

ARTIFICIAL INTELLIGENCE: EXAMINING TRENDS IN INNOVATION AND COMPETITION

HEARING

BEFORE THE

SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,
REGULATORY REFORM, AND ANTITRUST

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

WEDNESDAY, APRIL 2, 2025

Serial No. 119-13

Printed for the use of the Committee on the Judiciary



Available via: <http://judiciary.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2025

59-906

COMMITTEE ON THE JUDICIARY

JIM JORDAN, Ohio, *Chair*

DARRELL ISSA, California	JAMIE RASKIN, Maryland, <i>Ranking Member</i>
ANDY BIGGS, Arizona	JERROLD NADLER, New York
TOM McCLINTOCK, California	ZOE LOFGREN, California
THOMAS P. TIFFANY, Wisconsin	STEVE COHEN, Tennessee
THOMAS MASSIE, Kentucky	HENRY C. “HANK” JOHNSON, JR., Georgia
CHIP ROY, Texas	ERIC SWALWELL, California
SCOTT FITZGERALD, Wisconsin	TED LIEU, California
BEN CLINE, Virginia	PRAMILA JAYAPAL, Washington
LANCE GOODEN, Texas	J. LUIS CORREA, California
JEFFERSON VAN DREW, New Jersey	MARY GAY SCANLON, Pennsylvania
TROY E. NEHLS, Texas	JOE NEGUSE, Colorado
BARRY MOORE, Alabama	LUCY McBATH, Georgia
KEVIN KILEY, California	DEBORAH K. ROSS, North Carolina
HARRIET M. HAGEMAN, Wyoming	BECCA BALINT, Vermont
LAUREL M. LEE, Florida	JESÚS G. “CHUY” GARCÍA, Illinois
WESLEY HUNT, Texas	SYDNEY KAMLAGER-DOVE, California
RUSSELL FRY, South Carolina	JARED MOSKOWITZ, Florida
GLENN GROTHMAN, Wisconsin	DANIEL S. GOLDMAN, New York
BRAD KNOTT, North Carolina	JASMINE CROCKETT, Texas
MARK HARRIS, North Carolina	
ROBERT F. ONDER, JR., Missouri	
DEREK SCHMIDT, Kansas	
BRANDON GILL, Texas	
MICHAEL BAUMGARTNER, Washington	

SUBCOMMITTEE ON THE ADMINISTRATIVE STATE, REGULATORY REFORM, AND ANTITRUST

SCOTT FITZGERALD, Wisconsin, *Chair*

DARRELL ISSA, California	JERROLD NADLER, New York, <i>Ranking Member</i>
BEN CLINE, Virginia	
LANCE GOODEN, Texas	J. LUIS CORREA, California
HARRIET HAGEMAN, Wyoming	BECCA BALINT, Vermont
MARK HARRIS, North Carolina	JESÚS G. “CHUY” GARCÍA, Illinois
DEREK SCHMIDT, Kansas	ZOE LOFGREN, California
MICHAEL BAUMGARTNER, Washington	HENRY C. “HANK” JOHNSON, JR., Georgia

CHRISTOPHER HIXON, *Majority Staff Director*

JULIE TAGEN, *Minority Staff Director*

C O N T E N T S

WEDNESDAY, APRIL 2, 2025

OPENING STATEMENTS

	Page
The Honorable Scott Fitzgerald, Chair of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Wisconsin	1
The Honorable Jerrold Nadler, Ranking Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of New York	3
The Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio	4

WITNESSES

Neil Chilson, Head, AI Policy, Abundance Institute	
Oral Testimony	6
Prepared Testimony	8
Joseph V. Coniglio, Director, Antitrust and Innovation Policy; Schumpeter Project, Competition Policy, Information Technology and Innovation Foundation	
Oral Testimony	20
Prepared Testimony	22
Jessica Melugin, Director, Center for Technology and Innovation, Competitive Enterprise Institute	
Oral Testimony	28
Prepared Testimony	30
Alvaro M. Bedoya, Former Commissioner, Federal Trade Commission (FTC)	
Oral Testimony	33
Prepared Testimony	35

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

All materials submitted for the record by the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust are listed below	63
Materials submitted by the Honorable J. Luis Correa, a Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of California, for the record	
An article entitled, "China's top universities expand enrolment to beef up capabilities in AI, strategic areas," Mar. 10, 2025, <i>The Economic Times</i>	
An article entitled, "65% Of Top AI Companies Have Immigrant Founders," Jul. 9, 2023, <i>Forbes</i>	
An article entitled, "Trump's Science Policies Pose Long-Term Risk, Economists Warn," Mar. 31, 2025, <i>The New York Times</i>	
An article entitled, "Trump Administration Has Begun a War on Science, Researchers Say," Mar. 31, 2025, <i>The New York Times</i>	
An article entitled, "China leads world in generative AI adoption, underscoring country's progress," Jul. 10, 2024, <i>Reuters</i>	
An article entitled, "Former Google Employees Create 14 Of The Top 50 AI Startups," Dec. 9, 2024, <i>Performance Marketing Insider</i>	
An article entitled, "Trump Loves AI But His Tariffs Ramp Up Costs for Data Centers," Mar. 19, 2025, <i>Bloomberg</i>	

Materials submitted by the Honorable J. Luis Correa, a Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of California, for the record—Continued

An article entitled, “Apple chip engineer returns to China, joins Fudan University amid push for talent,” Mar. 31, 2025, *South China Morning Post*

An article entitled, “Immigrant Entrepreneurs Bring Jobs And Innovation, New Research Shows,” May 23, 2024, *Forbes*

An article entitled, “From underdog to genius: Yale computer scientist Sun Huanbo returns to China,” Mar. 30, 2025, *South China Morning Post*

An article entitled, “Tech companies are telling immigrant employees on visas not to leave the U.S.,” Mar. 31, 2025, *Washington Post*

Materials submitted by the Honorable Jerrold Nadler, Ranking Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of New York, for the record

An article entitled, “AI Watch: Global regulatory tracker—China,” Apr. 1, 2025, *JD Supra*

An article entitled, “US–China AI Race: AI Policy as Industrial Policy,” Apr. 11, 2023, *AI Now Institute*

An article entitled, “Elon Musk, who co-founded firm behind ChatGPT, warns A.I. is ‘one of the biggest risks’ to civilization,” Feb. 15, 2023, *CNBC*

An article entitled, “OpenAI peels back ChatGPT’s safeguards around image creation,” Mar. 28, 2025, *Tech Crunch*, submitted by the Honorable Jesus G. “Chuy” Garcia, Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Illinois, for the record

Materials submitted by the Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio, for the record

An article entitled, “The FTC must be held accountable for its widespread leaks of confidential data,” Oct. 19, 2024, *The Hill*

A letter to the Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio, Aug. 26, 2024, from Mark Zuckerberg, Founder, Chairman & CEO, Meta Platforms, Inc.

Materials submitted by the Honorable Scott Fitzgerald, Chair of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Wisconsin, for the record

A letter to the Honorable Scott Fitzgerald, Chair of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Wisconsin, and the Honorable Jerold Nadler, Ranking Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of New York, Apr. 8, 2025, from Morten C. Skroeger Senior Director, Technology Competition Policy, SIIA Policy

A letter to the Honorable Jim Jordan, Chair of the Committee on the Judiciary from the State of Ohio; the Honorable Jamie Raskin, Ranking Member of the Committee on the Judiciary from the State of Maryland; the Honorable Scott Fitzgerald, Chair of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Wisconsin; and the Honorable Jerrold Nadler, Ranking Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of New York, Apr. 2, 2025, from Gary Shapiro, CEO, Vice Chair, Consumer Technology Association, and Kinsey Fabrizio, President, Consumer Technology Association

A statement from Jennifer Huddleston, Technology Policy Senior Fellow, CATO Institute, Apr. 2, 2025

A letter to the Honorable Scott Fitzgerald, Chair of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Wisconsin, and the Honorable Jerold Nadler, Ranking Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of New York, Apr. 1, 2025, from Graham Dufault, General Counsel, ACT|The App Association

An article entitled, “DOGE Plan to Push AI Across the US Federal Government is Wildly Dangerous,” Mar. 6, 2025, *Tech Policy Press*, submitted by the Honorable Jesus G. “Chuy” Garcia, a Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Illinois, for the record

APPENDIX

Materials submitted by the Honorable J. Luis Correa, a Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of California, for the record

An article entitled, “Australia Urges Universities to Diversify Research Away From US,” Apr. 1, 2025, *Bloomberg*

An article entitled, “Trump’s Trade War Pushes Canadian Tech Workers to Rethink Silicon Valley,” Mar. 31, 2025, *Wired*

QUESTIONS AND RESPONSES FOR THE RECORD

Questions submitted by the Honorable J. Luis Correa, a Member of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of California, for the record

Questions to Alvaro Bedoya, Former Commissioner, Federal Trade Commission, Apr. 2, 2025

Questions to Neil Chilson, Head, AI Policy, Abundance Institute, Apr. 2, 2025

Response to questions from Neil Chilson, Head, AI Policy, Abundance Institute, Oct. 24, 2024

Questions to Joseph V. Coniglio, Director, Antitrust and Innovation Policy; Schumpeter Project, Competition Policy, Information Technology and Innovation Foundation, Apr. 2, 2025

Response to questions from Joseph V. Coniglio, Director, Antitrust and Innovation Policy; Schumpeter Project, Competition Policy, Information Technology and Innovation Foundation, May 1, 2025

Questions to Jessica Melugin, Director, Center for Technology and Innovation, Competitive Enterprise Institute, Apr. 2, 2025

Response to questions from Jessica Melugin, Director, Center for Technology and Innovation, Competitive Enterprise Institute, Apr. 17, 2025

ARTIFICIAL INTELLIGENCE: EXAMINING TRENDS IN INNOVATION AND COMPETITION

Wednesday, April 2, 2025

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,
REGULATORY REFORM, AND ANTITRUST

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room 2141, Rayburn House Office Building, the Hon. Scott Fitzgerald [Chair of the Subcommittee] presiding.

Present: Representatives Fitzgerald, Cline, Gooden, Hageman, Harris, Nadler, Correa, Balint, Garcia, and Johnson.

Also present: Representative Kiley.

Mr. FITZGERALD. I want to thank all the Members for being here. The Subcommittee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on artificial intelligence and trends in innovation and competition. I will now recognize myself for an opening statement.

Artificial intelligence, AI, is a powerful new technology, and it's moving fast. It already is changing the way businesses operate, how people work, and how we solve problems throughout our society. From agriculture to manufacturing to customer service, AI is showing up in more places every day, and it's helping Americans get more done faster and more efficiently.

There's no doubt this is a big moment for both America and the rest of the world, but the question before us today is this: Will we respond to it with more freedom or with more government control?

America has always led the way in innovation, not because we have the biggest government, but because we have trust in our people. We believe in free markets, competition, and limited government. That's what built our economy, and that's how we've created new technologies from the light bulb to the smartphone, and that's why the United States—not China or Europe—has been the global leader in innovation for over a century. That same model is working in AI.

The story we hear sometimes is that a few big companies are dominating the AI sector. When you look closer, the story unravels

throughout this industry. There is real competition happening at every layer of the AI sector, in cloud infrastructure, in AI models, and in tools and applications.

It's true that big tech plays a role in this sector, but to also have startups, open-source developers, university labs, and solo engineers pushing the boundaries of this exciting new technology. Small businesses are using AI to do things they never could afford before: Automate routine tasks, improve customer service, analyze data, write content, design products, and more.

AI is helping the little guy compete with the big guys. It's lowering the barriers to entry across the board. This isn't a monopoly story. It's a success story. It's the free market doing what it does best.

Unfortunately, some in government want to step in and start regulating before they even understand what they are regulating. They want to create sweeping new rules, or even whole new agencies to oversee AI under the claim of safety and of fairness. They want to decide which models are, quote, "responsible," which tools are, quote, "approved," and which approaches are fair and who gets to build what. That's very dangerous.

We see this same saga playing out time and time again. Over-regulation can kill innovation. When the government inserts itself too early, it locks in incumbents, drives up costs, and freezes the market, startups get squeezed, the rules benefit the insiders, and innovation slows to a crawl.

Meanwhile, our competitors, especially in China, aren't waiting around. They're pouring billions into AI development. They're using it to monopolize their military, monitor their citizens, and try to leapfrog the U.S. on the global stage to the detriment of Democrat principles and values.

Over in Europe, the EU is rolling out a top-down AI regulatory regime that already is causing problems for American companies trying to do business overseas. The rules are vague, burdensome, and constantly shifting. They've been written by bureaucrats who aren't accountable certainly to the American people.

We should not copy China's model of control, and we should not copy Europe's model of overregulation. We need to stay true to what works, and that is free enterprise, open competition, and light-touch regulatory approach that allows innovation to flourish.

That doesn't mean we ignore real problems. We should enforce our existing antitrust laws if companies are abusing their market power. We should be on guard against fraud, abuse, and national security threats. We don't need a heavy-handed new regulatory regime to do that.

What we need is to keep the U.S. the best place in the world, to build, test, and deploy AI. That means making room for new entrants, it means protecting free speech in the digital age, and it means making sure American entrepreneurs, not unelected regulators, are the ones shaping the future of this technology.

AI is a tool. Whether it helps or harms depends on how we use it, and whether we keep the freedom to innovate, adapt, and compete. The worst thing we can do is let fear drive us into giving up control to Washington, to Brussels, or to Beijing. The American model has always been the best model. Let's stick to it.

I want to thank the witnesses for appearing before us today, and I look forward to hearing what each of you has to say.

I now recognize the Ranking Member, Mr. Nadler, for his opening statement.

Mr. NADLER. Thank you, Mr. Chair. Thank you to our witnesses, particularly to Commissioner Bedoya for joining us today.

As we examine innovation and competition with respect to artificial intelligence, we must keep in mind three simple truths:

First, there is no artificial intelligence exception to the antitrust and consumer protection laws.

Second, there is no DOGE exception to Federal privacy protections.

Third, there is no Presidential exception to following Federal laws.

It is a sad comment on the time we find ourselves in that these undeniable and basic propositions must be continually affirmed. AI technology is rapidly advancing and promises to transform our society in ways we cannot even imagine today. While AI will deliver many economic and social benefits, it also poses tremendous risks that we are just beginning to grapple with. With control of AI technology in the hands of just a few entrenched companies, it is important that we keep a watchful eye on the industry, with thoughtful regulation that will foster growth and innovation while protecting consumers.

One of the most critical tools in this effort is antitrust and consumer protection enforcement, led by the Federal Trade Commission, an independent administrative agency that was created more than 110 years ago by Congress as the Nation was beset by powerful monopolies that dominated core industries and society. Its specific mission is protecting the public from deceptive or unfair business practices and from unfair methods of competition.

Its structure is deliberately bipartisan with no more than three members of the five-person commission able to be from a single party. This makeup, along with the fact that the commissioners are meant to serve staggered seven-year terms, and are removable only for very specific causes, is designed to increase the independence, and, thereby, the prestige of the Commission.

We need the FTC now more than ever as we confront an AI-induced wave of competition, consumer protection, and privacy-related issues. Yet, the Trump Administration is undermining the single agency best positioned to address them.

Years before ChatGPT burst onto the scene, the FTC was already working to protect consumers by stopping the largest semiconductor chip merger in history. Chips are an essential input to AI, and blocking this merger helped protect innovation by preserving competition for this vital tool. Using their unique power as part of the Commission's study function, the FTC also produced the report examining AI investments and partnerships that would best enable the agency to ensure that, when dominant companies pursued these practices, they did not undermine competition and innovation.

With more and more companies relying on AI to make fundamental decisions that affect consumers, the FTC has also carefully

examined the algorithms that power these systems. In particular, the commissioners tackled algorithmic bias and algorithmic collusion, which is when a computer system systematically produces unfair outcomes or is used to engage in anticompetitive pricing, respectively.

This work is essential to ensure that as AI develops, it serves the American people. If we are serious about promoting competition and innovation in AI, we need a strong FTC to enforce the law. Instead, the Trump Administration has done all it can to hobble the agency and to weaken enforcement of antitrust and consumer protection laws.

Even more troubling, while with one hand, the administration is undermining regulation of AI, with the other hand it is handing massive troves of sensitive data on millions of Americans to Elon Musk and his DOGE team that could be used to deploy AI throughout the government. Governmental processes, their workflows, and the use and interpretation of government data are highly complex. There is scant evidence, however, that AI can be successfully deployed in government on such a far-reaching scale.

Musk and DOGE seem intent on forcing the American people to embark on a grand experiment based on little more than their faith in AI technology, an experiment that places all our privacy and security at great risk.

While all this unfolds, Commissioner Bedoya should be participating in any number of matters protecting consumers. Even as a minority commissioner, he and his stellar Democratic commissioner, Rebecca Slaughter, occupy an important and congressionally mandated role. They are fundamental to infusing commission deliberations and decisions with a bipartisan dimension.

Oftentimes, minority commissioners influence the outcome or logic of the decision. Even when they do not, they perform the essential function of providing transparency into the process, including by highlighting key concerns in their dissents.

Instead of working to enhance competition in the AI industry, and ensuring that proper safeguards are in place, they're forced to contest their blatantly unlawful termination by President Trump. This unprecedented power grab followed similar efforts to remove Democratic Members of other independent agencies without cause.

As one court noted, these efforts, quote,

Threatened to upend fundamental protections in our Constitution, but ours is not an autocracy. It is a system of checks and balances.

Just as unchecked power by monopolies in the marketplace does not secure the best outcomes for consumers, unchecked government power does not secure the best outcomes for our democracy. We should be mindful of both points as we begin today's hearings.

I look forward to hearing from our witnesses, and I yield back my time.

Mr. FITZGERALD. The gentleman yields back.

I now recognize Chair of the Full Committee, Mr. Jordan, for his opening statement.

Chair JORDAN. Thank you, Mr. Chair. American innovators have always led the world, because we've always protected free markets, limited government, and individual liberty. When it comes to AI,

the Biden Administration turned its back on innovators and entrepreneurs.

Rather than trusting American ingenuity, the Biden Administration tried to put Washington in charge, empowering unelected and unaccountable bureaucrats. Who paid the price? The very people we should be empowering. The startups trying to challenge big tech, the researchers building open models, the platforms that actually support free speech.

Meanwhile, around the world, we see the dangers of pursuing the wrong approach to AI innovation. We see China pouring billions of dollars into AI development to weaponize the technology. We see Europe smothering innovation with overregulation and impossible compliance burdens.

