Analysis of Proposed Consent Order to Aid Public Comment

In the Matter of Workado, LLC, **File No. 232-3092**

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from Workado, LLC, f/k/a Content at Scale AI ("Workado").

The proposed consent order ("proposed order") has been placed on the public record for thirty days for receipt of public comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

In response to public concerns about the difficulty identifying content created through the use of artificial intelligence (AI), the market has responded with AI detection products. Workado markets and offers for sale an AI text detector. Workado claimed its AI text detector could classify text as human-created or AI-generated with over 98 percent accuracy across all types of text from generative AI programs, like ChatGPT, Claude, and GPT-4.

The complaint alleges Workado violated Section 5(a) of the FTC Act because its accuracy claim was false or misleading or was not substantiated at the time the representation was made. The complaint specifically alleges Workado lacked competent and reliable evidence to show its AI detector could perform with 98 percent accuracy across many types of text generated by a wide range of generative AI programs. The complaint also alleges the AI model powering Workado's detector was trained or fine-tuned to accurately classify only academic content, rather than the types of marketing content submitted by Workado users, making it incapable of performing with 98 percent accuracy for its intended purpose. Further, testing shows the AI model powering Workado's detector could correctly classify non-academic AI-generated text with around 53 percent accuracy.

The proposed order contains provisions designed to prevent Workado from engaging in these and similar acts and practices in the future. The proposed order covers products that detect or purport to detect content, including text, images, and video, generated or altered by AI in any way.

Provision I prohibits Workado from making any representation about the efficacy of any product covered by the proposed order unless that representation is not misleading and Workado has competent and reliable evidence that is sufficient in quantity, quality, and timeliness to support its claim.

Provision II requires Workado to retain any competent and reliable evidence, including competent and reliable scientific evidence, upon which it relies to substantiate any claim about the efficacy of any product covered by the proposed order.

Provision III requires Workado to email eligible customers with notice of the consent order and the settlement.

Provisions IV through VIII relate to notice and compliance. Provision IV requires that Workado acknowledge receipt of the order; distribute the order to principals, officers, and certain employees and agents; and obtain signed acknowledgements from them. Provision V requires

Workado to submit compliance reports to the Commission one year after the order's issuance, for three years thereafter, and when certain events occur. Provision VI requires Workado to create certain records for 10 years and retain them for five years thereafter. Provision VII requires Workado to provide information or documents necessary to monitor compliance with the order during the period of the order's effective dates. Provision VIII provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.