

UNITED STATES OF AMERICA Federal Trade Commission WASHINGTON, D.C. 20580

Remarks of Chief Technologist Stephanie T. Nguyen As Prepared for Delivery: PrivacyCon 2022

November 1, 2022

Thank you, Chair Khan, and to the staff whose work led to this conference, especially Jamie Hine and Lerone Banks who spearheaded this event, Caelan Conant, Molly Smith, and the countless technologists and attorneys for putting in many hours to review papers and plan sessions. Welcome to our esteemed experts who will be presenting today.

My name is Stephanie Nguyen. I'm the Federal Trade Commission's Chief Technologist. I am honored to be here to lead and work with world-class technologists and agency staff, and make sure the largest corporations follow the law and treat people like human beings.

As a human computer interaction designer and user experience researcher, I have spent most of my career building and designing tech on the ground – working directly with thousands of people in their communities to understand how these technologies impact people's lives. I have seen firsthand how technology can enable or sometimes exacerbate real life harms. This means patients seeking access to healthcare with the threat of their data being shared to law enforcement, or small-town goat farmers who lack the right to choose who can repair their tractors.

In this work, the term consumer privacy is often an inadequate term to describe people's lived experiences. Looking at our agenda today, PrivacyCon expands on traditional understandings of "privacy" and uses other frames to bring out a broader set of concerns. For example – we're talking about: Not just indecipherable consent pop-up windows but consumer surveillance enabling information and power asymmetries. Not just data security but automated decision-making systems which can bring discriminatory outcomes.

Over the past 108 years, the Commission has navigated immense change and transformation by dynamically changing our strategic approach, our policy tools, and operational objectives. I am deeply grateful for the expertise from Bureau technologists who have laid much of the groundwork here. We've learned that tech cannot be viewed in a silo – it cuts across industries, which is why our technologists constantly work with our colleagues across the Bureaus of Competition & Consumer Protection.

This why our team—of AI and security experts, software engineers, designers, and data scientists—are here to provide diverse skillsets and analytical tools.

I want to highlight a few areas of focus for our technologists.

First, we strengthen and support the FTC's enforcement efforts with the Bureau staff. On remedies, we are surgically improving our orders to push companies not just to the do the minimum to remediate areas like "unreasonable data security," but to model best practices we want to see from industry. We want to see bad actors face real consequences. To do so, we are holding corporate leadership accountable, as we did in our Drizly and SpyFone cases, and requiring companies to delete the models and algorithms it developed by using the data, photos and videos uploaded by its users, as we did in our Everalbum case. We want to address systemic risks and not play whack-a-mole, like requiring companies to delete personal information they illegally collected and destroying any algorithms derived from the data, like in our case against Kurbo (formerly known as Weight Watchers). On security, our recent orders in Drizly and Chegg have required the companies to adopt a form of multi-factor authentication which is resistant to phishing attacks, in order to comprehensively address authentication risks.

Second, we serve as an expert resource to advise and engage with staff and leadership. On AI and complex technical systems, our team is helping demystify hype terms and make sure they don't become obstacles to investigations, like identifying when hiring software that advertises emotion recognition is pseudoscience. We want to help our attorneys be able to interrogate systems and get to the root cause of harm.

Third, we promote best practices of tech policies through outreach and engagement. This may be done through research and horizon scanning – where we aim to establish durable agency muscle memory to stay on top of developments, so that the FTC can nimbly identify and respond to current and next generation tech threats. For example, with augmented and virtual reality, the market has grown significantly in the last half decade to include education, healthcare, and fitness. As technologists, we ask what, if any, are the novel features that may raise new challenges, like more types of geospatial and biometrics data that can be collected and from which inferences can be made, or more types of content moderation and immersive or invasive advertising experiences.

Looking ahead, the FTC has and will continue to be measured by the results we can deliver to fulfill our mission and obligation to protect the public from unlawful business practices and from unfair methods of competition. We look forward to a future for technologists to be an institutional resource in the agency to continue this work.

Thank you to team CTO, and to my FTC colleagues. With that, I'll turn it over to my colleague Amba Kak for the first panel on consumer surveillance.