We should be clear; America must lead on AI. To do that, we need to protect free speech, preserve real competition, and get the government out of the way. That means (1) no back-door censorship; (2) no weaponizing antitrust law to reward political allies and punish dissent; and (3) letting no international bodies or unelected regulators set the rules for American technology.

Thankfully, President Trump—we have a President focused on unleashing American innovation, on cutting red tape, and on protecting free expression, and on making sure AI development happens here, not in China, not in Europe. Under President Trump's leadership, the focus is right where it should be: Keeping America competitive, preserving free speech, and getting the government out of the way.

Today's hearing is about how we protect innovation, protect liberty, and ensure that AI remains a force for freedom, not for control.

I want to thank our Chair for calling this hearing, and I look forward to hearing from our witnesses. I yield back.

Mr. FITZGERALD. Gentleman yields back.

Without objection, all other opening statements will be included in the record.

We will now introduce today's witnesses.

Mr. Neil Chilson. Mr. Chilson is the head of AI policy at the Abundance Institute, a nonprofit organization focused on emerging technology. He previously served as the Chief Technologist at the Federal Trade Commission and as an attorney adviser to then-FTC Acting Chair, Maureen Ohlhausen.

Mr. Joe Coniglio. Mr. Coniglio is the Director of Antitrust and Innovation at the Information Technology and Innovation Foundation where he leads the Schumpeter project on competition policy. He focuses on digital platform, monopolization policy, and dynamic competition.

Ms. Jessica Melugin. Ms. Melugin is the Director of the Center for Technology and Innovation at the Competitive Enterprise Institute. Her research focuses on technology issues, including antitrust, online privacy, artificial intelligence, telecommunications, and other issues.

Mr. Alvaro Bedoya. Mr. Bedoya is the former Commissioner at the Federal Trade Commission. Prior to his appointment to the FTC, he founded the Center on Privacy and Technology at the Georgetown University Law School.

We welcome our witnesses and thank them for appearing today. We will begin by swearing you in.

Would you please rise and raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God.

Let the record reflect that the witnesses have answered in the affirmative. Thank you and please be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes.

Without objection, Mr. Kiley will be permitted to participate in today's hearing for the purpose of questioning the witnesses if a Member of the Subcommittee yields him time.

Please know that your written testimony will be entered in the in its entirety. Mr. Chilson, you may begin.

STATEMENT OF NEIL CHILSON

Mr. CHILSON. Thank you, Chair Fitzgerald, thank you to the Chairs and Ranking Members of the Full Committee, and to Ranking Member Correa, and the distinguished Members of the Subcommittee.

Thank you for inviting me to testify today. I'm Neil Chilson. I'm the head of AI Policy at the Abundance Institute. We are a non-profit dedicated to creating policy and cultural environments that allow emerging technologies to thrive and expand human prosperity.

Last year, American AI startups raised more than \$97 billion or approximately half of the entire Apollo program. At least 49 different U.S. AI startups raised more than \$100 million just last year. These are record numbers, and they're just getting started.

I'm here to make a simple but important point. Economically, AI isn't an industry or a market. It's an ecosystem of thousands of companies, and the U.S. AI ecosystem is vibrant and remarkably competitive at every level. From chips to cloud infrastructure, from foundation models to applications, we're seeing intense competition driving rapid innovation and democratizing access to powerful AI capabilities.

Consider that 11 different developers last year globally—across the globe achieved a GPT-4 level model, one of the most advanced types of AI models; or that market shares in cloud computing continued to shift with established players and startups pressuring each other. The AI enterprise service market is highly fragmented, the leading firm holding a mere seven percent.

These are not signs of concentrated power. They're evidence of healthy competition. This competitive environment is spreading the benefits of AI widely. AI capabilities that were cutting-edge, or even unimagined just a few years ago, are now widely accessible or even free.

For example, many of you may have seen the most recent generation of Studio Ghibli themes online. This type of use of powerful image generation which once required specialized knowledge and powerful computers is now available for anyone for free or maybe pennies per image.

AI services keep getting better and cheaper with AI-API access for the leading models dropping in price by 80 or 90 percent last year. Lower prices opened up new use cases and power small businesses and new market entrants. Open-source AI models are a particularly powerful vector of competition. Open models level the playing field, reduce barriers to entry, and give smaller players access to cutting-edge AI technology without needing massive resources to train their own models. This sector is growing fast; Aggregator hugging face, which hosts more than a million different open source models for different purposes.

For the most advanced models, open AI just this week, just yesterday, announced that they will soon release an open-weights model joining major players like Meta and DeepSeek. The vibrant AI ecosystem in America does face a threat, however. Miscalibrated regulation. Regulation often entrenches incumbent firms by creating barriers that new competitors cannot overcome, and compliance costs disproportionately burden smaller newer firms giving established players a competitive advantage.

The Trump Administration recognizes this threat of regulation and has shifted the Federal conversation in AI from one that's based on fear to one that's focused on opportunity. This is a welcome change.

At the State level, however, there are more than 900 bills proposing to regulate AI, and they've been just introduced since January. While often well-intentioned, this emerging patchwork of regulation threatens to undermine both domestic competition and our national competitiveness.

Congress should meet this challenge by creating a consistent national regulatory approach to AI that maximizes freedom for general purpose AI technology, while clarifying obligations in specific applications, such as healthcare or transportation. There are more detailed ideas in my written testimony.

In conclusion, the U.S. AI ecosystem is remarkably competitive and innovative, spreading access to powerful tools. To sustain this vibrant competition and to maintain American leadership, policymakers should clear regulatory barriers and resist raising new ones. By doing so, we can preserve the dynamic nature of AI and continue reaping its enormous economic and social benefits in the years to come.

Thank you for your attention, and I welcome your questions.
[The prepared statement of Mr. Chilson follows:]

The Vibrant AI Competitive Landscape

April 2, 2025

Testimony before the House Subcommittee on the Administrative State, Regulatory Reform, and Antitrust of the Committee on the Judiciary

Hearing: *Artificial Intelligence: Examining Trends in Innovation and Competition*

Neil Chilson, Head of AI Policy at the Abundance Institute¹

Thank you, Subcommittee Chairman Massie, Ranking Member Correa and subcommittee members for having me here today to talk about the vibrant innovation and competition in the AI ecosystem. I am Neil Chilson, the Head of AI Policy at the Abundance Institute.

The Abundance Institute is a mission-driven nonprofit dedicated to creating the cultural and policy environment necessary for emerging technologies to germinate, develop, and thrive, and to thereby perpetually expand widespread human prosperity and abundance.

The current wave of advanced computing technologies, commonly referred to as “artificial intelligence,” have the potential to create enormous economic growth and human flourishing across the United States. The U.S. leads the world in this technology - in innovation, products, companies, and investment.

It is true that there are important challenges ahead to continued U.S. leadership in AI.² But a lack of AI competition is not one of them.

Indeed, the complex AI ecosystem is vibrant and competitive. The biggest threat to this vibrant competition is overregulation. Existing regulation and threats of regulation hamper disruptive

¹ The views expressed in this testimony are those of the author and do not necessarily reflect those of the Abundance Institute.

² See Neil Chilson, *Building the Launchpad for an AI Moonshot*, Testimony Before the House Committee on Oversight and Government Reform Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs (April 1, 2025); Neil Chilson and Josh Smith, *Comment on Request for Information on the Development of an Artificial Intelligence Action Plan* (March 2025), <https://abundance.institute/articles/development-of-an-AI-action-plan>.

companies and penalize innovation. Policymakers can best expand competition in the AI ecosystem by clearing old regulatory barriers and resisting the impulse to raise new ones.

AI isn't a Market or an Industry—It is a Complex Ecosystem

AI is a general purpose technology – perhaps the *most* general purpose technology – meaning that AI has applications in all industries.³ AI will thus shape competition within every industry where it is applied. Often these applications will decentralize and enhance competition. For example, as increasingly powerful generative AI tools lower the barriers to creating high-quality content, expect smaller teams to better compete with larger, more-resourced incumbents.⁴ Market conditions or government interventions that reduce the availability of AI tools will limit this pro-competitive effect across industries.

However, most discussion among competition analysts has focused on analyzing competition within the AI “industry.” Even ignoring the broad application of AI, such analysis is challenging. Artificial intelligence tools are a complex stack of technologies. For example, an AI-powered smartphone application may use an application programming interface (API) to connect to an OpenAI ChatGPT instance running on a Microsoft Azure cloud service that is powered by custom networked computers using Nvidia hardware. Some AI company offerings span layers; others are more limited.

Each layer of the stack has a novel economic structure. For example, foundational models, as software, have significant returns to scale. Once trained they can be deployed many times, for many different uses, and the marginal user adds little additional cost. In contrast, the computational infrastructure – chips, computing clusters, even data centers – have more limited returns to scale due to the cost of manufacturing physical components.⁵

³ There is no consensus definition of “artificial intelligence.” See, Neil Chilson, *Testimony Before the United States Senate Committee on Rules and Administration, Hearing: AI and the Future of our Elections* at 2 (Sept. 27 2023), https://www.rules.senate.gov/imo/media/doc/chilson_testimony.pdf. Most people use the term colloquially and in a very broad sense; this breadth is another challenge for competition analysis.

⁴ See, e.g., *AI's impact on law firms of every size* (Aug. 15, 2023), <https://legal.thomsonreuters.com/blog/ais-impact-on-law-firms-of-every-size/> (describing how solo practitioners and small law firms can use AI to take on new types of matters while large firms “wait on committees or consultants to approve an AI approach.”).

⁵ See, Thibault Schrepel, *Toward A Working Theory of Ecosystems in Antitrust Law: The Role of Complexity Science, Dynamics of Generative AI* (ed. Thibault Schrepel & Volker Stocker), *Network Law Review*, Winter 2023, <https://www.networklawreview.org/schrepel-ecosystems-ai/> (“The infrastructure layer does not directly benefit from strong increasing returns (i.e., there are scale economies limited by the costs of components), but it interacts with the foundation layer, which does.”).

Additional complexity comes from the fact that interventions or market changes to one of these layers has ripple effects across other layers. For example,

“[A] lack of competition at the infrastructure layer would certainly affect AI foundation models, but the agents at the layer of those models would respond by investing in infrastructures. This dynamic is already in play. OpenAI is reportedly trying to raise \$7 trillion to develop its own chips and computing power. Aware of this risk, Nvidia is pushing to steadily lower the cost of training LLMs, from \$10 million a few months ago to as little as \$400,000...”⁶

Simple competition analysis might separate layers of the AI stack into different markets, but any analysis that fails to consider these cross-layer currents would be incomplete.

Finally, the path of AI technology continues to evolve, and its direction and speed is difficult to predict. For example, the recent trend is that models continue to gain capabilities primarily through scaling the number of parameters, driving continuously increasing demands for data and compute. But there is some evidence that scaling could fail to provide corresponding returns.⁷ An AI ecosystem without perpetual improvement through scaling looks very different, from a competition perspective, from one where scaling continues to return outsized value.

The AI Ecosystem is Vibrant and Competitive

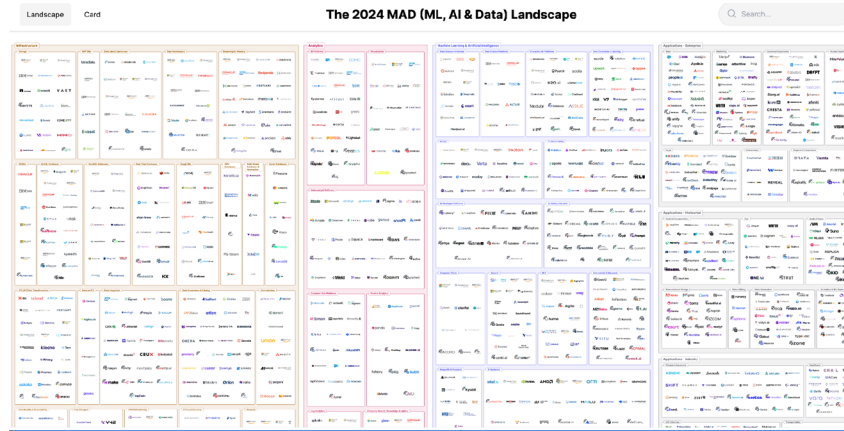
The artificial intelligence industry spans a broad technology stack – from the hardware that power AI computations to the end-user applications delivering AI-driven experiences. Across each layer of this stack, there is intense competition and rapid innovation. The United States and China lead in many areas of AI, backed by massive investments and vibrant ecosystems, while Europe, Israel, India, and others also contribute notable players and innovations.

The result is one of the most dynamic, rapidly evolving tech ecosystems in human history. FirstMark’s 2024 [Machine Learning, AI & Data Landscape](#) features 2,011 different company logos, “with 578 new entrants to the map” since the 2023 version, grouped into nine major categories and 100 subcategories.⁸

⁶ *Id.*

⁷ Arvind Narayanan and Sayash Kapoor, *AI Scaling Myths* (June 27, 2024), <https://www.aisnakeoil.com/p/ai-scaling-myths>.

⁸ Matt Turck, *Full Steam Ahead: The 2024 MAD (Machine Learning, AI & Data) Landscape* (Mar. 31, 2024), <https://mattturck.com/MAD2024/>.



Screenshot of part of the MAD Landscape.

Across all layers of the AI stack – hardware, cloud, models, tools, and applications – competition is robust and global. In hardware, one player (Nvidia) leads but is challenged by a long list of rivals (AMD, Intel, Google TPU, startups, Chinese chipmakers), resulting in rapid performance gains and new chip innovations.⁹ In cloud infrastructure, three U.S. giants compete neck-and-neck while Chinese and other providers, including startups, also compete, driving down prices for compute and motivating new AI-focused services.¹⁰ At the model level, we’ve moved from a world of a few landmark models to dozens of cutting-edge models by many organizations, with open-source efforts ensuring broad dissemination of AI capabilities.¹¹

The past 10 years have seen exponential growth in AI capabilities and usage, driven by competitive dynamics. The number of AI startups, the amount of training compute used, and the size of models all grew by one or more orders of magnitude in the last decade. For example, compute used in landmark AI trainings doubled every 6 months on average from 2012–2018 – an astonishing pace – reflecting how each breakthrough (AlexNet, then GPT, then GPT-2, etc.)

⁹ Joaquin Fernandez, *The Leading Generative AI Companies* (March 4, 2024), <https://iot-analytics.com/leading-generative-ai-companies/>.

¹⁰ Swagath Bandhakavi, *Cloud infrastructure market reaches \$330bn in 2024, driven by GenAI growth* (February 7, 2025), <https://www.techmonitor.ai/hardware/cloud/cloud-infrastructure-market-330bn-2024-genai-growth>; Mark Haranas, *AWS, Microsoft, Google Fight for \$90B Q4 2024 Cloud Market Share* (February 13, 2025), <https://www.crn.com/news/cloud/2025/aws-microsoft-google-fight-for-90b-q4-2024-cloud-market-share>.

¹¹ Robi Rahman, Lovis Heindrich, David Owen, Luke Frymire, *Over 20 AI models have been trained at the scale of GPT-4* (January 3-, 2025), Epoch AI, <https://epoch.ai/data-insights/models-over-1e25-flop>; Baidu CEO says more than 70 large AI language models released in China (September 5, 2023), Reuters, <https://www.reuters.com/technology/baidu-ceo-says-more-than-70-large-ai-language-models-released-china-2023-09-05/>.

spurred others to quickly outdo it.¹² New entrants frequently disrupt incumbents, perhaps best seen with OpenAI's ChatGPT catching the largest tech companies in the world by surprise, but also more recently with DeepSeek's releases, forcing continual adaptation. Market share shifts in cloud (AWS down from 33% to 30% while Azure/Google Cloud rose)¹³ and framework usage (TensorFlow to PyTorch swing¹⁴) exemplify how competition prevents stagnation.

Quantitatively, the AI ecosystem is large and fast-growing, with no signs of winner-take-all dynamics. Nvidia's dominance in GPUs is the result of being the first and most innovative foundational hardware that facilitated deep learning advances, and the company is running hard to stay ahead of AMD, Google, Amazon, and Chinese players that are investing billions to erode that lead.¹⁵ In cloud, the leading provider has only ~30% share and has lost a few points as others (including startups like CoreWeave¹⁶) grow – a healthy market with fierce R&D and price competition.¹⁷ In the application layer, the number of companies is immense and growing fast, with 1,812 new AI startups funded globally last year.¹⁸ The AI enterprise services market is highly fragmented, as the top firm, Accenture, holds just 7% in genAI services.¹⁹ Funding and innovation indicators are equally strong: \$131.5 billion in VC funding for AI startups in 2024, which is fueling new competitors in every niche of AI.²⁰ Meanwhile, AI adoption in enterprises is growing rapidly, with 78% of companies reporting use in at least one business function – up

¹² Veronika Samborska, *Scaling up: how increasing inputs has made artificial intelligence more capable* (January 19, 2025), Our World in Data, <https://ourworldindata.org/scaling-up-ai>.

¹³ Mark Haranas, *AWS, Microsoft, Google Fight for \$90B Q4 2024 Cloud Market Share* (February 13, 2025), <https://www.crn.com/news/cloud/2025/aws-microsoft-google-fight-for-90b-q4-2024-cloud-market-share>.

¹⁴ Eli Uriegas, Meta and Jennifer Bly, PyTorch Foundation, *PyTorch Grows as the Dominant Open Source Framework for AI and ML: 2024 Year in Review* (December 23, 2024), PyTorch, <https://pytorch.org/blog/2024-year-in-review/>.

¹⁵ Joaquin Fernandez, *The Leading Generative AI Companies* (March 4, 2024), <https://iot-analytics.com/leading-generative-ai-companies/>.

¹⁶ Mark Haranas, *AWS, Microsoft, Google Fight for \$90B Q4 2024 Cloud Market Share* (February 13, 2025), <https://www.crn.com/news/cloud/2025/aws-microsoft-google-fight-for-90b-q4-2024-cloud-market-share>.

¹⁷ Swagath Bandhakavi, *Cloud infrastructure market reaches \$330bn in 2024, driven by GenAI growth* (February 7, 2025), <https://www.techmonitor.ai/hardware/cloud/cloud-infrastructure-market-330bn-2024-genai-growth>.

¹⁸ Vanessa Parli, Raymond Perrault, Erik Brynjolfsson, et al, *The AI Index 2024 Annual Report*, page 245 (2024), <https://hai.stanford.edu/ai-index/2024-ai-index-report>.

