



August 17, 2018

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex C)
Washington, DC 20580

Re: Competition and Consumer Protection in the 21st Century Hearings, Project Number P181201

Submitted through regulations.gov

Dear Sir or Madam:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we appreciate this opportunity to provide comments in response to the Federal Trade Commission's request for comment on "Hearings and Competition and Consumer Protection in the 21st Century." Our comments will focus on question 9, "The consumer welfare implications associated with the use of algorithmic decision tools, artificial intelligence, and predictive analytics." In brief, we believe algorithmic decision tools, artificial intelligence (AI), and predictive analytics must be governed and controlled in such a way as to promote the public good by protecting and enhancing civil and human rights.

Automated, data-driven decisions can, at their best, bring greater fairness and equity to the key turning points in people's lives. At the same time, just because a decision is made by an AI system does not necessarily mean that it is fair or unbiased. For example, AI systems often base their decisions on historical data about people and groups. Such data frequently reflects the longstanding, ongoing reality of racial and other bias—at both an individual and a structural level—that sadly still pervades many areas of American life.

In 2014, The Leadership Conference was pleased to join with a broad national coalition of civil rights, technology policy, and media justice organizations in endorsing Civil Rights Principles for the Era of Big Data, which are online at <https://civilrights.org/civil-rights-principles-era-big-data/>. A related report, offering key examples of the ways big data can impact civil rights, has been published at <https://bigdata.fairness.io>.

As our Principles make clear, we believe it is vital to "ensure fairness in automated decisions." This means that algorithmic decisionmaking tools, AI systems, and predictive analytics whose decisions impact civil rights — for example, AI systems that make decisions

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Michael Lieberman
Anti-Defamation League
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about who gets a job interview, or about who will be stopped for police questioning — must be designed to ensure that they will protect the civil and human rights of all people.

The diverse signatories to the Civil Rights Principles for the Era of Big Data share serious concerns about the risks posed by biased data, and the biased assumptions or unfair decisions that may result from uncritical uses of such data. As the Principles explain: “Systems that are blind to the preexisting disparities faced by ... communities [that are disadvantaged or that have historically been the subject of discrimination] can easily reach decisions that reinforce existing inequities. Independent review and other remedies may be necessary to assure that a system works fairly.”

Thank you for embarking on this important process. We stand ready to work with you to ensure that the voices of the civil and human rights community are heard in this important, ongoing national conversation. If you have any questions about these comments, please contact Corrine Yu, Leadership Conference Managing Policy Director, at 202-466-5670 or yu@civilrights.org.

Sincerely,

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Vanita Gupta
President & CEO