

I appreciate you-all so very much for being here, and thanks for your patience.

Thanks for the audience's patience, as well. I thought it was a very productive hearing.

So I ask unanimous consent to insert in the record the documents included on the staff hearing documents list.

Without objection, that will be so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

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Mr. Bilirakis. I remind members that they have 10 legislative days to submit questions for the record.

I ask the witnesses to respond to the questions promptly.

Members should submit their questions by the close of business on July 23.

Without objection, the subcommittee is adjourned.

Thank you.

[Whereupon, at 1:14 p.m., the subcommittee was adjourned.]