¹⁹ Joaquin Fernandez, *The Leading Generative AI Companies* (March 4, 2024), <https://iot-analytics.com/leading-generative-ai-companies/>.

²⁰ Alex Irwin-Hunt, *AI dominates venture capital funding in 2024* (January 8, 2025), <https://www.fdiintelligence.com/content/41641e67-f00f-53c0-97cb-464b3a883062>.

from 55% in 2022.²¹ And AI is projected to contribute trillions to economic output in coming years, suggesting plenty of opportunity for many players.²²

Competition is driving innovation and democratization. Thanks to competitive pressures, AI capabilities that were cutting-edge a few years ago are now widely accessible. For instance, state-of-the-art image generation (which once required specialized knowledge and expensive compute) is now available for free to anyone via open-source tools (*e.g.* Stable Diffusion). Enterprise AI services have become pay-as-you-go utilities on cloud. The fact that 11 different developers globally achieved GPT-4-level models in 2024 indicates no one can rest on their laurels.²³ Driving that point home recently, the Chinese company DeepSeek rocked the ecosystem by delivering powerful frontier models developed with uniquely efficient algorithms.²⁴ We're also seeing lower costs: the cost to train an image classifier or language model has plummeted, and AI API prices continue to fall, often announced in tandem with competitor launches.²⁵ This vibrancy, however, also raises the bar. Companies must continue investing heavily to stay in the game (as seen by multi-billion dollar AI R&D budgets of tech firms). This arms race nature is producing a continuous stream of AI innovations benefiting consumers, from more accurate translations to safer autonomous vehicles.

In short, the AI industry is characterized by dynamic competition at every layer, primarily led by U.S. and Chinese organizations but with meaningful contributions from around the world. Quantitative indicators – market shares that shift year to year, exponential growth in investment and output, and the proliferation of new entrants – all illustrate a vibrant ecosystem rather than a static market. For policymakers, this suggests that the current trajectory of AI is one of rapid innovation fueled by competition. Nurturing this competitive environment will be key to maintaining the U.S.'s edge and ensuring the benefits of AI are widely distributed. In summary, the state of the AI industry is one of intense but healthy competition – a positive sign that this technology space is far from ossified and will continue to deliver breakthroughs and economic value in the years ahead.

²¹ Alex Singla, Alexander Sukharevsky, Lareina Yee, and Michael Chui, *The state of AI: How organizations are rewiring to capture value* (March 12, 2025), QuantumBlack AI by McKinsey, <https://www.mckinsey.com/capabilities/quantumblack/our-insights/the-state-of-ai#:~:text=McKinsey Website Accessibility%40mckinsey.com-,AI%20use%20continues%20to%20climb,-Reported%20use%20of>.

²² Lapo Fioretti, Carla La Croce, Andrea Siviero, Elisabeth Clemmons, *The Global Impact of Artificial Intelligence on the Economy and Jobs: AI Will Steer 3.5% of GDP in 2030*. (August 2024), IDC, <https://www.idc.com/getdoc.jsp?containerId=prUS52600524>.

²³ Robi Rahman, Lovis Heindrich, David Owen, Luke Frymire, *Over 20 AI models have been trained at the scale of GPT-4* (January 3-, 2025), Epoch AI, <https://epoch.ai/data-insights/models-over-1e25-flop>.

²⁴ Eduardo Baptista, *What is DeepSeek and why is it disrupting the AI sector?* (January 28, 2025), Reuters, <https://www.reuters.com/technology/artificial-intelligence/what-is-deepseek-why-is-it-disrupting-ai-sector-2025-01-27/>.

²⁵ OpenAI GPT-4 API Pricing (August 22, 2024), <https://www.nebuly.com/blog/openai-gpt-4-api-pricing>.

Open Source is a Key Vector of AI Competition

Open source software has long enabled competition in software generally. As I and my co-author noted in comments to the National Telecommunications and Information Administration, this is also true in the artificial intelligence ecosystem.²⁶ Open model weights²⁷ benefit competition in the marketplace for AI services and in other areas of the economy in many ways, including:

- *Leveling the playing field*: Open models reduce the barriers to entry and give smaller players and startups access to cutting-edge AI technology. This could increase competition across the economy as more organizations are able to leverage powerful AI capabilities in their products and services without needing the massive resources to develop the foundational models themselves. This leveling effect is supported by research that demonstrates that using generative AI tools in work settings disproportionately benefits lower-performing workers.²⁸
- *Shifting focus to applications and fine-tuning*: With shared access to strong open models, competitive differentiation will depend on how well companies can adapt and apply the models to specific domains and use cases. The ability to efficiently fine-tune models and develop powerful applications on top of them could become more important than the ability and capacity to train a foundational model from scratch.
- *Commoditization of foundational models*: In the long run, open models could commoditize foundational AI technology. If everyone has access to high-quality open models, the models themselves may not be a sustainable competitive advantage. The real value may migrate to compute, proprietary datasets, customizations, and application-specific IP. This would distribute gains from this technology more broadly across the economy.
- *New business models*: Open models could spur new business models and ways of creating value in the AI ecosystem. For example, there may be opportunities to provide compute resources for fine-tuning, offer managed services around open models, or develop proprietary add-ons and extensions.
- *Collaboration and shared standards*: Open models could foster greater collaboration and interoperability within the AI community. Shared standards and a common

²⁶ Neil Chilson and Logan Whitehair, *Comments of the Abundance Institute on Dual Use Foundation Artificial Intelligence Models with Widely Available Model Weights* (Mar. 27, 2024), available at <https://www.regulations.gov/comment/NTIA-2023-0009-0246>.

²⁷ “Open source” in the context of AI can mean many different things. For the purposes of this testimony, I am focused on foundational models with open, publicly available weights. There are similar competitive implications from other forms of openness in AI.

²⁸ Brian Eastwood, *Workers with less experience gain the most from generative AI* (Jun. 26, 2023) <https://mitsloan.mit.edu/ideas-made-to-matter/workers-less-experience-gain-most-generative-ai>; Erik Brynjolfsson et al., *Generative AI at Work* (Oct. 9, 2023) Working Paper, <https://danielle-li.github.io/assets/docs/GenerativeAIatWork.pdf>.

technological substrate could emerge, enabling more vibrant competition in the application layer.

The primary implication of all these points is that open models do and will increase competition at the model layer, spurring innovation at that layer and distributing value creation to other layers of the AI stack. Decisionmakers across the political spectrum have recognized the pro-competition and pro-innovation benefits of open-source AI.²⁹ Congress likewise should support open source as a powerful avenue of AI competition and innovation.

There is a Threat to AI Competition: Overregulation

While the AI ecosystem is robust in competition, there is a threat to this vibrant environment: overregulation.

The negative impact of regulation on competition is well established. George J. Stigler's foundational work, "The Theory of Economic Regulation," demonstrates how industry regulations, far from safeguarding consumers, often serve the interests of established businesses by creating barriers to entry.³⁰ Stigler argues that regulation frequently results from incumbent firms exerting political influence to shape rules that limit market access for potential competitors, thereby solidifying their market dominance. Consequently, regulatory policies intended to promote consumer welfare or economic fairness can paradoxically entrench monopolistic behavior, reduce incentives for innovation, and ultimately harm consumer interests through higher prices and limited choices.

Compliance costs associated with regulation can further impede competition by disproportionately burdening smaller or newer firms that lack the resources of established competitors. High compliance expenses—including legal, administrative, and technological requirements—may create significant barriers to entry, preventing potential competitors from entering the market or scaling effectively. Consequently, incumbent firms with greater financial strength and regulatory expertise gain a competitive advantage, further entrenching their market dominance.

When ChatGPT launched in November 2022, the federal response to amazing U.S. AI leadership should have been celebratory and supportive. Instead, the Biden administration's dour reaction set the U.S. AI ecosystem on the wrong path toward less innovation and less competition. President Biden issued an unprecedented Executive Order that emphasized the potential risks

²⁹ See FTC Staff, *On Open-Weights Foundation Models* (July 10, 2024), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/07/open-weights-foundation-models>; Lina Khan, Post on X.com, <https://x.com/linakhanFTC/status/1811172503617773672>; J.D. Vance, Post on X.com, <https://x.com/JDVance/status/1764471399823847525>.

³⁰ George J. Stigler, *The Theory of Economic Regulation*, *The Bell Journal of Economics and Management Science* Vol. 2, No. 1 Page 3-21, (1971), JSTOR, <https://doi.org/10.2307/3003160>.

of the technology and kicked off dozens of regulatory actions.³¹ Motivated by concerns over potential harms, Biden sought to corral the biggest players into a soft standard-setting cabal that would have disadvantaged smaller companies and future disruptors.³²

Meanwhile, Biden competition agencies met the entire ecosystem with skepticism. FTC Chair Lina Khan, for example, began signaling concern as early as March 2023, when she emphasized that large-scale machine learning requires “huge amounts of data ... and storage” and warned that incumbent tech firms could use their vast resources and market power to “squelch[] rivals.”³³ In subsequent speeches and forums, Khan repeatedly claimed signs of potential market concentration around essential AI inputs (like GPUs and cloud infrastructure), cautioning that dominant platforms might exploit these “bottlenecks” through coercive contracts or unfair pricing.³⁴ The FTC’s first competition-related post on AI after the release of ChatGPT said nothing about the obvious disruptive procompetitive effects of the new technology; instead, it ran through a laundry list of potential competitive harms that might emerge in the space.³⁵ By early 2024, the FTC’s skepticism had coalesced into a formal inquiry via 6(b) orders, compelling major industry players—including Alphabet (Google), Amazon, Anthropic, Microsoft, and OpenAI—to disclose details on their AI investments and alliances.³⁶

President Trump swept away the Biden AI Executive Order promptly after entering office.³⁷ And his administration has reframed the entire federal conversation around AI from one based in fear to one based in opportunity. As Vice President J.D. Vance recently said in a speech at the Paris AI Summit, “[W]e believe that excessive regulation of the AI sector could kill a

³¹ Neil Chilson, *Government Overreach in the Presidential Executive Order on Artificial Intelligence* (March 21, 2024), testimony before the House Subcommittee on Cybersecurity, Information Technology, and Government Innovation, <https://oversight.house.gov/wp-content/uploads/2024/03/Chilson-Testimony.pdf>.

³² Margaux MacColl, *Why Marc Andreessen was ‘very scared’ after meeting with the Biden administration about AI* (December 15, 2024), TechCrunch, <https://techcrunch.com/2024/12/14/why-marc-andreessen-was-very-scared-after-meeting-with-the-biden-administration-about-ai/>.

³³ Adi Robertson, *The US government is gearing up for an AI antitrust fight* (March 28, 2023), The Verge, <https://www.theverge.com/2023/3/28/23660101/ai-competition-ftc-doj-lina-khan-jonathan-kanter-antitrust-summit>.

³⁴ *A few key principles: An excerpt from Chair Khan’s Remarks at the January Tech Summit on AI* (February 8, 2024), The Federal Trade Commission Technology Blog, <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/02/few-key-principles-excerpt-chair-khans-remarks-january-tech-summit-ai>.

³⁵ *Generative AI Raises Competition Concerns* (June 29, 2023), The Federal Trade Commission Technology Blog, <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/06/generative-ai-raises-competition-concerns>.

³⁶ Federal Trade Commission, Press Release, *FTC Launches Inquiry into Generative AI Investments and Partnerships* (January 25, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-launches-inquiry-generative-ai-investments-partnerships>.

³⁷ Donald J. Trump, *Executive Order 14148—Initial Rescissions of Harmful Executive Orders and Actions*, 90 FR 8237 (January 20, 2025), <https://www.federalregister.gov/documents/2025/01/28/2025-01901/initial-rescissions-of-harmful-executive-orders-and-actions>.

transformative industry just as it's taking off, and we will make every effort to encourage pro-growth AI policies.”³⁸

Unfortunately, the U.S. is still at risk of wrapping the AI industry in regulatory red tape, hurting both competition within the U.S. and our national competitiveness with other countries. More than nine hundred bills regulating AI have been introduced in state houses across the country since this year’s legislative sessions began.³⁹ These bills would impose a wide, and sometimes conflicting, range of requirements. They range from helpful and targeted on state-related concerns to broad and onerous extraterritorial regulation. These state AI bills, while usually well-intentioned, do not help or may actively undermine the ability of the U.S. to capitalize on the promise of AI.

And in any case, a patchwork of parochial regulation threatens competition. As mentioned above, complex and conflicting legal requirements mean high compliance costs that only the largest players can afford.

In addition to the general anti-competitive effect of many kinds of regulation, some types of regulation harm AI competition. For example, given the critical role of open source and open weight AI research, regulatory restrictions that limit or disincentivize the development or distribution of open-source AI or open weight models can be expected to harm competition. Furthermore, overly restrictive data regulation limits the collection of useful information, again favoring incumbents with substantial amounts of data. Finally, copyright structures (which are themselves a form of government-granted monopoly) that undermine constitutionally protected fair use again deter model developers without deep pockets. Any serious evaluation of how to promote competition in AI must consider how legal and regulatory constraints affect such competition.

Finally, some existing or expected artificial barriers to vibrant AI competition are international. Some regions – the European Union in particular – have adopted laws with intentionally global effect and have historically demonstrated an enforcement focus on U.S. companies.⁴⁰ Such actions should be seen as protectionist and potentially anticompetitive, and the U.S. government should use its diplomatic and trade authority to preserve vibrant competition in AI.

³⁸ *Remarks by the Vice President at the Artificial Intelligence Action Summit in Paris, France* (February 11, 2025), The American Presidency Project, <https://www.presidency.ucsb.edu/documents/remarks-the-vice-president-the-artificial-intelligence-action-summit-paris-france>.

³⁹ MultiState.ai, *Artificial Intelligence (AI) Legislation*, <https://www.multistate.ai/artificial-intelligence-ai-legislation>.

⁴⁰ Kelvin Chan, *Europe’s world-first AI rules get final approval from lawmakers. Here’s what happens next* (Mar. 13, 2024) (noting that penalties could be as much as 7% of a company’s global revenue), <https://apnews.com/article/ai-act-european-union-chatbots-155157e2be2e42d0f1acca33983d8c82>.

What Congress Can Do to Spur AI Competition

To enhance the competitive environment for AI innovation and maintain U.S. global leadership, Congress should act decisively. The following recommendations focus specifically on creating a competitive environment that attracts investment, stimulates innovation, and encourages new market entrants:⁴¹

1. **Preempt Restrictive State AI Regulations:** Congress should enact federal preemption of restrictive state-level AI regulations. By creating a consistent national regulatory landscape, innovators and entrepreneurs would face fewer barriers to entry, stimulating competition and fostering market dynamism.
2. **Establish Negative Liability Protections:** Congress should establish negative liability laws limiting the exposure of general-purpose AI model developers to legal risks stemming from third-party misuse. Reducing disproportionate litigation risks will encourage more companies, including startups, to enter the AI market and innovate without fear of prohibitive legal consequences.
3. **Create Safe Harbor Provisions:** Safe harbor laws clearly defining minimal, innovation-friendly compliance practices will significantly lower the barriers for new and smaller players in the AI space. Clear standards enable emerging competitors to innovate confidently, leveling the playing field with established companies.
4. **Codify the Right to Compute:** By establishing a robust right to compute, Congress can prevent overly restrictive governmental actions against computational resources. Protecting this right ensures that new competitors and smaller businesses can access essential technological resources without burdensome regulatory barriers, fostering greater competition.
5. **Clarify Liability Frameworks:** Congress should clearly differentiate liability between foundational AI model developers and specific deployers of AI applications. A clear liability framework reduces uncertainty, encouraging new entrants by ensuring that liability risks are predictable and manageable, thereby invigorating competition.
6. **Accelerate Data Availability for AI Training:** Mandating the release and digitization of unstructured federal datasets will democratize access to valuable training data. Improved access to data reduces the advantage of large incumbents, enabling smaller firms and startups to innovate more effectively and compete more vigorously in the AI market.

⁴¹ These recommendations are based on our response to the Office of Science and Technology Policy's Request for Comment on the Development of an Artificial Intelligence Action Plan. That document offers more detail about some of these recommendations. See Neil Chilson and Josh Smith, *Comment on Request for Information on the Development of an Artificial Intelligence Action Plan* (March 2025), <https://abundance.institute/articles/development-of-an-ai-action-plan>.

These legislative initiatives will collectively foster an environment of robust innovation, further enhancing America's AI competitiveness and reinforcing its global leadership in artificial intelligence.

Conclusion

In sum, the U.S. AI ecosystem is a dynamic and highly competitive environment, with new entrants and established players driving innovation at every layer of the tech stack. This vibrant competition creates broader access to AI tools and spurs continual advancements that benefit consumers, businesses, and society at large. Yet this promising trajectory is threatened by overregulation—particularly complex, overlapping, and heavy-handed legal regimes that impose outsized burdens on smaller players and stifle open-source innovation. To sustain robust competition, encourage disruptive breakthroughs, and maintain U.S. leadership in AI, policymakers should adopt a light-touch regulatory approach, clear regulatory barriers to competition, and remain vigilant against foreign protectionist measures. By doing so, America can preserve the competitive dynamism of AI and continue reaping its economic and societal benefits for years to come.

Mr. FITZGERALD. Thank you, Mr. Chilson. Mr. Coniglio, you may begin.

STATEMENT OF JOSEPH V. CONIGLIO

Mr. CONIGLIO. Chair Fitzgerald, Ranking Member Nadler, and Chair Jordan and esteemed Members of the Subcommittee, I'm honored to be here today.

In my remarks, I'm going to highlight three key areas where I believe AI and antitrust overlap, and critique three policy frameworks for dealing with AI. In my view, AI provides no reason at this time for either heavy-handed antitrust enforcement or changing fundamentally our antitrust laws.

First, the AI industry is highly competitive and developing in a way that is consistent with the healthy innovation competition that typifies high tech markets. Firms like Nvidia reinvented themselves with huge success to lead and recoup their investments in chips, while a number of newer players, like OpenAI and Anthropic, are flourishing at the model level, in part, due to partnerships with large digital incumbents.

Indeed, not only is competition robust among cloud providers, it is a testament to big tech firms not resting on their laurels, but aggressively also competing at many levels of the AI stack.

Second, AI is already being heralded as the next general-purpose technology that, like the internet, will transform our economy. As the past four years make clear, the stakes for getting competition policy right are high. Whereas, the U.S. pursued deregulation and a consumer welfare antitrust model that was conducive to the innovation and growth that helped preserve its share of global wealth amidst China's rise, Europe continued with an antitrust framework more suited to protecting competitors, missed the digital revolution and saw its share of global wealth fall by almost half.

