

August 20, 2018

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
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Washington, District of Columbia 20580

Comments of ACT | The App Association to the Federal Trade Commission on Competition and Consumer Protection in the 21st Century (Question 9: “The consumer welfare implications associated with the use of algorithmic decision tools, artificial intelligence, and predictive analytics”)

I. Introduction and Statement of Interest

ACT | The App Association (App Association) appreciates the opportunity to submit views to the Federal Trade Commission (FTC) to inform its hearings on whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection enforcement law, enforcement priorities, and policy,¹ specifically regarding “the consumer welfare implications associated with the use of algorithmic decision tools, artificial intelligence (AI), and predictive analytics.”

The App Association represents thousands of small business software application development companies and technology firms that create the software apps used on mobile devices and in enterprise systems around the globe. Today, the ecosystem the App Association represents – which we call the app economy – is valued at approximately \$950 billion and is responsible for 4.7 million American jobs. Alongside the world’s rapid embrace of mobile technology, our members have been creating innovative solutions that power the internet of things (IoT) across modalities and segments of the economy. The FTC’s approach to competition and consumer protection enforcement law, enforcement priorities, and policy directly affect each of the App Association’s members.

¹ Federal Trade Commission, *Hearings on Competition and Consumer Protection in the 21st Century*, Notice of Hearings and Request for Comments, 83 FR 38307 (August 6, 2018).

In its request for comment, the FTC seeks input on “the consumer welfare implications associated with the use of algorithmic decision tools, AI, and predictive analytics.” Below, we offer the App Association’s views on (1) defining AI-driven algorithmic decision tools and predictive analytics and exploring their potential; and (2) the role of the FTC in protecting consumers and competition regarding AI-driven algorithmic decision tools and predictive analytics.

II. What is Artificial Intelligence, and What is its Impact?

AI is “an evolving constellation of technologies that enable computers to simulate elements of human thinking – learning and reasoning among them.”² An encompassing term, AI entails a range of approaches and technologies, one of which is Machine Learning (ML), and approaches such as deep learning, where an algorithm based on the way neurons and synapses in the brain changes as they are exposed to new inputs, allowing independent or assisted decision making.³

AI-driven algorithmic decision tools and predictive analytics are having, and will continue to have, substantial direct and indirect effects on Americans. Some forms of AI are already being used to improve American consumers’ lives today. For example, AI is used to detect financial and identity theft, as well as to protect the communications networks on which Americans rely from cybersecurity threats.

Moving forward, across use cases and sectors, AI and ML have incredible potential to improve American consumers’ lives through faster and better-informed decision making enabled through cutting-edge distributed cloud computing. For example, healthcare treatments and patient outcomes stand poised to improve disease prevention and conditions, as well as to most efficiently and effectively treat diseases through automated analysis of x-rays and other medical imaging. As a further example, AI will play an essential role in self-driving vehicles and could drastically reduce roadway deaths and injuries. From a governance perspective, AI solutions will derive greater insights from infrastructure and support efficient budgeting decisions. AI technological breakthroughs are estimated to represent a \$126 billion market by 2025.⁴

² “AI Hits the Mainstream,” MIT Technology Review (DATE), available at <https://www.technologyreview.com/600986/ai-hits-the-mainstream/>.

³ *Id.*

⁴ McKinsey Global Institute, *Artificial Intelligence: The Next Digital Frontier?* (June 2017), available at <https://www.mckinsey.com/~media/McKinsey/Industries/Advanced%20Electronics/Our%20Insights/How%20artificial%20intelligence%20can%20deliver%20real%20value%20to%20companies/MGI-Artificial-Intelligence-Discussion-paper.ashx>. (McKinsey AI Report).

Today, Americans are likely to encounter AI in their lives incrementally through the improvements they have seen in computer-based services they use, typically in the form of streamlined processes, image analysis, and voice recognition (we urge that these forms of AI be considered “narrow” AI). The App Association notes that this “narrow” AI has already provided great societal benefit. For example, AI-driven software products and services have revolutionized the ability of countless Americans with disabilities to achieve experiences in their lives far closer to the experiences of those without disabilities.

Small business App Association members continuously find new ways to leverage AI to provide vital services to companies on the back-end and to consumers on the front-end. Venture capital and private equity firms alone invested.⁵ Our members both use and develop solutions that include AI and are used by countless Americans. As society moves to adopt these technologies on a greater scale, it is important that the small business developers who power a \$950 billion app economy can contribute to this important trend.

III. The FTC’s Approach to Artificial Intelligence in Light of Consumer Protection and Competition

The fully realized potential of AI-driven algorithmic decision tools and predictive analytics has yet to begin and holds incredible opportunity for improving American consumers’ lives. We believe that the FTC shares our view that the role of competition, unimpeded by unnecessary government intervention, will be the driving force in the advancement of AI and its benefits to American consumers.

The App Association urges the FTC to partner with the private sector in furthering an environment that will enable growth and innovation in AI, automation, and algorithmic data analysis by adopting policy and regulatory approaches to AI that protect consumers from clearly demonstrated harms. Speculative regulation of emerging technologies will chill investment and innovation, inhibiting further development.

The App Association also understands that the integration of AI technologies into the American economy could be disruptive, but we believe the net effect of this disruption to be positive for American consumers. The FTC, and other government actors, should work with the private sector to develop short-, medium- and long-term solutions to enable the economic growth and productivity enhancements of AI-driven algorithmic decision tools and predictive analytics.

⁵ See McKinsey AI Report.

IV. Conclusion

The App Association appreciates the FTC's consideration of our responses to this question and urges FTC to contact the undersigned with any questions or ways that we can assist the FTC moving forward.

Sincerely,



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