



Office of the Chair

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**Remarks of Chair Lina M. Khan
FTC Tech Summit**

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Hi, everyone. Thanks so much for joining the FTC's first Technology Summit on artificial intelligence.

I'm thrilled to welcome our panelists, who bring deep expertise to this conversation. And I'd like to give a special thanks to the FTC's Office of Technology and our fantastic Chief Technologist, Stephanie Nguyen, for spearheading today's summit. In the year since its launch, the Office of Technology has hit the ground running, deepening our agency's expertise as we navigate this fast-moving moment of technological opportunity and risk.

Over the last 18 months, the rapid deployment of artificial intelligence tools has captured the world's attention, spurring some combination of awe, wonder, apprehension, and fear. We hear how these automated technologies could open the door to breakthroughs across fields ranging from science to education, making life better for millions of people. But we also already see how these tools can turbocharge fraud, automate discrimination, and entrench surveillance, putting people in harm's way.

More fundamentally, we face basic questions of power and governance. Will this be a moment of opening up markets to fair and free competition, unleashing the full potential of emerging technologies? Or will a handful of dominant firms concentrate control over these key tools, locking us into a future of their choosing?

Which of these potential trajectories AI will take is not an inevitability. The outcome will be a direct result of policy choices we make now. The last time we faced similar questions prompted by new technologies was back in the mid-2000s, at the onset of the Web 2.0 era.

But what began as a revolutionary set of technologies ended up concentrating enormous private power over what have become near-essential services. Through aggressive strategies to acquire or lock out companies that threatened their position, a handful of firms solidified their dominance, while locking in business models that we now realize came at the expense of our privacy and security. Lawsuits around the country have surfaced the heavy costs, from the decimation of independent journalism to serious harm to kids' mental health.

Across history, we've routinely seen large firms—going back to U.S. Steel in the early 1900s, to Alcoa in the 1930s, to IBM and AT&T in the 1970s, to Boeing in the 1990s, and to dominant technology platforms today—argue that their market power is good for America.¹

And yet, when you concentrate production, you concentrate risk. Unfortunately today we are living through the heavy costs of undue concentration. United Airlines CEO Scott Kirby recently drew a straight line between the 1997 mega-merger between Boeing and McDonnell Douglas and the transformation of Boeing from a highly profitable world-class engineering enterprise to an ossified money-losing corporation with dangerous quality issues.² After the merger, organized labor lost out, as the combined entity took on a union that had been essential to maintaining Boeing's innovative culture and commitment to quality.³ Shareholders have lost out too, not having seen a dividend in four years.⁴

Boeing's journey is no different than that of many large corporations that policymakers have historically shielded from competition, and whose market power masked the decline and degradation of internal capacity. The difference between Boeing and many of those companies is there's simply no masking airplanes falling apart in the sky.

Today, policymakers across government recognize the importance of learning from these missteps as we navigate the challenges and opportunities posed by AI.

At the FTC, the rapid development and deployment of AI is informing our efforts across the agency, as we work to promote fair competition and protect Americans from unfair or deceptive tactics. There is no AI exemption from the laws on the books, and we're looking

¹ Government officials have often agreed. In the 1990s, officials even reportedly threatened the Europeans with sanctions if they wouldn't allow the merger of Boeing and McDonnell Douglas. As one White House advisor put it, aerospace was the "only sector where we have a de facto national champion and you can be an out-and-out advocate for it."

² David Koenig, Chester Dawson & Mary Schlangenstein, *United Airlines CEO Scott Kirby Takes Aim At Boeing Over More 737 Max Missteps*, DALLAS MORNING NEWS (Jan. 23, 2024), <https://www.dallasnews.com/business/airlines/2024/01/23/united-airlines-ceo-scott-kirby-takes-aim-at-boeing-over-more-737-max-missteps/>, ("My own assessment is that this goes all the way back to the McDonnell Douglas merger and it started a changing culture," [Kirby] said.)

³ For instance, following a prolonged strike at its unionized plants in Washington state, Boeing announced in 2009 that it would assemble its new 787 Dreamliner aircraft in a new non-union plant in South Carolina. See Kathy Lohr, *Union Workers Cry Foul Over New S.C. Boeing Plant*, NPR (June 9, 2011), <https://www.npr.org/2011/06/09/137081954/union-workers-cry-foul-over-new-s-c-boeing-plant>. During the COVID-19 pandemic, Boeing would close its Dreamliner production line in Washington, concentrating all 787 production in South Carolina. See Nicholas Reimann, *Boeing Moving All 787 Production Away From Seattle Area, Possibly Costing 1,000 Jobs*, FORBES (Oct. 1, 2020), <https://www.forbes.com/sites/nicholasreimann/2020/10/01/boeing-moving-all-787-production-away-from-seattle-area-possibly-costing-1000-jobs/>. See also Natasha Frost, *The 1997 merger that paved the way for the Boeing 737 Max crisis*, QUARTZ (Jan. 3, 2020), <https://qz.com/1776080/how-the-mcdonnell-douglas-boeing-merger-led-to-the-737-max-crisis>.