Importing a European-style competition policy to America risks repeating this mistake with AI and ultimately benefiting China in its own quest for AI dominance.

Third, the question of how AI will affect the antitrust enterprise itself. For example, when it comes to combating collusion, some have suggested that AI algorithms may make it easier for firms to form and police cartel agreements, as well as facilitate oligopoly outcomes without an agreement and, thus, avoid antitrust scrutiny.

On the other hand, not only has the Department of Justice already brought AI-related algorithmic collusion cases using its existing tools, which in the future, could even be enhanced by AI technologies that make it easier to detect cartels, but AI may also increase firms' incentive to disrupt cartel behavior, resulting in less collusion throughout the economy.

In the face of these complex issues, I want to now discuss three flawed antitrust enforcement approaches policymakers may be tempted to adopt.

First, the idea that antitrust is more important than ever before. Some worry that AI will increase concentration throughout the economy by virtue of network effects and increasing returns to scale in ways that make it hard for markets to self-correct. These concerns, which result in the antitrust laws themselves, overlook the cost-reducing potential of AI, which also may lower barriers to

entry for small- and medium-sized businesses and create competition.

Moreover, increased concentration not only isn't bad when it's driven by lower costs that reduce prices for consumers, but it often empowers the incentives and abilities that spur innovation.

Second, there is the contrary view that, because AI is so disruptive, there's little need to enforce the antitrust laws at all. Indeed, a similar debate was had during the internet revolution and noted in the seminal Microsoft case, where the court discussed how, in technologically dynamic markets, monopoly power may only be temporary. While, like the internet, AI is poised to bring tremendous benefits and disruption, the past 40 years have taught us to be wary of formalizing theoretical assumptions of market self-correction.

Antitrust still matters, and we should continue to carefully examine market realities for anticompetitive conduct in age of AI.

Third, there is the notion that AI may undermine the very market competition upon which antitrust law is premised. Some commentators have claimed that AI may even render markets obsolete through more sophisticated calculation techniques that could make regulation superior. The central problem with this perspective is that it's based on a static understanding of how market competition works.

More dynamic competitive processes will undercut the justification for State central planning and regulation in a way that reaffirms the importance of healthy, well-functioning markets.

In conclusion, I think the right approach is to maintain antitrust law's traditional focus on promoting competition and innovation by prescribing collusive and exclusionary anticompetitive conduct. This has, since the passage of the Sherman Act, withstood and helped manage the creative destruction that worked to make America the world leader that it is today. Ensuring that competition policy remains tethered to these principles is essential for preserving American leadership into the 21st century amidst the new wave of general-purpose technical change that is AI.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Coniglio follows:]



“Artificial Intelligence: Examining Trends in Innovation and Competition”
Hearing Before the House Judiciary Committee
Subcommittee on the Administrative State, Regulatory Reform, and Antitrust
Wednesday, April 2, 2025

Written Testimony of Joseph V. Coniglio
Director, Antitrust and Innovation Policy, Schumpeter Project on Competition Policy
Information Technology and Innovation Foundation

Chairman Fitzgerald, Ranking Member Nadler, Chairman Jordan, Ranking Member Raskin, and esteemed members of the Subcommittee, I’m honored to be here today. My name is Joseph Coniglio and I am the Director of Antitrust and Innovation Policy and the Schumpeter Project for Competition Policy at the Information Technology and Innovation Foundation. I’ve worked on antitrust issues in high-tech markets for over a decade, first in government, then as an attorney in private practice, and now in public policy. I have written numerous pieces and spoken widely on the application of antitrust law to high-tech industries as well as the need for policies which foster the innovation that drives economic growth and U.S. techno-economic leadership.

About ITIF

Founded in 2006, ITIF is an independent 501(c)(3) nonprofit, nonpartisan research and educational institute that has been recognized repeatedly as the world’s leading think tank for science and technology policy. ITIF focuses on a host of critical issues at the intersection of technological innovation and public policy—including economic issues related to innovation, productivity, and competitiveness; technology issues in the areas of information technology and data, broadband telecommunications, advanced manufacturing, life sciences, and clean energy; and overarching policy tools related to public investment, regulation, antitrust, taxes, and trade. ITIF’s goal is to provide policymakers with high-quality information, analysis, and actionable recommendations they can trust. To that end, ITIF adheres to a high standard of research integrity with an internal code of ethics grounded in analytical rigor, original thinking, policy pragmatism, and editorial independence.



The Antitrust-AI Interface

There are three key areas where AI and antitrust overlap: the AI industry itself, AI's broader impact on competition throughout the American economy, and the effects of AI on the ability of the antitrust laws to police anticompetitive conduct.

First, with respect to the AI industry itself, competition exists at all key levels of the AI stack—foundation models, cloud computing, and chips. At the model level, entrants like OpenAI, Anthropic, Cohere, and Mistral thrive even without the troves of proprietary data enjoyed by the large digital incumbents like Google, Meta and X with whom they compete. At the resource-intensive cloud computing level, robust competition nonetheless exists not just between Amazon, Google, and Microsoft, but also IBM, Oracle and other players. And, while Nvidia's revolutionary AI chips have unsurprisingly given the company an edge that will enable it to recoup its investments, firms like Amazon and AMD are poised to compete.

Some have expressed concerns about anticompetitive conduct in the AI space, and in particular partnerships between legacy big tech firms and innovative AI startups. However, worries that these arrangements are substantially lessening competition not only overlook the competition that exists at both the foundation model and cloud levels, but the procompetitive benefits that these arrangements can provide in accelerating AI innovation. That is, even if it is true—and a good thing—that investment is abundant in AI, partnerships like those between Microsoft and OpenAI can be critical to provide AI startups with patient capital that is unconstrained by a more short-term outlook and crucial to sustainable growth.

Rather than recreating a "Wintel-duopoly" scenario where a few market leaders use anticompetitive tactics to stifle innovation, the AI space is witnessing huge investment and expansion that belies any market failure. As evidenced by recent developments involving DeepSeek, Coreweave and Google's next-generation Willow chip, the AI industry is dynamic and evolving consistent with the "Schumpeterian" competition that typifies high-tech markets: Firms like Nvidia reinvented themselves with tremendous success in chips, new players like OpenAI and Anthropic are flourishing at the model level, and digital leaders—rather than resting on their laurels—are using their scale to push the cloud revolution forward and compete vigorously in other areas of the AI stack.



Second, AI is already being heralded as the next general-purpose technology that, like the Internet, will transform our economy. While it is far too soon to speculate about how the AI revolution will generally affect competition in the American economy, the effects of the Internet revolution provide a helpful backdrop for analyzing what the impact of AI may be. For example, although some have expressed fears about increased concentration in the economy over the past two decades, these concerns are often overstated. Indeed, ITIF has found that concentration has not meaningfully increased and only 4 percent of U.S. industries are highly concentrated. In fact, the digital revolution may have even enhanced competition at the local level, such as through online e-commerce platforms that allow consumers to transact with millions of sellers around the world.

Moreover, even where concentration or markups may have increased over the past several decades, that does not mean competition isn't working. On the contrary, studies continue to find that higher concentration and markups are not fueled by price increases, but instead cost reductions driven by the sort of efficiencies that bring lower prices for consumers—and which another AI wave of general-purpose technological innovation would continue to empower. In addition, from the standpoint of promoting innovation, concentration has long been recognized as often beneficial: Firms with established positions can have a greater incentive and ability to engage in innovation than firms that face high levels of product market competition. This has been confirmed by studies showing that the relationship between concentration and innovation may regularly take the form of an “inverted-U,” whereby industries that move from many competitors to a few big firms can see greater innovation, even if monopoly levels of concentration remain undesirable.

At bottom, despite the oft-heard refrain of “digital market failure” that motivated the antitrust policies of the Biden administration as well as policymakers around the world who are considering—and increasingly adopting—digital antitrust regulations like the European Union's Digital Markets Act, the reality is that the Internet has brought tremendous benefits to the U.S. economy. In fact, the AI revolution itself is a testament to the continued flourishing of high-tech competition and the importance of an antitrust policy that fosters innovation. Over the past forty years the U.S. pursued deregulation and a consumer welfare antitrust policy conducive to the innovation and growth that helped to preserve its share of global wealth despite China's rise. By contrast, Europe continued with an antitrust framework more suited to protecting competitors, missed the digital revolution, and saw its share of global wealth fall by about half.



Third, there is the question of how the AI revolution will affect the antitrust enterprise—namely, the prevalence of, and the ability of the antitrust laws to effectively police, anticompetitive conduct. For example, when it comes to combatting collusion, some have argued that AI algorithms may make it easier for firms to form and maintain cartel agreements, raising the specter of increased collusion throughout the economy. While the question of whether AI will lead to more cartelization is worthy of study, it is far too early to suggest that the antitrust laws are not up to the task. Not only has the Department of Justice already brought an AI-related algorithmic collusion case using its existing tools—which in the future could even be enhanced by AI technologies that make it easier to detect cartels—but AI may also increase firms’ incentives to disrupt cartel behavior, resulting in less collusion throughout the economy as a general matter.

In addition to cartels, there is a related worry that AI may facilitate oligopoly outcomes without firms having to enter into any anticompetitive agreement. Because such “tacit collusion” is lawful, AI may allow firms to avoid antitrust scrutiny despite nonetheless harming consumers through oligopoly behavior. Here again, although the possibility of greater tacit collusion through AI certainly merits monitoring, it is unlikely to justify the inclusion of exploitative offenses into antitrust law. Rather, not only is it a fundamental premise of antitrust law that high prices are an important element of a free-market system, but the “plus factor” analysis that courts consider for inferring an agreement should prove sufficiently flexible to adapt—as antitrust law has always done—to new economic realities. What’s more, the Federal Trade Commission already has the established authority to condemn unilateral facilitating practices under Section 5 of the FTC Act.

Finally, similar issues have been raised about AI undermining effective antitrust enforcement of predatory conduct by a monopolist, which is often analyzed by asking whether the monopolist’s behavior made “economic sense.” For example, some have suggested that AI will both reduce variable costs to the degree that below-cost pricing or profit-sacrifice becomes practically non-existent, as well as provide firms with analytical tools that ensure their behavior makes economic sense but for any anticompetitive effects. However, such concerns aren’t just speculative, but they beg the question that the existing tests for evaluating predatory behavior shouldn’t apply: If AI is making below-cost pricing and other behavior that does not make economic sense rarer, anxieties about the antitrust laws failing to condemn anticompetitive predatory behavior should diminish—not suggest that greater enforcement is needed.



In the face of these complex issues involving the intersection of antitrust and AI, there are at least four general frameworks policymakers can adopt.

First is the view that in the face of a new general-purpose technological wave like AI, vigorous antitrust enforcement is more important than ever before. A common justification for this approach is that AI will create powerful network effects and increasing returns to scale, which will lead to a winner-take-all economy where first movers enjoy unassailable market positions that they can use to exploit consumers. Similarly, high increasing returns to scope may also have concentrating effects—especially with the advent of even more advanced AI technologies—that further entrench dominant firms that are vertically integrated.

Although it is premature to predict the economy-wide effects of AI on concentration, there are many reasons to believe that AI will create competition—not destroy it. For one thing, the cost-reducing potential of AI may generally lower entry barriers throughout the economy in a way that empowers small- and medium-sized firms to better compete, much the same way that cloud computing made it easier for smaller firms to achieve scale. Moreover, even if AI does increase concentration, to the extent that this is driven by efficiencies that lower prices for consumers, it would only further—not undercut—the consumer welfare goals of U.S. antitrust law.

Second, there is the contrary view that because AI is so disruptive and efficiency-enhancing, there is little need to enforce the antitrust laws at all: Market forces, not antitrust intervention, can be trusted to remedy whatever market failures may persist. Indeed, a similar debate was had during the Internet revolution and noted in the seminal *Microsoft* case, where the court discussed how, in technologically dynamic markets, monopoly power may be only temporary and better remedied by Schumpeterian competition than time-consuming antitrust lawsuits.

While, like the Internet, AI will surely bring enormous benefits and disruption to the American economy, the past forty years have taught us to be wary of formalizing *a priori* theoretical assumptions of market self-correction into antitrust analysis. That is, even though markets often do correct their own failures, the need for antitrust action should be determined by market realities, which themselves can counsel strongly against intervention. Robust antitrust enforcement to promote consumer welfare and innovation should remain a policy focus—even in the age of AI.



Third, there is the notion that AI may undermine the very market competition upon which antitrust law is premised. Put another way, markets—and therefore antitrust law—may no longer become the dominant form of economic organization. This channels Marx’s view during the First Industrial Revolution that market capitalism embodied an economic contradiction that would ultimately bring about a socialist central planning state. Today, some commentators have analogously claimed that AI may render markets obsolete by enabling more sophisticated calculation techniques that make regulation a generally more effective mechanism for economic governance.

Besides being sweeping speculation, the central problem with this perspective is that it is based on a static understanding of how market competition works. That is, even if AI will no doubt improve our ability to do sophisticated economic analysis, a world of even more dynamic competitive processes driven by AI could at the same time make state central planning and regulation more difficult and far less necessary: Not only will the economy become even more fast-moving and complex, but the sort of persistent market failures which justify regulatory intervention could be more readily corrected by AI-enabled disruptions.

Fourth, rather than enforcing the antitrust laws too much, too little, or moving to a regulatory economic model, policymakers can continue to rely on an approach aimed at promoting consumer welfare and innovation to police anticompetitive behavior both in key AI markets, as well as the myriad industries that AI will touch—all while appreciating that AI is, and appears likely to remain, a highly dynamic space. In other words, as a common law statute that has evolved for over a century, the existing antitrust framework can be trusted as sufficiently well-founded and adaptable to help guide the American political economy through the AI revolution.

I think this is the right approach. Antitrust law’s fundamental focus on promoting competition and innovation by proscribing collusive and exclusionary anticompetitive conduct has, since the passage of the Sherman Act, withstood and helped manage the gales of creative destruction that helped make America the world leader that it is today. And, ensuring that competition policy remains tethered to these principles is essential for preserving American techno-economic leadership into the 21st century amidst the new wave of general-purpose technological change that is AI.

Thank you and I look forward to your questions.

Mr. FITZGERALD. Thank you, Mr. Coniglio. Ms. Melugin, you may begin.

STATEMENT OF JESSICA MELUGIN

Ms. MELUGIN. Chair Fitzgerald, Ranking Member Nadler, and distinguished Members of the Committee, thank you for holding this hearing today and inviting me to participate.

My work focuses on technology and antitrust with the Competitive Enterprise Institute, a nonpartisan public policy organization that concentrates on regulatory issues from a free market perspective. I'm also an antitrust and competition fellow at the Innovators Network Foundation.

I am pleased to have the rare opportunity to speak to you today about a bipartisan goal: That of ensuring the United States remains the leader on artificial intelligence technologies.

While reasonable people can disagree about the challenges AI might bring, almost everyone recognizes the technology's vast potential for economic efficiency gains, life-saving medical breakthroughs, environmental benefits, and more. There is similar consensus around the importance of our country winning the global race for AI dominance ahead of various authoritarian regimes around the world, including China.

This broad political agreement can be found in last year's bipartisan House task force report on artificial intelligence that emphasizes the economic and national security importance of AI's success for the United States.

If all agree that a flourishing domestic AI industry is critical, we should next identify the biggest threat to continued U.S. dominance in the field; namely, government overreach. Alongside the growing patchwork of State-level AI regulations that I would encourage this Congress to consider preempting—but that's a whole other hearing—the threat of overzealous antitrust regulation looms large.

Default antitrust approach to AI in the U.S. should be one of humility by regulators. However well-intentioned, antitrust enforcers are no better than anyone else in foretelling the future and certainly not clairvoyants capable of ex ante regulation of a quickly evolving technology.

Antitrust enforcement in the tech sector has been particularly poor. From an abandoned IBM suit that lasted 13 years to a Microsoft case where innovation in the market largely rendered the charges moot, litigating antitrust in tech is especially challenging.

We can look across the pond to the European Union for an even more cautionary tale in overregulation and excessive antitrust enforcement. The result is that in the U.S., with its relatively light-touch regulatory regime and consumer welfare driven antitrust approach, we boast eight of the top 10 global tech firms by market cap, with Europe unable to claim even one.

Currently, the EU has an AI regulatory framework much larger than its AI industry, putting them on the now familiar path to diminished prosperity. We needn't make the same mistake here. We know what regulatory framework leads to success and can course correct for the harmful antitrust trends of the last four years.

The embrace of a big-is-bad approach to antitrust enforcement at the prior administration's Federal Trade Commission and Depart-

ment of Justice must be reversed. It's critical that America's AI ecosystem has both large established firms with their vast resources for research and development, and vibrant small startups with their nimbleness and innovation.

In many cases, startups rely on the expectation of eventually being profitably acquired by large firms to secure early funding. This is why continued regulatory hostility to mergers and acquisitions is a recipe for stifled AI growth.

We must also return to an economics-based approach to identifying competitive problems should they arise. Whatever challenges outside of measurable economic concerns AI might bring, antitrust law will be the wrong tool for correcting them. Refocusing enforcement on consumer welfare and away from ambiguous vague social goals will be a productive improvement over the last several years.

What are the current facts on the ground for AI competition landscape right now? So far, competition seems to be thriving in what is a nonunitary market from hardware to the data layer to algorithms and applications.

Then newcomer OpenAI had a meteoric rise to popularity with its debut of ChatGPT in November 2022, and is holding its lead over even the biggest established tech competitors as the most-used large language model. Those tech giants plan to spend more than \$300 billion this year investing in AI technologies, which is not the behavior one would expect from entrenched monopolists insulated from competitive pressures.

The presence of multiple open source models that allow the little guys to build on those already established models ensures beneficial competitive pressure and leaves space for innovation.

The current State of competition in AI is strong. The threat of premature and unwarranted antitrust intervention poses one of the greatest threats to global U.S. competitiveness.

Thank you for this opportunity to testify, and I look forward to your questions.

[The prepared statement of Ms. Melugin follows:]

U.S. House of Representatives
Subcommittee on the Administrative State, Regulatory Reform and Antitrust of the
Committee on the Judiciary
2141 Rayburn House Office Building
April 2, 2025
Hearing on “Artificial Intelligence: Examining Trends in Innovation and Competition”
Written Statement of Jessica Melugin
Director, Center for Technology and Innovation
Competitive Enterprise Institute

Chair Fitzgerald, ranking member Nadler, and distinguished members of the subcommittee, thank you for holding this hearing and inviting me to testify today.

