

## Concurring Statement of Commissioner Christine S. Wilson

Report to Congress on Combatting Online Harms through Innovation  
Matter No. P214501

June 16, 2022

*“If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”<sup>1</sup> ~ Justice Louis Brandeis*

In the 2021 Appropriations Act,<sup>2</sup> Congress directed the Federal Trade Commission to study and report on whether and how artificial intelligence (AI) “may be used to identify, remove, or take any other appropriate action necessary to address” a wide variety of specified “online harms.” Congress also sought recommendations from the FTC regarding legislation to “advance the adoption and use of AI for these purposes.”<sup>3</sup> Specifically, Congress asked the FTC to recommend laws that would “advance the adoption and use of artificial intelligence to address” the enumerated online harms.<sup>4</sup> I commend the staff for their excellent work on this Report and for the informative presentation at the open Commission meeting.

In response to this specific Congressional request, today’s Report makes the following recommendation: “Congress should generally steer clear of laws that require, assume the use of, or pressure companies to deploy AI tools to detect harmful content.”<sup>5</sup> I write today to underscore my agreement with this recommendation. In addition, the Report contains much useful information about how AI is being used. The field of AI is complex, still nascent in many ways, and evolving. Like most technologies, AI holds the potential to generate benefits and impose harms. It is an area that the FTC should continue to study and analyze.

That said, I am concerned about the extensive discussion of “misinformation,” “inoculation,” and “prebunking” in the Report. There are certain pieces of information that are verifiably true (my office is located in Washington, DC) and certain pieces of information that are verifiably false (I am 29 years old). And some verifiably false information can be highly problematic. In July 2020, when I met with the Hispanic Technology & Telecommunications Partnership, the organization shared examples of “get out the vote” ads on social media targeted at Spanish-language speakers that touted the wrong date for the 2020 presidential election (*i.e.*, Nov. 5, 2020 instead of the actual date, Nov. 3, 2020). But the vast bulk of information online falls somewhere between those two extremes.

Cultures and worldviews differ, and science, philosophy, and other fields are continually evolving. An assertion that one finds implausible today later may be proven correct. I am reminded of Galileo Galilei, the brilliant scientist who was hauled before the Inquisition for

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<sup>1</sup> *Whitney v. California*, 24 U.S. 357 (1927).

<sup>2</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Title XV, § 1501(j), <https://www.govinfo.gov/app/details/BILLS-116hr133enr/summary>.

<sup>3</sup> Combatting Online Harms Through Innovation, FTC, Report to Congress at 1 (June 16, 2022).

<sup>4</sup> *Id.* at 74.

<sup>5</sup> *Id.* at 75.

advancing the Copernican theory of a heliocentric solar system. Galileo was found “vehemently suspect of heresy,” condemned to house arrest, and forbidden to publish his writings.<sup>6</sup> But science has since proven that the Earth does indeed revolve around the Sun. And Albert Einstein subsequently christened Galileo the father of modern science.

I worry that the swift labeling of ideas as “misinformation,” or worse yet, the “prebunking” of ideas, will stymie the development of new theories, research, and ideas. The answer to speech that we view as incorrect or misguided is not suppression, but more speech that explains our opinion of the errors and presents an alternative perspective. As Justice Louis Brandeis observed, the remedy for bad speech is more speech, not enforced silence.<sup>7</sup>

With respect to this Report, I again commend the staff for their extensive analysis and their work in combing through a vast array of source material for inclusion in the Report. While I disagree with certain aspects of the Report, I support the narrow recommendation noted above and the provision of this Report to Congress.

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<sup>6</sup> See Numbers, Ronald, *Galileo Goes to Jail and Other Myths about Science and Religion* (2010).

<sup>7</sup> See *Whitney v. California*, 24 U.S. 357 (1927). In this opinion, Justice Brandeis wrote: “If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.” *Id.* Similarly, Justice Kennedy has written that “the remedy for speech that is false is speech that is true.” *United States v. Alvarez*, 567 U.S. 709 (2012).