⁴ Claire Bushey, *Boeing Investors Could Wait 'Years' For Dividend To Return*, FIN. TIMES (Apr. 27, 2020), <https://www.ft.com/content/842082c4-543b-4c0e-b826-2437a409db1f>.

closely at the ways companies may be using their power to thwart fair competition or trick the public.⁵

As part of this effort, the Commission today is launching a market inquiry into the investments and partnerships being formed between AI developers and cloud service providers.⁶ Through using the agency's 6(b) authority, we are scrutinizing whether these ties enable dominant firms to exert undue influence or gain privileged access in ways that could undermine fair competition across layers of the AI stack.

As we continue this work, a few key principles are top of mind.

First, we are focused on scrutinizing any existing or emerging bottlenecks across the AI stack. History shows that firms that capture control over key inputs or distribution channels can use their power to exploit those bottlenecks, extort customers, and maintain their monopolies. The role of antitrust is to guard against bottlenecks achieved through illegal tactics and ensure dominant firms aren't unlawfully abusing their monopoly power to block innovation and competition.

The agency is taking a close look across the AI stack to understand the extent of competition across the various layers and sub-layers. We are examining whether dominant firms with control over key inputs—like cloud infrastructure and access to GPUs—may be able to impose coercive terms, charge extractive fees, or deepen their existing moats. We're keen to sharpen our thinking on the various opportunities and potential obstacles for competition across AI markets and are eager to be learning from players within this ecosystem.

Second, we are squarely focused on how business models drive incentives. Just as we've seen behavioral advertising fuel the endless collection of user data, model training is emerging as another feature that could further incentivize surveillance. The FTC's work has made clear that these business incentives cannot justify violations of the law. The drive to refine your algorithm cannot come at the expense of people's privacy⁷ or security,⁸ and privileged access to customers'

⁵ FTC Technology Blog, Tick, Tick, Tick. Office of Technology's Summit on AI (Jan. 18, 2024), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/01/tick-tick-tick-office-technologys-summit-ai>.

⁶ Press Release, Fed. Trade Comm'n, FTC Launches Inquiry into Generative AI Investments and Partnerships (Jan. 25, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-launches-inquiry-generative-ai-investments-partnerships>.

⁷ Press Release, Fed. Trade Comm'n, FTC Sues Kochava for Selling Data that Tracks People at Reproductive Health Clinics, Places of Worship, and Other Sensitive Locations (Aug. 29, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-sues-kochava-selling-data-tracks-people-reproductive-health-clinics-places-worship-other>.

⁸ Press Release, Fed. Trade Comm'n, FTC Order Will Require Blackbaud to Delete Unnecessary Data, Boost Safeguards to Settle Charges its Lax Security Practices Led to Data Breach (Feb. 1, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-order-will-require-blackbaud-delete-unnecessary-data-boost-safeguards-settle-charges-its-lax>; Press Release, Fed. Trade Comm'n, [FTC Says Ring Employees Illegally Surveilled Customers, Failed to Stop Hackers from Taking Control of Users' Cameras](https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-says-ring-employees-illegally-surveilled-customers-failed-stop-hackers-taking-control-users) (May 31, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-says-ring-employees-illegally-surveilled-customers-failed-stop-hackers-taking-control-users>; *see also* FTC Technology Blog, Security Principles: Addressing Underlying Causes Of Risk In Complex Systems (Feb. 1, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/02/security-principles-addressing-underlying-causes-risk-complex-systems>.

data cannot be used to undermine competition.⁹ We similarly recognize the ways that consumer protection and competition enforcement are deeply connected—with firms engaging in privacy violations to build market power and the aggregation of market power, in turn, enabling firms to violate consumer protection laws. And our remedies will continue requiring that firms delete models trained on unlawfully acquired data in addition to the data itself.¹⁰

Third, we are squarely focused on aligning liability with capability and control. This requires looking upstream and across layers of the AI stack to pinpoint which actor is driving or enabling the lawbreaking. Our enforcement experience in other domains will directly inform how we approach this work. For example, our recent robocall enforcement sweep not only targeted telemarketers and the companies that hire them, but also looked upstream to the lead generators and Voice over Internet Protocol (VoIP) providers that enable illegal telemarketing.¹¹ And in our recent work to combat scams, we are holding upstream payment actors accountable for knowingly facilitating fraud.¹²

And fourth, we're focused on crafting effective remedies that establish bright-line rules on the development, use, and management of AI inputs. The FTC is making clear that some data is simply off the table for training models. For example, our recent order against Rite Aid bans

⁹ FTC Technology Blog, Generative AI Raises Competition Concerns (June 29, 2023),

<https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/06/generative-ai-raises-competition-concerns>.

¹⁰ See, e.g., Press Release, Fed. Trade Comm'n, FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data (Jan. 9, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-prohibits-data-broker-x-mode-social-outlogic-selling-sensitive-location-data>; Press Release, Fed. Trade Comm'n, FTC Order Will Ban InMarket from Selling Precise Consumer Location Data (Jan. 18, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-will-ban-inmarket-selling-precise-consumer-location-data>; Press Release, Fed. Trade Comm'n, Rite Aid Banned from Using AI Facial Recognition After FTC Says Retailer Deployed Technology Without Reasonable Safeguards (Dec. 19, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/12/rite-aid-banned-using-ai-facial-recognition-after-ftc-says-retailer-deployed-technology-without>.