My name is Jessica Melugin. My work focuses on technology and antitrust at the Competitive Enterprise Institute, a non-partisan public policy organization that concentrates on regulatory issues from a free-market perspective. I am also an Antitrust and Competition Fellow at the Innovators Network Foundation.

I am pleased to have the rare opportunity to speak to you today about a bipartisan goal: that of ensuring the United States remains the leader on artificial intelligence technologies.

While reasonable people can disagree about the challenges AI might bring, almost everyone recognizes the technology’s vast potential for economic efficiency gains, life-saving medical breakthroughs, environmental benefits, and more. There is similar consensus around the importance of our country winning the global race for AI dominance, ahead of various authoritarian regimes around the world, including China. This broad political agreement can be found in last year’s Bipartisan House Task Force Report on Artificial Intelligence that emphasizes the economic and national security importance of AI’s success for the United States.¹

¹ U.S. House of Representatives, *Bipartisan House Task Force Report on Artificial Intelligence*, 118th Congress, December 2024, <https://www.speaker.gov/wp-content/uploads/2024/12/AI-Task-Force-Report-FINAL.pdf>.

If all agree that a flourishing domestic AI industry is critical, we should next identify the biggest threat to continued U.S. dominance in the field, namely, government overreach. Alongside the growing patchwork of state level AI regulations, that I would encourage this Congress to preempt (but that's a whole other hearing), the threat of overzealous antitrust regulation looms large.

The default antitrust approach to AI in the U.S. should be one of humility by regulators. However well intentioned, antitrust enforcers are no better than anyone else in foretelling the future and certainly not clairvoyants capable of accurate *ex ante* regulation of a quickly evolving technology like AI. Antitrust enforcement in the tech sector has a particularly poor record. From an abandoned IBM suit that lasted 13 years to a Microsoft case where innovations in the market largely rendered the charges moot, litigating antitrust in the rapidly evolving technology space is especially challenging.²

We can look across the pond to the European Union for an even more cautionary tale in overregulation and excessive antitrust enforcement in the tech space. The result is that the U.S., with its relatively light-touch regulatory regime and consumer-welfare driven antitrust approach, boasts eight of the top ten global tech firms by market cap, with Europe unable to claim even one.³ Currently, the EU has an AI regulatory framework much larger than its AI industry, putting them on the now familiar path to diminished prosperity.

We needn't make the same mistake here. We know what regulatory framework leads to success and can course correct for the harmful antitrust trends of the last four years.

The embrace of a 'big is bad' approach to antitrust enforcement at the prior administration's Federal Trade Commission and Department of Justice must be reversed. It's critical that America's AI ecosystem has both large, established firms, with their vast resources for research and development, and vibrant small start-ups, with their nimbleness and innovations. In many cases, start-ups rely on the expectation of eventually being profitably acquired by large firms to secure early funding.⁴ This is why continued regulatory hostility to mergers and acquisitions is a recipe for stifled AI growth.

We also must return to an economics-based approach to identifying competitive problems should they arise. Whatever challenges outside of measurable economic concerns AI

² Jessica Melugin, "Baseless Federal Investigations Would Stifle America's Pioneering AI Industry, *National Review*, June 21, 2024, <https://www.nationalreview.com/2024/06/baseless-federal-investigations-would-stifle-americas-pioneering-ai-industry/>.

³ "Largest Tech Companies by Market Cap," CompaniesMarketCap, accessed March 27, 2025, https://companiesmarketcap.com/tech/largest-tech-companies-by-market-cap/#google_vignette.

⁴ Jessica Melugin, *Crushing David on the Way to Fight Goliath: How the Federal Trade Commission's War on Bigness Will Also Hurt Small Businesses* (Innovators Network Foundation, May 22, 2024, https://innovatorsnetwork.org/wp-content/uploads/2024/05/INFJESS_FINALPIECE1_JC-1.pdf).

might bring, antitrust law will be the wrong tool for correcting them. Refocusing enforcement on consumer welfare and away from ambiguous and vague social goals will be a productive improvement over the last several years.

But what are the current facts on the ground for the AI competition landscape? So far, competition seems to be thriving. Then newcomer OpenAI had a meteoric rise to popularity with its debut of ChatGPT in November of 2022 and is holding its lead over even the biggest established tech competitors as the most used LLM.⁵ Those tech giants plan to spend more than \$300 billion this year investing in AI technologies, which is not the behavior one would expect from entrenched monopolists insulated from competitive pressures.⁶ And the presence of multiple open-source models, that allow little guys to build on those already established models, ensures beneficial competitive pressure and leaves space for innovation.⁷

The current state of competition in AI is strong. The threat of premature and unwarranted antitrust intervention poses one of the greatest threats to global U.S. competitiveness.

Thank you for this opportunity and I look forward to your questions.

⁵ Lee Rainie, *Close Encounters of the AI Kind: The Increasingly Human-like Way People Are Engaging with Language Models* (Imagining the Digital Future Center at Elon University, March 2025), <https://imaginingthedigitalfuture.org/reports-and-publications/close-encounters-of-the-ai-kind/>.

⁶ <https://www.cnbc.com/2025/02/08/tech-megacaps-to-spend-more-than-300-billion-in-2025-to-win-in-ai.html#:~:text=Tech%20megacaps%20plan%20to%20spend,2025%20as%20AI%20race%20intensifies&text=Meta%2C%20Amazon%2C%20Alphabet%20and%20Microsoft,year%20into%20artificial%20intelligence%20technologies>.

⁷ Mario Zúñiga and Dirk Auer, “Don’t Believe the Hype (on Competition and AI),” Truth on the Market (blog), August 13, 2024, <https://truthonthemarket.com/2024/08/13/dont-believe-the-hype-on-competition-and-ai/>.

Mr. FITZGERALD. Thank you, Ms. Melugin. Mr. Bedoya, you may begin.

STATEMENT OF ALVARO M. BEDOYA

Mr. BEDOYA. Thank you, Chair Fitzgerald, Ranking Member Nadler, Chair Jordan, and the Members of the Subcommittee. Thank you for having me here.

Right now, people think that a successful AI startup needs four things: Chips, cloud, training data, and the people to train those models and deploy them. So, right now, there are races being run to secure access to those four key inputs.

In the time I have with you today, I want to issue three warnings about those races. First, I want to warn that certain agreements between major AI developers and two of the biggest cloud service providers may be limiting the availability of those cloud providers to those smaller innovative startups.

Just this January, FTC issued a staff report. We looked at three partnerships between the major cloud providers and the major AI developers out there. The report showed that cloud providers typically got things you expect, equity, a share in revenue from those AI developers. The agreements also required the AI developers to spend a lot of the investment from the cloud provider on cloud services from the cloud provider.

Now, unfortunately, these kinds of terms may be incentivizing those cloud providers to limit access to their platforms away from AI startups who they're not partnered with. Unfortunately, this is not hypothetical. There were actually—there was actually an internal document from one of those cloud providers that said, quote,

We are unable to serve a growing number of startups who need bursts of graphics processing unit capacity to train and release their models.

So, I agree, we want a world where a scrappy startup can eat a powerful incumbent. We have to ask if these kind of agreements, this kind of vertical integration, is leading us away from that kind of innovation. That's the first warning.

I also want to address the race to collect and retain data because in the race to scrape by access, all kinds of human-generated data, I'm afraid that a lot of AI developers are collecting and keeping data that a lot of us would consider deeply private.

So, here's an example. In 2023, the FTC alleged that, by default, Alexa was keeping recordings of kids' voices forever, and it wasn't just that. Even when parents said, "Hey, Alexa, I want you to delete that," Alexa wasn't doing that; it was actually keeping the transcripts of that information.

Now, anyone who is a parent should stop and ask themselves, what on Earth does my kid need to say to a smart speaker for me to stop everything and say, Oh, no, we need to delete that data. That's not what happened.

Here's a key thing, though. The FTC alleged that one of the reasons Alexa—Amazon gave for retaining that data was their need to train their voice recognition algorithms. So, that's my second warning. We have to remind companies that the need to train your algorithm doesn't override the need to follow the law, including privacy law and kids' privacy law.

Here's the third and last flag. There's been a lot of attention—and I think for good reason—paid to the apparent collection and use of copyrighted works to train models. My colleague, Mr. Chilson, mentioned the Studio Ghibli algorithm that's out. I'm afraid we aren't paying enough attention to the collection and training—of training data about people who are in no way famous. Working people. Let me give you a quick example.

During the actors' strike, a prominent director, Justine Bateman, posted online asking if any extras—these are folks known as background actors—if any of them had ever been asked to submit to body scans on set. Suddenly these stories started pouring in, people saying, yes, I got tapped on the shoulder, I was told to go to this tent, and I stepped in there, and I was scanned 360 degrees, head to toe. I asked why; they didn't tell me. I asked if I was going to get paid; they didn't give me anything. The few people who found out were told, Oh, yes, this is to add you in later if we want to. Of course, at no additional pay.

I'm talking about this because scanning people at their jobs to replace them at those jobs is becoming common outside of Hollywood. So, this is starting to happen in customer service call centers. These are jobs that used to provide high school graduates with a path to the middle class, but now they're rife with surveillance. A lot of that surveillance appears to be aimed at recording the best performers to create algorithms that are marketed as replacements for the workers at those call centers.

So, in closing, I would respectfully urge the Subcommittee to not just look at competition between AIs, but competition between AIs and workers, because it raises some pretty fundamental questions like how do you compete with a digital version of yourself who can work 24 hours a day seven days a week with no break, no vacation, and no benefits? Is it fair to force you to train your AI replacement? Is it fair to force you to do it without your knowledge?

As I explained in my testimony, I think this is a great reason to pass a workplace privacy law.

Thank you again, Mr. Chair, Ranking Member Nadler for the opportunity to testify. I'm glad to answer any questions you may have.

[The prepared statement of Mr. Bedoya follows:]

Testimony of Commissioner Alvaro M. Bedoya¹
For the Hearing:
“Artificial Intelligence: Examining Trends in Innovation and Competition”
Before the
Subcommittee on the Administrative State, Regulatory Reform & Antitrust
Committee on the Judiciary, U.S. House of Representatives
Washington, D.C.
April 2, 2025

Thank you for the opportunity to testify today. The Federal Trade Commission was founded 111 years ago to fight fraudsters and monopolists; over time, that mission has come to include substantial expertise in technology, privacy, and artificial intelligence. It is an honor to testify before the Subcommittee to convey some of the Commission’s work and research in this area, as well as my own concerns about the competitive landscape surrounding artificial intelligence, particularly with respect to labor.

In terms of my own background, I am an attorney with a decade and a half of experience investigating, crafting policy around, and now conducting antitrust and consumer protection work in advanced technology, especially surveillance technology and AI. In the Senate, I served as the first chief counsel to the Senate Judiciary Subcommittee on Privacy, Technology, and the Law upon its founding in 2011; there, I helped craft legislation to rein in surveillance by the National Security Agency, and conducted investigations into the use and abuse of geolocation tracking and face surveillance. At Georgetown Law, I founded a think tank and conducted the first nation-wide survey of police use of face surveillance technology, an investigation that spurred congressional investigations and state legislation. I also taught privacy law, including in an intensive course taught jointly with the Massachusetts Institute of Technology.

Before I begin, I should clarify that these opinions are my own; I am not testifying on behalf of the Commission, my fellow commissioners, or Commission staff.

I have three points I would like to underscore today.

First, we should be wary of market arrangements that may stifle future competitiveness in AI. We want a world where a scrappy startup can eat an incumbent. Unfortunately, a recent staff report issued by the FTC suggests that partnerships between certain prominent AI developers and major Cloud Service Providers (CSPs) may raise competitive barriers to startups.

¹ It is the position of this Administration that I am no longer a commissioner. However, the clear language of the Federal Trade Commission Act and binding Supreme Court precedent prohibits this no-cause removal. *See generally* 15 U.S.C. § 41; *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935). Accordingly, it is my position that, under binding Supreme Court precedent, my termination was unlawful and ineffective and therefore I remain a Federal Trade Commissioner, even though my purported termination is preventing me from conducting the formal duties of a commissioner at this time. Last Thursday, I filed suit with Commissioner Rebecca Kelly Slaughter to clarify our continued status as commissioners.

Second, we should reject the idea that AI is “unregulated.” While it is unquestionably true that our laws must be updated, we cannot forget that a bevy of existing laws, many of which are enforced by the FTC, already govern AI development and deployment.

Third, we cannot just focus on competition between AI companies. We also need to closely track competition between AI and workers, specifically how AI may displace workers in a way that may be unfair, if not anticompetitive. Frankly, I think this is the most important challenge we face today.

(1) We should be wary of market arrangements that may stifle AI startups.

Right now, regulators think that the success of modern AI development turns on the availability of four key inputs:²

- **Chips.** AI developers require advanced chips that are manufactured by a small number of companies.
- **Cloud.** AI developers rely on Cloud Service Providers (“CSPs”), who offer those developers access to specialized chips, as well as a complementary suite of software products, networking, and the infrastructure necessary to operate and integrate these systems.
- **Data.** AI developers train foundation models on vast quantities of data, and there are indications that data generated by AI is inadequate for this purpose.³ Therefore, there is a race to secure access to ever-larger troves of data.
- **Personnel.** AI developers are highly skilled experts who are in very high demand.

In my view, market arrangements which let powerful incumbents block or restrict startups’ access to these resources should be watched carefully for compliance with our antitrust laws.

In January, the Commission issued a staff report on three corporate partnerships between the largest CSPs – Google, Amazon, Microsoft – and two of the most prominent generative AI developers – Anthropic and OpenAI. Specifically, the FTC studied these three partnerships: Microsoft-Open AI, Amazon-Anthropic, and Google-Anthropic.⁴

The report describes some of the key features of the partnership agreements, some of which were not previously public. These include the facts that the partnerships (1) provide CSP partners significant equity and certain revenue sharing rights in their AI developer; (2) provide those partners varying degrees of consultation, control and exclusivity rights with respect to their

² See generally Office of Technology Staff, “Partnerships Between Cloud Service Providers and AI Developers: FTC Staff Report on AI Partnerships & Investments 6(b) Study,” Federal Trade Commission, January 2025 (“FTC Staff Report”) at 8-16; U.K. Competition & Markets Authority “AI Foundation Models Review: Short Version,” Sept. 18, 2023, at 2.

³ See Iliia Shumailov et al., “AI models collapse when trained on recursively generated data,” *Nature* 631 (2024),

⁴ See generally, FTC Staff Report.

AI developer partners; and (3) include certain commitments to require AI developers to spend a significant amount of the CSP partners' investment on cloud services from that company.

The report also outlined a number of potential competition implications that could possibly arise from these various partnerships, including the fact that the partnerships could increase switching costs for AI developers, and the fact that the partnerships could provide CSP partners access to sensitive technical and business information that may be unavailable to others.

But I am most concerned by the report's conclusion that the three partnerships may impact startups' access to certain key inputs, especially cloud computing resources. For one thing, the partnerships between CSPs and AI developers may incentivize CSPs to restrict access to computing resources to AI developers other than its partner.⁵

The report also surfaced indications that computing resources at those CSPs are growing increasingly scarce. "[W]e face a problem today where scarce GPU resources are being disproportionately used by a few large customers who are getting steep discounts," one CSP wrote in internal documents, further warning about "hoarding behavior."⁶

Another document made clear who may be most impacted by this scarcity: Startups. "We are also unable to serve a growing number of startups who need bursts of GPU capacity to train or fine tune deep-learning models and bring their Generative AI products to market, but can't commit to long-term deals," wrote one CSP in internal documents.⁷

Speaking personally, the fast and surprisingly rigid vertical integration that has developed between CSPs and major AI developers reminds me of another area where vertical integration promised great benefits but appears to have fallen short: Health care. Yet, according to a separate FTC Staff Report, the vertical integration of insurers, pharmacy middlemen, and pharmacies into three vertical stacks may actually have led to a range of anti-competitive outcomes, including dramatically higher prices for certain critical cancer medications.⁸

With health care, Americans learned the hard way that bigger is not necessarily better. My hope is that the same trend does not leave small American technology startups out in the cold.

(2) We should reject the idea that AI is unregulated.

There is a powerful myth in the media that AI is "unregulated." It has a certain intuitive appeal. Frankly, it just sounds right: How could these mysterious new technologies be regulated under our dusty old laws?

⁵ See FTC Staff Report at 30-31.

⁶ *Ibid* at 30.

⁷ *Ibid* at 31.

⁸ See generally, Staff Report, "Specialty Generic Drugs: A Growing Profit Center for Vertically Integrated Pharmacy Benefit Managers," Federal Trade Commission, Jan. 2025. See also Alvaro M. Bedoya, "Return to Fairness," Midwest Forum on Fair Markets, Sept. 22, 2022, at 3-4 (describing process of vertical integration).

If you’ve heard this, or even said it, I urge you to take a step back and ask: Who does this idea help? As I have said before, I think that this idea that “AI is unregulated” helps that small subset of companies who are uninterested in compliance.⁹

The reality, of course, is that lots of laws *do* apply to AI; there is no AI exception to the law. Unfair and deceptive trade practices laws apply to AI. The FTC’s core section 5 jurisdiction extends to companies making, selling, or using AI. If a company makes a deceptive claim using (or about) AI, that company can be held accountable. If a company injures consumers in a way that satisfies our test for unfairness when using or releasing AI, that company can be held accountable. Indeed, FTC staff have pioneered powerful remedies, preventing companies from training AI models on ill-gotten data,¹⁰ and requiring companies to substantiate claims about AI safety and efficacy.¹¹

There are two important cases that highlight the FTC’s work to rein in abuses and misuses of AI. First, in December 2023, the FTC banned Rite Aid from using face recognition technology.¹² Rite Aid had tried to use facial recognition to “drive and keep persons of interest out of [its] stores.” But it failed spectacularly.

In one incident, a Rite Aid employee stopped and searched an 11-year-old girl because of a false match. The girl’s mother reported that she missed work because her daughter was so distraught about the incident. In another incident, Rite Aid employees called the police on a customer because the technology generated an alert against an image that was later described as depicting “a white lady with blonde hair.” The customer was Black.

Many other customers – people shopping for food, medicine, and other basics – were wrongly searched, accused, and expelled from stores. Sometimes, they were humiliated in front of their bosses, coworkers, or families.

