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Federal Trade Commission
Office of the Secretary

Via ftcpublic.commentworks.com

In the Matter of Uber Technologies, Inc., File No. 1523054

Thank you for the opportunity to comment on the revised proposed settlement in this matter.

I object to the settlement. The settlement calls on Uber to undertake privacy *assessments*, but the settlement fails to require that the assessor use strict standards and clear, independent processes. An assessment can be worthless if it allows the company being assessed too much control over the review. Essentially, the assessment described in the consent decree will produce any results that the company wants. The only hope for a meaningful review of privacy activities and correction of deficiencies is an audit that measures a company's actions against objective standards using a through methodology.

Much has been written in academic literature, in comments previously submitted to the Commission, and elsewhere about the weaknesses of assessments and about the differences between assessments and audits. There is little likelihood that the Commission does not understand that it is agreeing to half a loaf.

Of course, imposing a worthless obligation makes it easier to induce a company to settle a case. The company gets off effectively scot free, and the Commission gets another notch in its belt without fighting a battle for real change and real protections. The losers here are consumers, who are left with the appearance of change while there is little change in fact. The recent Facebook kerfuffle is evidence that Commission mandated assessments do nothing to improve privacy protections.

To make matters worse, the Commission misleads the public by mis-describing the settlement in its press release:

In addition to compelling Uber to disclose certain future incidents involving consumer data, the new provisions in the revised proposed order include requirements for Uber to submit to the Commission all the reports from the required third-party **audits** of Uber's privacy program rather than only the initial such report. It also must retain certain records related to bug bounty reports

regarding vulnerabilities that relate to potential or actual unauthorized access to consumer data.¹ (emphasis added)

I conclude that the Commission willfully and deliberately wrote this deceptive press release. It is, as I suggested above, highly unlikely that the Commission does not understand the difference between an assessment and an audit. Indeed, it would be a major substantive failure if the Commission did not understand the difference.

The Commission's constant mischaracterization of privacy reviews in its settlements follows a pattern of willful deception. The Commission and its staff regularly mischaracterize the obligations required in privacy settlements by calling them *audits* rather than *assessments*. The Commission and its staff are guilty of deceptive practices by overstating the results of its settlements. The Commission deceives both the public and the Congress.

The Commission made a grave mistake years ago when it first agreed to settle a privacy matter by imposing a requirement for an unstructured assessment rather than an audit. Over the years, the Commission made matters continually worse by including the same inadequate obligation in later privacy settlements. It is time for the Commission to recognize its mistake and fix the problem. With so many new Commissioners now in office, this case presents the best opportunity to make a change.

I ask that the Commission rescind the Uber settlement and that it insist that Uber undertake meaningful privacy **audits** based on established standards and objective audit processes. I also ask that the results of the audits be submitted to the Commission and made fully public but for the removal of information that would directly undermine the security of activities or that would unduly affect the privacy of any individual.

Sincerely,



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¹ Federal Trade Commission, Press Release, April 12, 2018, Uber Agrees to Expanded Settlement with FTC Related to Privacy, Security Claims, <https://www.ftc.gov/news-events/press-releases/2018/04/uber-agrees-expanded-settlement-ftc-related-privacy-security>.