¹⁰ See, e.g., Press Release, Fed. Trade Comm'n, FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data (Jan. 9, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-prohibits-data-broker-x-mode-social-outlogic-selling-sensitive-location-data>; Press Release, Fed. Trade Comm'n, FTC Order Will Ban InMarket from Selling Precise Consumer Location Data (Jan. 18, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-will-ban-inmarket-selling-precise-consumer-location-data>; Press Release, Fed. Trade Comm'n, Rite Aid Banned from Using AI Facial Recognition After FTC Says Retailer Deployed Technology Without Reasonable Safeguards (Dec. 19, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/12/rite-aid-banned-using-ai-facial-recognition-after-ftc-says-retailer-deployed-technology-without>.

¹¹ Press Release, Fed. Trade Comm'n, FTC and Federal and State Partners to Announce Nationwide Robocall and Telemarketing Enforcement Sweep in Chicago on July 18 (July 17, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/07/ftc-federal-state-partners-announce-nationwide-robocall-telemarketing-enforcement-sweep-chicago-july>.

¹² See, e.g., Press Release, Fed. Trade Comm'n, FTC Files Amended Complaint Charging that Walmart Facilitated Scams Through Its Money Transfer Services That Fleeced Customers Out of Hundreds of Millions (June 30, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-files-amended-complaint-charging-walmart-facilitated-scams-through-its-money-transfer-services>; Press Release, Fed. Trade Comm'n, FTC Acts to Block Payment Processor's Credit Card Laundering for Tech Support Scammers (Apr. 17, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-acts-block-payment-processors-credit-card-laundering-tech-support-scammers>; Press Release, Fed. Trade Comm'n, FTC, Florida Attorney General Sue Chargebacks911 for Thwarting Consumers Who Were Trying to Reverse Disputed Credit Card Charges (Apr. 12, 2023).

the company from using facial recognition tools after its reckless application of the technology led to innocent people being accused of shoplifting.¹³ And our recent cases against data brokers include bans on using or monetizing people’s highly sensitive location data.¹⁴

As we continue to establish rules of the road for AI, it’s essential that we set clear boundaries on the content that can and cannot be used for scraping and model-training. The Commission recently held a public workshop with creative professionals to better understand the types of guardrails that would help protect against creators’ work being appropriated and devalued by generative AI models, including in ways that may undermine fair competition. Our subsequent report on generative AI and the creative economy lays out our core concerns and how our authorities may apply in this space.¹⁵

Across all of our work, we are making clear that there is no AI exemption from the laws on the books.¹⁶ Firms can’t use claims of innovation as a cover for lawbreaking. And we’ve already made that clear in a number of AI-specific contexts. Model-as-a-service companies that deceive users about how their data is collected may be violating the law.¹⁷ Companies claiming that interoperability must come at the expense of privacy and security may be violating the law.¹⁸ And companies that deceptively change their terms of service to their own advantage may be violating the law.¹⁹

Learning from our experience in the mid-2000s, where delayed government action locked in exploitative business models and monopoly power, we’re using the full scope of our authorities to make sure this hard-learned lesson doesn’t repeat itself.

Much is uncertain about what the precise future of this technology will look like. But it’s clear these technologies could potentially transform industries across the economy, just as the rise of the internet did nearly forty years ago. Just like back then, this technology has already seen a huge influx of capital, with promise to grow our economy and catalyze major advances. And the good news is we have the experience and expertise to meet the moment.

I’m grateful for the experts who are sharing their time with us today. With that, I’ll turn it over to our Deputy Chief Technologist, Alex Gaynor, who will be leading our first panel.

¹³ Rite Aid Banned from Using AI Facial Recognition After FTC Says Retailer Deployed Technology Without Reasonable Safeguards, *supra* note 9.

¹⁴ *See, e.g.*, FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data, *supra* note 9; FTC Order Will Ban InMarket from Selling Precise Consumer Location Data, *supra* note 9.

¹⁵ *See supra* note 5.

¹⁶ Tick, Tick, Tick. Office of Technology’s Summit on AI, FTC Technology Blog (Jan. 18, 2024), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/01/tick-tick-tick-office-technologys-summit-ai>.

¹⁷ AI Companies: Uphold Your Privacy and Confidentiality Commitments, FTC Technology Blog (Jan. 9, 2024), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/01/ai-companies-uphold-your-privacy-confidentiality-commitments>.

¹⁸ Interoperability, Privacy, & Security, FTC Technology Blog (Dec. 21, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/12/interoperability-privacy-security>.

¹⁹ AI Companies: Uphold Your Privacy and Confidentiality Commitments, FTC Technology Blog (Jan. 9, 2024), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/01/ai-companies-uphold-your-privacy-confidentiality-commitments>.