The Commission alleged that its system produced thousands of incorrect matches. This shouldn’t have been surprising, given the FTC alleged that the company used low-quality images that were unsuitable for automated analysis, and failed to take the most basic precautions.

The FTC’s order flat-out banned Rite Aid from using face surveillance for five years, and required deletion of biometric data collected in connection with the operation of the system. Going forward, if Rite Aid ever decided to take up such a system again, it would have to let people contest their entry into the system, and conduct robust testing, among other things.

⁹ See generally Alvaro M. Bedoya, “Early Thoughts on Generative AI,” Prepared Remarks Before the International Association of Privacy Professionals, April 5, 2023.

¹⁰ The FTC’s actions against Ring, Edmodo, Avast, EverAlbum, and Kurbo/Weight Watchers are notable in this respect. All of the materials relating to these actions are available on the FTC’s website at www.ftc.gov.

¹¹ See the FTC’s actions against CafePress, Drizly, Chegg, Cerebral, Premom, BetterHelp, Kurbo/WeightWatchers, IHealth.io/Vitagene, Blackbaud, and Global Tel*Link, available at www.ftc.gov.

¹² See Federal Trade Commission, “Rite Aid Banned from Using AI Facial Recognition After FTC Says Retailer Deployed Technology without Reasonable Safeguards,” Dec. 19, 2023; Alvaro M. Bedoya, “Statement of Commissioner Alvaro M. Bedoya on FTC v. Rite Aid Corporation & Rite Aid Headquarters Corporation Commission,” File No. 202-3190, Dec. 19, 2023.

Second, in May 2023, the FTC forced Amazon Alexa to delete kids' voice recordings and associated data.¹³ The Commission alleged that when parents asked Amazon to delete their kids' Alexa voice data, the company did not delete all of it, apparently keeping the transcripts of those conversations. The Commission also alleged that, as a default, Amazon kept child voice recordings indefinitely in violation of federal law, including the Children's Online Privacy Protection Act.

Why did the company do this? According to the FTC, one of the reasons given by Amazon to justify the retention of children's voice data was that the data was important to further refine its voice recognition algorithm.

Right now, AI developers are in a race to acquire ever-larger troves of personal data to train their models. This case sends a clear message to tech companies of all kinds: Training AI is no excuse to break the law.¹⁴

(3) We cannot just focus on competition between AI companies. We also need to closely track competition between AI and workers.

My first two points focused on the FTC's prior research and enforcement actions. Here, I want to highlight an area that I think is ripe for close scrutiny – and likely legislation – in the future.

There has been extensive discussion, and now litigation, around generative AI developers' decision to train their models on large bodies of copyrighted written works. There has been comparable attention to the use of AI to produce music or visual art that mimics (or apes) the style of an artist whose work that AI has been, without authorization, trained on.¹⁵

I wholeheartedly support efforts to protect the copyrighted work of authors, musicians, and artists. That said, I would like to warn about another closely related trend that has gotten far less attention: The use of AI to scan and replicate the work of working people you've likely never heard of.

¹³ See Federal Trade Commission "FTC and DOJ Charge Amazon with Violating Children's Privacy Law by Keeping Kids' Alexa Voice Recordings Forever and Undermining Parents' Deletion Requests," May 31, 2023; Alvaro M. Bedoya, "Statement of Commissioner Alvaro M. Bedoya Joined by Chair Lina M. Khan and Commissioner Rebecca Kelly Slaughter In the Matter of Amazon Alexa, *United States v. Amazon.com, Inc.*," May 31, 2023.

¹⁴ The FTC has also filed a series of other cases involving what one might consider more traditional fraudulent or deceptive practices. For example, the FTC took action against DoNotPay, a company that claimed to offer an AI service that was "the world's first robot lawyer," even though the product failed to live up to its lofty claims that the service could substitute for the expertise of a human lawyer. The FTC also filed a lawsuit against an online business opportunity scheme that it alleges has falsely claimed its "cutting edge" AI-powered tools would help consumers quickly earn thousands of dollars a month in passive income by opening online storefronts. According to the complaint, the scheme has defrauded consumers of at least \$25 million. See Federal Trade Commission, "FTC Announces Crackdown on Deceptive AI Claims and Schemes," Sept. 25, 2024.

¹⁵ See, e.g. Federal Trade Commission, Comment on Artificial Intelligence and Copyright, Docket No. 2023-6, Oct. 30, 2023 at 5-8 (reviewing issues with AI and copyrighted content). See also U.S. Copyright Office, "Copyright and Artificial Intelligence, Part 1: Digital Replicas," July 2024.

Twenty years ago, the martial artist Jet Li was offered a plum role in one of *The Matrix* sequels – but he declined it. He later explained that the producers had demanded that, as part of that role, he submit to a battery of head-to-toe scans while he performed various martial arts routines. The subsequent data would be the property of the company that made the film, an outcome he did not find acceptable.¹⁶

His account is jarring. But what jumps out at me is that he was told the job would involve body scanning, he was told who would scan him, and who would own the data – and he was given the option to accept or decline.

A few months ago, I heard an NPR interview with a relatively unknown performer – a modern motion actor named Jasiri Booker. He was one of the movement actors used to create Spider-Man for the video game adaptation of the Marvel movie franchise.

Mr. Booker's job was to spend hours and hours on set in a full bodysuit covered in bright reflective sensors, performing parkour, capoeira, or break dancing. And even though he was doing precisely what Jet Li was asked to do, Mr. Booker had no idea what was happening to his data.

Mr. Booker, who was on strike at the time, told NPR that “[o]ur ask is not that they don’t use AI altogether. We’re saying, at the very least, please inform us and allow us to consent to the performances that you are generating with our AI doubles.”¹⁷

It’s not just motion actors. Social media around the time of the actors’ strike was full of stories of background actors – so-called “extras” – who were tapped on the shoulder and told to submit to full-body scans – often with no notice, no contracts, no extra pay, and next to no information about how that data would be used in the future. The few actors who were informed that the scans would let the film company add them into a scene at a later date – for no pay, of course.¹⁸

But critically, this isn’t just happening to actors and other creative professionals. Historically, American customer service call centers have been one of the few professional tracks that offered high school graduates a reliable means through which to access the middle class. Recently, however, these jobs have been pervaded by various surveillance technologies, including AI-powered technologies that tell even seasoned operators what to say, how to say it, and when to say it. The *average* American call center employee is tracked by five separate surveillance technologies.¹⁹

¹⁶ See Alvaro M. Bedoya, “Your body, your work? Hollywood is scanning actor’s moves. What that could mean for the rest of us,” *L.A. Times*, Sept. 4, 2023.

¹⁷ See Mandalit del Barco, “Video game performers want protections from artificial intelligence,” *National Public Radio*, Aug. 28, 2024.

¹⁸ See, e.g., @JustineBateman, Aug. 16, 2023, <https://x.com/justinebateman/status/1691873571319201812?s=46>.

¹⁹ See generally Alvaro M. Bedoya, “Life in Hawtch-Hawtch: Unfairness in Workplace Surveillance and Automated Management,” Remarks for the New York University Wagner Labor Initiative, Nov. 17, 2024.

Recent reporting and research suggests that some of the algorithms used in call centers were trained on “thousands of hours of audio” from calls of current call center workers.²⁰ “Am I training my replacement?” one call center worker wondered aloud to *The New York Times*.²¹ These concerns are not hypothetical; a CVS executive recently told the *Wall Street Journal* that the company would seek to have more and more customer questions answered by AI-fueled applications.²²

Technology is replacing workers through automation. It already regulates them. In the not too distant future, it will *replicate* them. Here are some questions I urge the Subcommittee to consider: How do you compete with a digital version of yourself who can work 24 hours a day, 7 days a week, with no breaks, no benefits, and no vacation? Is it fair to force you to train your AI replacement? Is it fair to have you do it without your knowledge?

Workers need strong, bright line protections against this conduct – and they need them now. Right now, there are two roads to get those kinds of protections. The first is collective bargaining. The Screen Actors Guild won strong protections to ensure that digital replicas would not be made of actors without their knowing about it, agreeing to it, and being paid for it.²³ The Communications Workers of America have made sure that emotion analysis software can’t be used to punish or discipline their workers.²⁴

The second path is through the passage of a workplace privacy law. How can it be that when I sit at home and buy something with my credit card, turn on cable, or watch a show online, privacy laws may govern that data; but when I go to work, seemingly anything goes? How can it be that people show up at work with no idea who will scan them and measure them and analyze them, with no control over those processes and no idea of how that data will be used?

This legislation could be developed arm-in-arm with representatives from organized labor, to ensure it is responsive to workers who actually experience this tracking. And it should include protections not just on data collection and sharing, but also algorithmic management.

Thank you for the opportunity to testify before the Subcommittee today. I would be glad to answer questions about these or any other matters

* * *

²⁰ See Josh Dzieza, “How hard will the robots make us work? In warehouses, call centers, and other sectors, intelligent machines are managing humans, and they’re making work more stressful, grueling, and dangerous,” *The Verge*, Feb. 27, 2020 (“A Voci spokesperson said the company trained its machine learning program on thousands of hours of audio that crowdsourced workers labeled as demonstrating positive or negative emotions.”); Virginia Doellgast, Ines Wagner & Sean O’Brady, “Negotiating Limits on Algorithmic Management in Digitalized Services: Cases from Germany and Norway,” *Transfer: European Review of Labour and Research* (2023) at 112 (describing a call center where all calls are recorded to “train chatbots”).

²¹ See Emma Goldberg, “‘Training My Replacement’: Inside a Call Center Worker’s Battle with A.I.,” *N.Y. Times*, Jul. 19, 2023.

²² Isabelle Bousquette, “Inside CVS’s Strategy to Improve the Pharmacy Experience,” *The Wall Street Journal*, June 20, 2024.

²³ SAG-AFTRA, “TV/Theatrical 2023: Regulating Artificial Intelligence,” https://www.sagaftra.org/sites/default/files/sa_documents/AI%20TVTH.pdf.

²⁴ See CWA Issue Brief: Protections Against Abusive Monitoring, https://cwaunion.org/sites/default/files/protections-against-abusive-monitoring_cwa-issue-brief.pdf

Mr. FITZGERALD. Thank you very much, Mr. Bedoya.

I'll now proceed under the five-minute rule with questions. I'm going to recognize myself.

In recent remarks at the AI Summit in Paris, Vice President JD Vance stated that AI presents the extraordinary prospect of a new industrial revolution, but it will never come to pass if overregulation deters innovators from taking the risks necessary to advance the ball. He was referring to the European Union's Digital Markets Act, and AI Act.

Ms. Melugin, why would replicating Europe's heavy-handed regulation of AI in the U.S. certainly be maybe unwarranted, or even premature?

Ms. MELUGIN. It's kind of the European Union to have run this experiment for us. It has not gone well. Their first big attempt at digital regulation, the GDPR ended up hurting the entire industry, but mostly hurting the little guy disproportionately, which we would see the same here with a lot of the regulatory moves. The big entrenched accused monopolists, or just market leaders, depending on your perspective, might have the resources to comply with a lot of those regulations, but the runway is not clear for the next big success story.

That's what you have to keep in mind, that a lot of times, the companies that have a seat at the table might be able to make this work, but we don't know what's being developed in someone's garage right now that can be the next big thing. That goes to the general approach in Europe, which has been that if you're chilled in your innovation by worrying that everything you do, every new business arrangement, every new idea could be running afoul of one of the many—the DMA, the DSA, and the GDPR, it just has an overall chilling effect on that industry, and, of course, relatedly, on investment in that industry.

Frankly, the U.S. really doesn't have that time. If China—I don't think it's an overstatement to say they're nipping at our heels in terms of the AI race. What those companies and those industries are doing in China is not the regulatory framework you see in the U.S., but it's also very much not the one you see in the EU. It's no coincidence that you find all three of those segments in a different order of success. We want to make sure we keep ourselves out front.

As I said in my testimony, the European Union doesn't have one of the top 10 global businesses. Again, that's not to say that the small companies aren't important, too, to develop here in the U.S. You certainly need the scaling abilities of large companies, the research and development resources of these large companies. You want a healthy ecosystem with the big guys and the small guys. Adopting a European approach won't allow that to happen at either level here in the U.S.

Mr. FITZGERALD. The Netherlands-based software firm, Bird, which has been recognized kind of globally at this point, is moving out of the EU as a direct result of the AI Act. What they said was that Europe regulators are just killing innovation within the EU.

You think there's lessons already that can be learned here in the States from what we've witnessed on some of these examples of what's transpiring overseas?

Ms. MELUGIN. Yes. I don't even think you have to abstract very much. The EU AI Act that those regulators bragged about being the first to regulate AI—which to some of our ears, doesn't sound like something to brag about—means that a lot of the U.S. companies that rolled out AI products that consumers have found incredibly useful, have been very popular here in the U.S., they were delayed in Europe because they weren't sure that they could comply with all the rules and regulations.

At the worst-case scenario, you don't get those innovations, constituents don't get those services and those tools. The best-case scenario is that they're delayed because of regulatory overview. Again, that's an example where the little guy who is innovating something new maybe doesn't have the team of lawyers that the big guys do. I don't think we want to set up that dynamic here in the U.S.

Mr. FITZGERALD. Very good. Mr. Coniglio, you just cautioned against overregulation in your testimony. You note that robust antitrust enforcement promote customer welfare and innovation to remain a policy focus. Can you just elaborate kind of further on that point?

Mr. CONIGLIO. Absolutely. Thank you for the question.

Ms. Melugin pointed out the lessons we learned from regulation. I will note, the U.S. also has some lessons that it learned from deregulation about how deregulation can spur economic growth and innovation. There's also a very important story to tell regarding competition policy, and specifically, two different approaches that were taken over the past 40 years between America and Europe on competition policy.

At a high level, Europe's approach was very much focused on protecting competitors. It wanted to see markets where there were a lot of small firms. America's approach was focused on not condemning size in and of itself but focusing on consumer welfare and innovation.

If you look most recently at the Draghi report that was issued in Europe, it was very clear that the digital revolution that happened in America has really driven the productivity gap between the United States and Europe that's occurred. Antitrust is not the sole reason for that, but I think it's part of the reason. Because if you have an antitrust policy that's not conducive to innovation and consumer welfare, and instead, focusing on protecting small competitors, you're not going to see the dynamic innovation competition that's really driven the digital industry in America, and which, in part, large firms can also play a big role in driving that innovation.

Mr. FITZGERALD. Thank you very much. My time has expired.

I'm going to recognize the Ranking Member, Mr. Nadler, for five minutes.

Mr. NADLER. Thank you, Mr. Chair.

Commissioner Bedoya, one of the many areas in which the Federal Trade Commission has distinguished itself in its groundbreaking activity to combat anticompetitive practices in the pharmaceutical industry. Whether it's the pay-for-delay cases or efforts to fight misuse of the FDA publication called the Orange Book, the FTC has been at the cutting-edge.

That's why I was so disturbed to see that yesterday, the FTC's general counsel stayed the administrative adjudication of the com-

missioner's case against the three largest pharmacy benefit managers over the price of insulin. The effort to bring down prices for consumers is just one example of the work you were doing before President Trump attempted to remove you from office.

Can you explain the costs to be borne by consumers associated with the President's unlawful attempt to fire you and Commissioner Slaughter?

Mr. BEDOYA. Thank you, Ranking Member Nadler. Maybe I can just talk about this case. I'm pretty sure everyone in the room cares about the cost of insulin. This is a case where FTC staff is alleging that these pharmacy middlemen—they're called PBMs, pharmacy benefit managers—are competing not to lower the price of insulin, which is how markets normally should work, they allege instead that these pharmacy middlemen are competing to raise the price of insulin.

Commissioner Slaughter, who I'm joined—

Mr. NADLER. Competing or colluding?

Mr. BEDOYA. Pardon me? I didn't hear the first part—

Mr. NADLER. Competing or colluding?

Mr. BEDOYA. What was the first—beating or colluding?

Mr. NADLER. Competing or colluding?

Mr. BEDOYA. Competing. The allegation in the complaint is there's competition to raise the prices.

I'm joined by Commissioner Slaughter. She and I are the only judges who are presiding over that case in an appellate manner because our colleagues, Chair Ferguson and Commissioner Holyoak, are both recused.

Now that it's the administration's contention that we are removed, there are no judges to adjudicate that case. The pharmacy middlemen have moved to stay it. That move—that stay was granted—that request for stay was granted yesterday, and this case won't be adjudicated for at least another 105 days. That's 3½ months. The evidentiary hearing, I understand, will occur even later.

Basically, it's permanent—not permanently, but indefinitely on ice, and I don't think anybody wins from having a case like that not adjudicated.

Mr. NADLER. Thank you. We know that, unfortunately, one of the ways new technologies is deployed is to find ways to break the law. Is computer-generated pricing or algorithmic pricing being deployed to violate the antitrust laws, and what can the FTC do about it?

Mr. BEDOYA. One of the things we're hearing a lot are allegations that, instead of outright colluding—to use your term—just sitting down in a smoky room like the Beef Trust did in Chicago in the early 1900s and just set prices.

What a lot of competitors are doing is saying, Oh, no, no, we compete, but we happen to use the same algorithmic pricing software. Although there are allegations, for example, in the RealPage lawsuit from DOJ that they are, in fact, also picking up the phone and just straight up colluding, increasingly what you see are cases where they just use the same software. This is absolutely a core concern.

The FTC has issued various requests for information around aspects of this. We issued an interim report around algorithmic pricing in January, and it's something we need to continue to track closely.

Mr. NADLER. Thank you. We all recognize that AI carries with an enormous potential, as well as possible perils. We also all recognize that it's a field that continues to develop often at a rapid clip.

Can you explain why the FTC's involvement in evolving industries, even while they're undergoing changes, is a good thing?

Mr. BEDOYA. Absolutely. I understand folks who say, "You don't want too aggressive antitrust enforcement, that's a bad thing." For me, the case that jumps out is the case you mentioned, the proposed Nvidia-Arm merger. Nvidia is a chip supplier, Arm is a chip designer; it's a vertical deal. Arm was valued at the time of that deal at \$40 billion. FTC sued. They dropped that merger. As of 9:58 this morning, Arm was valued at \$114 billion.

The answer to your question, Congressman Nadler, is that's so the market can continue to evolve; so that scrappy startup can access all of these critical resources that the companies like these provide without the limitations like the ones I referenced in my opening statement where the incumbents are getting locked in and startups are getting squeezed out.

Mr. NADLER. Thank you.

Finally, fields of law—all fields of law can and should evolve over time. In recent years, there's been increased attention as to how competition affects not only consumers, but also workers.

With that perspective in mind, how should we be thinking about how AI might impact the American workforce?

Mr. BEDOYA. I would say the biggest thing people are not talking about is the need for some kind of protection for workers in the workplace so that they just can't be scanned head to toe and replaced by algorithms. This isn't no longer a thing from Hollywood. This is something you're seeing in jobs like call centers, online therapy, et cetera.

Mr. FITZGERALD. Gentleman's time has—

Mr. NADLER. My time has expired. I yield back.

Mr. FITZGERALD. I now recognize the gentleman from Texas, Mr. Gooden.

Mr. GOODEN. Thank you. Ms. Melugin, the Biden Administration passed sweeping Executive Orders on AI which weren't authorized by any congressional action or directive.

Do you think the previous administration bypassed Congress and micromanaged AI development without public accountability?

Ms. MELUGIN. Yes.

Mr. GOODEN. Would you like to comment further?

Ms. MELUGIN. Sure. I do. I think that it's a perfect example of the rush to regulate. What you are doing here today is having a very constructive conversation about one aspect of AI, and that's to be applauded.

Coming out with an EO that puts large restrictions on how people are allowed to innovate, testing, rules that haven't really been put through either the common-law process in the courts or a congressional process is always a mistake. Even if I had agreed with the rules that were there, I wouldn't support it. I didn't. The lifting

of that executive order with the current administration is generally a very positive step.

Mr. GOODEN. What role should Congress play, in your mind, in ensuring that AI governance reflects competitive neutrality, market dynamics, and constitutional accountability?

Ms. MELUGIN. As I somewhat snarkily mentioned in my testimony, I do think that the biggest thing Congress could do would be to consider preempting the rush of State regulations on AI. I think there's very well-intentioned State legislators. They see that Congress isn't moving on this. They want to do something.

A patchwork of potentially 50-plus different regulatory regimes for AI is the kind of hurdle that could really slow U.S. innovators down, and certainly not the kind of hurdle that they're facing in China. It's an infinitely, like, unpolitically satisfying answer, but I think Federal preemption should be something serious lawmakers consider.

To the antitrust question that we're talking about today, let's wait and see until what problems arise, and also, what laws and tools are already on the books that regulators and lawmakers can use to react to those problems. Price fixing is still price fixing, whether it's done in a smoky room with meat—which actually sounds kind of great, the meat part.

Mr. BEDOYA. The meat wasn't—

Ms. MELUGIN. The meat wasn't—OK. It was a good visual, though. I want to give you full credit for that—or done with AI technology in an algorithm. These things are still illegal. Fraud is still illegal whether it's—whatever kind of technology you use.

Taking things on a case-by-case basis is a smarter approach to not making the mistake of overregulating and hurting innovation in the U.S.

Mr. GOODEN. You mentioned China. Do you feel—where do we rank in terms of attracting investors, and are we doing better or worse than China with respect to AI?

Ms. MELUGIN. Well, I think the structure is so different, right? Happily, it's private investment here in the U.S. for the most part. China is pouring billions of dollars into these technologies, and I do think that without tying one arm behind our back, my money is on the U.S. I would innovate always.

I do think that this State patchwork of regulations or unwarranted and overzealous antitrust intervention could put us at a real disadvantage. We've been saying, there's different points along the AI ecosystem. It's hard to give you one answer about all of it, but it's a close race.

Mr. GOODEN. Thank you. Yield back.

Mr. FITZGERALD. Gentleman yields back.

Gentleman from California is now recognized for five minutes.

Mr. CORREA. Thank you, Mr. Chair. I want to welcome our witnesses today.

Every day in the newspaper, something new with AI, new developments, new companies, competition, innovation, medicines, new medicines, drug developments, manufacturing, and supply chains. A lot of good stuff. I do believe we need guardrails, but they have to be guardrails that don't harm innovation or harm American firms.

The U.S. right now, we, the United States, still lead the world, used to be by a couple of years. Now, it's maybe two months, maybe couple of weeks, compared to China.

Mr. Chilson and Mr. Coniglio, if I can ask each one of you a yes-or-no question. Gentlemen, would you say that university research played an enormous role in developing AI? Yes, no?

Mr. CHILSON. Yes, over the 40 years.

Mr. CORREA. Mr. Coniglio?

Mr. CONIGLIO. Yes, I would say the same.

Mr. CORREA. If you look at this chart, you can see that it is, in fact, true. Private companies are developing and investing in AI.

Second question, gentlemen: The future workforce, training that AI workforce, research still happening at universities, correct?

Mr. CHILSON. I think some of it. Lots of companies—

Mr. CORREA. Some of it. OK. Mr. Coniglio?

Mr. CONIGLIO. I would agree.

Mr. CORREA. If we cut out funding for university research today, are we damaging the American pipeline, students—future students who become leaders in AI, fundamental research, are we hurting ourselves by cutting off university research funding? Mr. Chilson, Mr. Coniglio? Yes, no?

Mr. CHILSON. I'm honestly not sure.

Mr. CORREA. Mr. Coniglio?

Mr. CONIGLIO. I would certainly say that funding from universities is very important to drive innovation. That's true generally, yes.

Mr. CORREA. I say that in the context of our main competitor, which is China, which are essentially doubling down their investment in this area. That's well-established; that's well-known.

Now, let's look at this chart of some of the top AI companies. Data from 2023. Many of these firms are started by immigrants. This is in 2023. Can you imagine the number of immigrants started AI firms for 2024? Probably a whole lot more. This doesn't even reflect major tech started by Sergey Brin of Google or Elon Musk.

So, gentlemen, another question for you. Do you agree that immigrants have played a huge role in developing and advancing technology in AI sectors? Yes, no?

Mr. CHILSON. Absolutely.

Mr. CORREA. Mr. Coniglio?

Mr. CONIGLIO. Yes.

Mr. CORREA. This country—we really want immigrants in this country who can contribute to innovation, and we don't want to scare them away, have them go to Canada, China, India, not even come to this country. Would you say that's—yes, no, Mr. Chilson?

Mr. CHILSON. America is the best place to do AI in the world.

Mr. CORREA. Mr. Coniglio?

Mr. CONIGLIO. I would agree we need to keep America an AI leader and use all tools we can to make that happen.

Mr. CORREA. Over the last 50—more like 100–200 years, America has always attracted the best and brightest from around the world because they know opportunities in this country exist.

I agree that overregulation, misplacement of antitrust enforcement can harm AI, can harm this country's companies as they seek to compete with China. I'll tell you, looking at this administration's

policies of cutting research funding to universities, scaring immigrants away from studying or creating new companies in the U.S., creation of unstable markets through tariffs, these three factors, in my opinion, are going to hurt this country even more; long-term damage, long-term damage to our leadership, and our economy in the future. I do hope we begin to focus on what's made this country great, what helped us in the last 50 years innovating, leading the world because we can't afford to lose the AI race.

Thank you very much, Mr. Chair, and I yield.

Mr. FITZGERALD. Gentleman yields.

Mr. CORREA. Can I add some articles for the record?

Mr. FITZGERALD. Gentleman is recognized.

Mr. CORREA. Chair, I'd like to ask unanimous consent to introduce the following articles:

- (1) "China's top universities expand enrollment to beef up capabilities in AI."
- (2) "65 percent of top AI companies have immigrant founders."
- (3) "Trump's science policies pose long-term risks," New York Times, March 31st.
- (4) "Trump administration has begun a war on science researchers," New York Times, March 31st.
- (5) "China leads the world in generative AI adoption."
- (6) "Former Google employees create 14 of the top 50 AI startups."
- (7) "Trump loves AI, but his tariffs ramp up costs for data centers."
- (8) "Apple chip engineers return to China. Joins Fudan University amid push for talent."
- (9) "Immigrant entrepreneurs bring jobs and innovation," Forbes, May 23, 2024.
- (10) "From underdog to genius, Yale computer scientist, Sun Huanbo, returns to China."
- (11) "Tech companies are telling immigrant employees on visas not to leave the U.S."

Thank you, Mr. Chair.

Mr. FITZGERALD. Without objection.

Mr. FITZGERALD. The gentlewoman from Wyoming is now recognized for five minutes.

Ms. HAGEMAN. Thank you. China is trying to control the global AI sector through extensive state-directed investments, aggressive subsidies, and protectionist trade measures. It is making substantial investments to secure its global position through initiatives like Made in China 2025 and the New Generation Artificial Intelligence Development Plan.

Mr. Chilson, how might China's government subsidies and protectionist policies affect global competition in AI?

Mr. CHILSON. China's model for AI innovation is very different than the U.S. It's largely State-sponsored. It is driven through a structure that is designed to make sure that the Chinese Communist Party has its finger in everything, and it means that the end result is designed from the top ecosystem. They pour a lot of money into this, and they have talented people, and so they do

have surprises occasionally. The deep seek AI model that came out, they can get a lot done with that model.

Ultimately, however, the U.S. model, if we don't tie one or both hands behind our back, is going to win in this space, because we have the talent, we have the investment, and we have the ecosystem that rewards trying new things out and seeing if they work. I worry a lot about China. I think modeling our—and this is why I was a little bit confused about the university question. A top-down investment model that tries to look like China is not the right model for the U.S.

Ms. HAGEMAN. I'm glad to hear that, and I'm also excited to hear about your optimism, because what would be the strategic consequences if China achieved dominance in the global AI space?

Mr. CHILSON. Well, there's a lot of different consequences. We can just look at cultural ones. We can look at strategic national security ones, and those are the ones that raise the most eyebrows.

Ms. HAGEMAN. Can you give me some examples?

Mr. CHILSON. Yes. This technology is very powerful, both in an offensive and defensive manner for cybersecurity, so both to defend from cybersecurity attacks and to cause them, and so, being ahead in that race matters a lot. A lot of our infrastructure in the U.S. obviously is—needs to be strong against those types of attacks, and I think that AI has a huge potential to be a defensive barrier to those types of things, but we need to stay ahead in the race.

Ms. HAGEMAN. Well, I agree with you on that as well. This Committee has observed with concern harmful policies also coming from the EU on privacy, antitrust censorship, and more. Now, the Artificial Intelligence Act will impose significant compliance costs on affected companies, particularly American businesses that play a pivotal role within the AI sector.

Mr. Coniglio, how should we, as Members of Congress, be concerned about the impact of this framework on our constituent businesses, and are there specific ways in which the EU regulations might disadvantage smaller American AI companies as compared to larger firms?

Mr. CONIGLIO. Thank you very much for the question, Congresswoman. I would say we should be very concerned about the regulatory approach that the European Union is taking, not just with the AI Act. One of the things I would say they did learn from the GDPR is now to do regulation that targets American firms, specifically, so that they don't burden their smaller firms with regulation. That's really been the lesson with the DMA, which is absolutely disproportionately having very harmful effects on American businesses, really our tech leaders, and it was intended to do so. As I recall a letter from Chair Jordan, starting to investigate those practices is very important and something we need to continue to do.

Ms. HAGEMAN. Do you have recommendations as to what Congress specifically ought to do in this space?

Mr. CONIGLIO. It's a very complicated area. I would note with respect to potential legislation; in Korea, there was a proposed bill by Representative Miller, I believe, to talk about potential tools in a trade area that could be used to the extent that regulations are being basically weaponized as de facto protectionist policies against

American companies, and I think that might absolutely be the right framework to think about it.

Ms. HAGEMAN. OK. Mr. Chilson, in your testimony, you cite how competition is robust and global across all layers of the AI stack. How should Congress consider protecting American companies in such an environment, or is such a policy even achievable or worthy of consideration?

Mr. CHILSON. American companies lead the world in this, so I don't know that they need protection from Congress, but what they do need is the ability to continue to innovate, build, get the supplies and the data that they need, and there's a lot in the regulatory space that Congress could work on. In particular, we've mentioned it a couple times, but one of the biggest threats is well-intentioned, but often very abstract and not well-developed, state-level regulation, which could limit a lot of this innovation.

Ms. HAGEMAN. So, preemption is important?

Mr. CONIGLIO. I think it's very important.

Ms. HAGEMAN. Thank you, and I yield back.

Mr. FITZGERALD. Gentlewoman's time has expired and now—

Mr. NADLER. Mr. Chair, I have a unanimous consent request.

Mr. FITZGERALD. Gentleman is recognized.

Mr. NADLER. Thank you. Mr. Chair, I'd like to enter in the record an article "AI Watch Global Regulatory Tracker" that details how many more regulations than the U.S. does on AI development and deployment.

Mr. FITZGERALD. Without objection.

Mr. FITZGERALD. The gentlewoman from Vermont is now recognized for five minutes.

Ms. BALINT. Thank you, Mr. Chair.

Commissioner Bedoya, thank you so much for being here, and Commissioner Slaughter, it's really nice to see you. Commissioner Bedoya, as commissioner at the FTC, your experience of competition, artificial intelligence, and how these things affect everyday people is extremely important to this discussion. We all understand that we're in the early days of what may be a massively transformational technological moment. It's plausible that this may be like the emergence of the internet, the mobile phone, or really even electricity. It's so important that we don't lose sight of the central point here, which is how does this technology help or hurt working people? That's what I'm focused on.

Commissioner Bedoya, you spent a great deal of time as FTC commissioner outside of D.C. traveling around the country, hearing from people, and I want to know, have you heard a sense of concern from people, working people, about how AI is impacting their lives?

Mr. BEDOYA. Sure. I confess a lot of my roundtables are focused on groceries, pharmacy, and that kind of thing.

Ms. BALINT. Everyday costs.

Mr. BEDOYA. What's that?

Ms. BALINT. Everyday costs.

Mr. BEDOYA. Everyday costs, that's right. I will say a couple things on this. A lot of people look at what happened around the actors and writers strikes and they say, "Oh, that's just a Hollywood thing," but entry level actors and entry level writers don't

make that much money, and you had situations where people were quite worried, and with good reason, that the cost of selling your first script was going to be to submit all your work to be fed into one of these AIs so that there would be no need to hire you in the future.

I also do think there have been a lot of concerns, my colleague Commissioner slaughter has done a roundtable on this, on the use of price fixing algorithms in rental housing markets.

Ms. BALINT. That's where I'm going.

Mr. BEDOYA. Yes. That's a real concern.

Ms. BALINT. That's exactly where I'm going. Let's jump to that, because this is a deep concern of mine. Could you tell us in real terms, because you had talked about earlier that it's not just the algorithm itself in terms of real page, but there seems to be instances that we can look at, there seems to be evidence that there is actually some collusion happening here. That's something that I'm deeply concerned about, and we all should. There is a crisis of housing in this country and renters are over a barrel right now. They don't have a lot of options. Can you talk a little bit about how this is impacting regular people just in terms of trying to afford the rental housing.

Mr. BEDOYA. Sure. The allegations in this space are that these algorithms don't just offer the exact right amount of an increase so that a renter swallows the increase rather than tries to find a different place. There're allegations of actual overt in the RealPage lawsuit calling between landlords to coordinate, but there's also allegedly information sharing creating a pool of data that these landlords can draw on to increase rent without saying—while being able to say, Oh, we never called each other.

One really interesting point here is sometimes antitrust harms, because they're a little complex, can get a little technical. I'll just point out that one of the corporate landlords in the RealPage suit is a company called GreyStar. FTC is also simultaneously suing GreyStar for packing people's rent checks with these fake hidden fees, like, Oh, you want no cockroaches in your apartment? You've got to pay extra for that.

Ms. BALINT. Pay extra for no cockroaches, huh?

Mr. BEDOYA. Precisely. You see anticompetitive conduct arm in arm with conduct that hurts consumers, in my view, pretty obviously.

Ms. BALINT. I do think it's important in this hearing as we talk about the importance of not stifling innovation to, at the same time, be able to hold both truths. We can be careful in our regulations. We can be careful in the guardrails that we're putting on, but I don't think anyone here, at least I hope not, that anyone on the Antitrust Committee would be supportive of landlords colluding to raise the price of rent, and I know in some instances, we've seen that this AI dynamic pricing scheme has led to increases of over \$800 over the course of a year of not just these hidden fees that we're talking about, but the prices that they're paying for rent itself.

Of course, you've talked about how essential workers are being replaced in key industries, where we see patients illegally being denied care because of an AI-based recommendation, where artists

are being robbed of their work. I just have to say, we have got to remember the importance of following the law when it comes to having FTC commissioners, and I think it's outrageous that you and Commissioner Slaughter were illegally removed from your positions. We need you on the watch to take care of my renters back home in Vermont who are being screwed over.

Mr. FITZGERALD. Gentlewoman's time is expired.

Ms. BALINT. I yield back.

Mr. FITZGERALD. Gentlewoman yields back. I now recognize the gentleman from North Carolina, Mr. Harris, for five minutes.

Mr. HARRIS. Thank you, Mr. Chair, and thanks to all of you on the panel for being a part of this hearing today. On January 23, 2025, President Trump issued an Executive Order titled, "Removing Barriers to American Leadership and Artificial Intelligence," aimed at solidifying the United States' position as the global leader in AI. I, for one, applaud the Trump Administration's leadership on this issue.

Mr. Chilson, would you just take a moment and explain how this Executive Order will indeed help solidify our position as the global leader in AI as the EO states?

Mr. CHILSON. Well, it's a sea change from the Biden Executive Order, which was the third longest Executive Order in history, and basically set a governmentwide call for agencies to figure out how to regulate AI. This Trump Executive Order is the opposite. It's focused on figuring out how we can create the opportunities, or how can we maximize the opportunities from this amazing technology which is grown here in America.

Some of its mechanisms. It directs the Office of Science and Technology Planning to create an AI action plan. Those comments have gone into that agency, and they're going to come out with a comprehensive approach.

The main thing here is the total change in perspective. It's gone from fear and risk that this technology is going to hurt people to recognizing that it has huge opportunities, not just for consumers, not just for everyday price—everyday things that they use, but also, in creating a lot of competition in the AI industry, but also across the economy as a whole.

Mr. HARRIS. You reference the science and technology policy. I know Section 4 of Trump's Executive Order requires various executive agencies to coordinate on the creation of an action plan to submit to the President in 180 days, and the action plan should lay out how we can achieve AI dominance. You and your colleague, Mr. Chilson, I understand that the Abundance Institute submitted recommendations to the Office of Science and Technology Policy on what should be included in that action plan. Could you take just a moment and summarize what your recommendations might be?

Mr. CHILSON. Right. At the very top, you've heard this concern repeatedly across this hearing is stemming the tide, the flowing tide of State AI regulations. What we have right now is a set of regulatory schemes that regulate from the very top, the most abstract level of AI, these general-purpose models. It's a general-purpose technology that can be used in millions of different ways, and States are trying to say that these companies have to make sure that this model can never be used in a way that might hurt some-

body, and that's the type of regulation that is not only impossible to comply with, it will be impossible to enforce as well.

Congress needs to look at this—the White House needs to look at different ways to stem this tide, whether through the bully pulpit or proposing legislation to Congress that will help stem that flow. I think it's a big challenge in Congress, and the White House needs to step up to that.

Mr. HARRIS. Well, let me ask you this: Can Congress play a role in helping the United States achieve the goals that have been set forth in the Executive Order?

Mr. CHILSON. Absolutely. It will be essential that Congress does so.

Mr. HARRIS. OK. Are there any legislative efforts that will bring us toward the vision set forth by the Trump Administration?

Mr. CHILSON. Well, I think there's a lot of different models we can take. One State action that has been very useful, Utah has an AI act that creates an AI learning laboratory where people can come in, get regulatory mitigation when they don't understand fully what the risks are because their technology is new, and both the legislators and the company can learn together.

The most recent example of this was a technology that creates—it's an AI mental wellness app for teenagers, a really important problem. You can understand the sensitivity there. They worked with this regulatory sandbox to create not only just the app itself, but also there's been legislation that was proposed to Utah to the legislature that governed some of those types of apps, and so it's a cooperative thing. It's the kind of structure that might work very well at the Federal level as well.

Mr. HARRIS. Very good. Thank you so much.

Mr. Chair, I yield back.

Mr. FITZGERALD. Gentleman yields back. The gentleman from Illinois is now recognized for five minutes.

Mr. GARCIA. Thank you, Mr. Chair, and to all the witnesses here today, to Commissioner Slaughter for also being here to observe the proceedings.

As usual, so far in this hearing, it looks like my colleagues, the Republican side of this panel, is here to champion corporate interest over workers and consumers. Today, their obedience is making them argue against even reasonable regulation of the AI industry. While not surprising, it's still incredible to see them making these claims with a straight face given everything that's going on.

Let's start with the fact that the Trump Administration and its billionaire overlord, Elon Musk, are weaponizing AI to carry out their lawless and unpopular agenda. They're using AI to arbitrarily surveil students, expand the power of DHS and ICE and gut Federal agencies. In the hands of billionaires and authoritarians, like Musk and Trump, AI is a loaded gun waiting to be used on immigrants, workers, and consumers. This is exactly why it's absurd to oppose commonsense regulation of the AI industry.

Let's talk about what that commonsense could be. It's also absurd, because we know what happens when we don't enforce anti-trust and consumer protection laws against technology companies. As my colleagues have pointed out, the failure to apply these laws to big tech companies at the dawn of the social media age has led

to the dominance of these companies, which have routinely abused workers, exploited consumers, deployed their technology to expand surveillance, and trample on privacy rights. That is the consequence of inaction. We must learn that from our mistakes and we must prioritize workers and consumers over corporate profits.

Let's talk about what that looks like. Commissioner Bedoya, thank you for being here today. I stand in solidarity with you as you face Donald Trump's illegal efforts to fire you and Commissioner Slaughter. Can you talk about the competition between AI, if it exists, and workers and the implications for labor rights?

Mr. BEDOYA. Sure. I was down in Bayou La Batre, Alabama, a couple months ago, and there was a case from Pascagoula, which is right near there, of a call center worker who had a high school diploma, a single mom, and she had been able to take this job and find the middle class. She bought a house, nice neighborhood, great schools. What was starting to happen is that there was this AI transcript that was being generated of her calls, but it was wrong.

People on the Gulf, my wife from Louisiana, have a different cadence, different accent slightly, and the AI-generated transcript was failing, and she would get docked for those errors. One of the things she openly wondered was—because there was also other software operating that the workers thought was going to be used to replace them. She openly wondered, “am I training my replacement?” These are the kind of folks who may be hurt by these efforts to scan, track, surveil, and swallow up all this data about people working really important jobs that might be used to replace them.

Mr. GARCIA. Thank you for sharing that, and from basically on your work at the Federal Trade Commission, what kinds of protection do you think are needed for workers if Congress were to act?

Mr. BEDOYA. I've already mentioned the need for workplace privacy law. The other thing we urgently need in my personal view is some kind of guardrail against automated management. Increasingly, you're seeing allegations that people are getting fired automatically on the job because of the way they were tracked. Maybe it was thought that they were just loafing around when they were actually going to the bathroom, when they were actually repairing the machinery on the warehouse floor.

You also see instances where people are increasingly having their emotions analyzed on the job. This is another call center example. There was an AI that thought that set off this emotion distress alarm anytime the caller at the end of the line started laughing, and so you have technology that doesn't work as well as people think it does, being used to fire people, dock their pay, and there need to be guardrails around that kind of conduct.

Labor unions have often succeeded in putting those protections in place, but I think everyone needs those kinds of protections, not just folks who are lucky enough to be in a union.

Mr. GARCIA. Thank you. My time is exhausted.

Mr. Chair, before I turn it back, I seek unanimous consent to submit an article entitled—

Mr. FITZGERALD. Gentleman is recognized.

Mr. GARCIA. Thank you. “Open AI Peels Back ChatGPT Safeguards Around Image Creation.”

Mr. FITZGERALD. Without objection.

Mr. FITZGERALD. Gentleman yields back. The gentleman from Virginia is now recognized for five minutes.

Mr. CLINE. Thank you, Mr. Chair.

My goodness, after hearing my friend from California talk, I'm reminded of the old adage, "when you're a hammer everything looks like a nail." When you're a proregulatory Democrat, everything—every industry, every opportunity to regulate means dive right in and regulate.

Ms. Melugin, can you speak to what would happen to the AI industry if the U.S. were to adopt heavy-handed regulations. Which country are we in competition with right now that would take advantage of that and further run away with development in AI?

Ms. MELUGIN. If American innovators are sufficiently distracted with regulatory hurdles and legal concerns; you are taking a limited amount of energy and resources away from them turning out the best product. At that point the alternative for much of the world will be Chinese products. The Meta question to keep in mind is do you want the world building on U.S.-based products or China-based products?

That's not to say that the illegal things that happen in relation to AI shouldn't be addressed. In large part, due to already existing law or that Congress might not consider new privacy legislation, those are all things that can be considered when problems arise. It's important to not lose sight of what we're here to do. I don't think that most Americans are looking for AI to be really, really regulated. They're looking for AI to be really, really prosperous and successful.

Mr. CLINE. Well, to that end, China has a long history of intellectual property theft, particularly in AI and semiconductor technology. How can the U.S. better protect its AI industry from Chinese espionage, and should we be more aggressive in sanctioning Chinese companies that benefit from stolen IP?

Ms. MELUGIN. Some obviously, but to the extent that all that can work, I think that's great. At some point, if you're dealing with bad actors, the way to win is to win. That you make the biggest mistake by hampering the efforts of U.S. innovators with all the sort of the side show of all the things that can possibly go wrong. Of course, there are going to be challenges and harm that are very real.

People's jobs will be replaced by a certain amount of automation. I will point out that has been happening since the dawn of time. It doesn't mean we don't need to have real attention paid to those circumstances. It's not worth holding an entire country back in the kind of technology that will benefit every single American and people around the globe hopefully from AI products, because we can think of examples of someone losing their job. It's a tragic situation for that individual, but I would hope that the overall benefit to the economy and to society and prosperity of Americans compensates in some way for that churn. That churn is real, but we can't use those examples as an excuse to hamper an incredibly important technology.

Mr. CLINE. At the same time, you have big tech companies arguing that scraping copyrighted material for AI falls under fair use.

This practice could severely undermine artists, journalists, and content creators should the U.S. continue to enforce its protections to prevent AI developers from profiting off stolen intellectual property.

Ms. MELUGIN. Intellectual property with the forward movement of technology is a bit of a moving target. It's certainly an area where Congress can look to revisit and adjust as necessary. I don't know if we're there yet, but that those are very valid concerns. I'm certainly not here to argue that there will be no regulatory or legal reaction to AI. I'm just here to argue that it's better to go cautiously forward on a case-by-case basis, and their use of intellectual property might very well be one of those.

Mr. CLINE. Several lawsuits, including *The New York Times v. OpenAI* argue that AI models unlawfully use copyrighted content for training. Given these legal challenges, do you think courts will ultimately force AI developers to pay licensing fees, and how might that impact competition and innovation in the AI industry?

Ms. MELUGIN. My personal policy is not to comment on what courts might do. It's possible. I do think one of the pressure points in AI progress for the U.S. is data sources. I think the market is innovating even for those synthetic data. There are other solutions, but new data, more data is an important balancing act to keep in mind when you're talking about limiting access to that for maybe the next companies that come along. I think that there's tradeoffs that need to be weighed there.

Mr. CLINE. There's a balance.

Ms. MELUGIN. There's a balance, as in most intellectual property law, I think. Also, I'll quickly make the point that with data, it's not always more is better. We're finding that out. Up to a certain point, you need a certain amount, and it needs to be good and there's engineering progress that can be made on top of that data, but it's not the end-all/be-all that AI—it's not the only factor that's important for innovation and AI.

Mr. CLINE. Thank you.

Mr. FITZGERALD. Gentleman yields back.

Mr. NADLER. Mr. Chair, I have a unanimous consent request.

Mr. FITZGERALD. Gentleman is recognized.

Mr. NADLER. Mr. Chair, I ask for unanimous consent to submit for the record the article by *AI Now Institute* entitled "US-China AI Race: AI Policies Industrial Policy," that shows Chinese AI innovation is growing rapidly despite China having stronger antitrust enforcement than the United States.

Mr. FITZGERALD. Without objection.

Mr. NADLER. Thank you.

Mr. FITZGERALD. The Chair now recognizes the gentleman from Georgia for five minutes.

Mr. JOHNSON. Thank you, Mr. Chair.

In an article written by Cecilia Kang of *The New York Times* back on last week, she reported that for just over two years, technology leaders at the forefront of developing artificial intelligence had made an unusual request of lawmakers. They wanted Washington to regulate them. The tech executives warned lawmakers that generative AI, which can produce texts and images that mimic human creations, had the potential to disrupt national security,

and elections, and could eventually eliminate millions of jobs. AI could go quite wrong.

Sam Altman, the Chief Executive of OpenAI, testified in Congress in May 2023; we want to work with the government to prevent that from happening. For two years, the tech industry—AI creators have been wanting regulation, but now we have a group of three lobbyists appear requesting that we not apply any regulations. What has changed, Ms. Melugin?

Ms. MELUGIN. Just for recordkeeping purposes, I am not a lobbyist.

Mr. JOHNSON. I know you say that you're not, but your funding—

Ms. MELUGIN. Well, you have to register to be a lobbyist.

Mr. JOHNSON. Your funding comes from the industry that you're here representing today but let me move on. The main ingredient for artificial intelligence is data, which allows AI models to learn. Co-President Musk owns an AI company with its Chatbot Grock, and there is always the problem of AI companies needing to get a competitive edge to have more data to train their models, and Co-President Musk is in a unique position now, because he also runs the so-called Department of Government Efficiency—DOGE.

In the past 2½ months, Musk's DOGE team has gained access to vast data bases at agencies like the Internal Revenue Service, and the Social Security Administration, which include our personal information. Just this past weekend, DOGE gained access to the Federal personnel payroll system.

We know that DOGE has already copied massive amounts of our personal data onto its servers and using that amount of data to train his AI model would give Co-President Musk a huge edge over his competitors.

Now, the administration will tell us that DOGE is being careful with our personal data, but this is the same administration whose national security adviser accidentally invited a journalist to a group chat on a private unsecured messaging app where the Trump team was discussing war plans and classified information, and it's the same administration that conducted national security business over personal Gmail accounts.

This administration has a culture of playing fast and loose with secret and private information. Now, how can we trust Elon Musk with our personal data when he and his AI company have so much to gain from it financially, Mr. Bedoya?

Mr. BEDOYA. I'd love to give a broader answer, if I may. I do think, speaking just for the FTC, I am very worried about the information the Commission holds getting in the wrong hands. The FTC regularly, as a matter of regular course of business, collects market-sensitive information, information about competitive strategy, and even top-level information about certain shops being active at certain times could, for a person, but definitely for an AI, be used to generate extremely sensitive inferences about otherwise confidential market activity.

Mr. JOHNSON. Elon Musk has his hands around that kind of information. Commissioner, I talked about the dangers of Co-President using his personal data, Co-President Musk using our personal data to train his AI models. Do you also see a threat to consumers, and what would your concerns be about that?

Mr. BEDOYA. The main thing I think about with the use of data obtained from government agencies being used to train a model, speaking generally, is let's say a mistake is made and data is swallowed up into that model that shouldn't be. Twenty years ago, you go into a system and just delete those files, but that's not how these models work now. This is like me saying to you, Congressman, please unlearn my face. Good luck with that. It doesn't make any sense. So, I'm obviously oversimplifying a little bit, but it's very difficult to unscramble those eggs. I'm worried about competitive information getting into these models, and, therefore, getting into the wrong hands, even if we realize it after the fact. That is definitely a real concern.

Mr. JOHNSON. Those wrong hands are not necessarily in China. They're right here in DOGE.

Mr. FITZGERALD. Gentleman's time has expired.

Mr. NADLER. Mr. Chair, I have a UC request

Mr. FITZGERALD. Gentleman is recognized.

Mr. NADLER. Thank you, Mr. Chair. I request unanimous consent to submit a *CNBC* article entitled, "Elon Musk who Co-Founded Firm Behind ChatGPT Warns AI's One of the Biggest Risks to Civilization," where Elon Musk states, quote,

We need to regulate AI safety. It is, I think, actually a bigger risk to society than cars or planes or medicine.

Mr. FITZGERALD. Without objection, the Chair of the Full Committee, Mr. Jordan, is now recognized for five minutes.

Chair JORDAN. Let me first do unanimous consent in light of the previous question.

Mr. FITZGERALD. Chair is recognized.

Chair JORDAN. I'd like to ask unanimous consent to enter into the record a story from *The Hill*, "The FTC must be held accountable for its widespread leaks of confidential data."

Mr. FITZGERALD. Without objection.

Chair JORDAN. Mr. Chilson, you worked at the FTC. Is that right?

Mr. CHILSON. That's right.

Chair JORDAN. Chief Technologist at the FTC, I think, was your title.

Mr. CHILSON. Acting Chief Technologist, yes.

Chair JORDAN. You focused on—I'm looking from the bio here—the economics in privacy blockchain related issues. Is that accurate?

Mr. CHILSON. That's correct.

Chair JORDAN. Worked for the commissioner?

Mr. CHILSON. Yes.

Chair JORDAN. You're an attorney as well?

Mr. CHILSON. I am, yes.

Chair JORDAN. You understand the Bill of Rights, the Constitution, all the things they teach us in law school and all those important—

Mr. CHILSON. I do.

Chair JORDAN. Is it appropriate for the FTC to ask an American company the journalists that they have communicated with?

Mr. CHILSON. I don't think so, sir.

Chair JORDAN. I don't think so either, but that's exactly what happened at the FTC, Mr. Bedoya works at just a couple of years ago. They sent a letter to Twitter after Mr. Musk had purchased the business and said it's recently reported that Twitter has been providing certain third-party journalist information, and they named the journalists: Bari Weiss, Matt Tabbi, Michael Shellenberger, and Abigail Shrier. They named the journalists, and then they say this:

Identify all journalists and other members of the media to whom you've granted any type of access to the companies of communication.

Is that appropriate?

Mr. CHILSON. I don't see what this would have to do with most of the types of action the FTC would bring.

Chair JORDAN. It seems to me this is totally getting at violating the first amendment and freedom of the press. You've got a right as a company—people in a company to talk to journalists. Yet, the FTC wants to know any and every journalist you've communicated, named four specifically and wants to know any others you've talked to. What do you think, Mr. Chilson? Pretty bad stuff that was going on there?

Mr. CHILSON. Yep.

Chair JORDAN. Let me ask you this, then, too. They also asked—they wanted to know every reason why Twitter terminated former Twitter employee Jim Baker. Do you know anything about that, Mr. Chilson, why they would be asking about that guy?

Mr. CHILSON. I don't know much about that, and I don't know why they would—

Chair JORDAN. Well, I got my hunches. Jim Baker was the General Counsel at the FBI when the FBI was doing all the crazy things, going to the FISA Court, getting warrants, spying on the Presidential campaigns. He then goes to work for Twitter. Mr. Musk buys Twitter and says I'm going to get rid of this guy, and now the FTC wants to know why. I find that strange too. Every journalist you've talked to and asked why you got rid of Jim Baker.

Let me ask you another one. Ernst and Young was named the assessor in the consent decree focused between the FTC and Twitter. The assessor, the specific assessor, was a guy, David Roke. He testified under oath and said, quote,

If Ernst and Young did not include negative findings against Twitter, the FTC raised the specter that it would create other challenges for Ernst and Young over time.

Does that seem to be the kind of communication that should be going from the FTC to the assessor at Ernst and Young, Mr. Chilson?

Mr. CHILSON. Seems like a form of soft coercion.

Chair JORDAN. Is that accurate, Mr. Bedoya? Did you guys do that? Mr. Roke, again, this is under oath in the case, is that what happened at the FTC? Why would you tell Ernst and Young you better find out the right thing, you better find something negative against Twitter or you may not get business with us over time.

Mr. BEDOYA. Thank you, Mr. Chair, for the question. I'm not familiar with that particular communication, and so given that I am under oath, I don't want to give a wrong answer here.

Chair JORDAN. Are you disputing whether it happened or not? It's a court filing.

Mr. BEDOYA. No, sir, I'm not disputing that. I'm just saying I'm not familiar with that particular communication, and like you said, I'm under oath.

Chair JORDAN. I'm asking you if it's appropriate or not. It happened. Here's what he said:

If Ernst and Young did not include negative findings against Twitter, the FTC raised the specter that it would create other challenges for Ernst and Young over time.

You hire Ernst and Young to be assessors in these kinds of consent decree arrangements all the time. You can see the obvious threat there. I'm just asking if that's appropriate.

Mr. BEDOYA. Mr. Chair, who is saying that statement? Who is writing it?

Chair JORDAN. They have the documents that David Roke communicated in the court that we have.

Mr. BEDOYA. Forgive me, Mr. Roke is an Ernst and Young Executive?

Chair JORDAN. Yes. He's the assessor you guys hired.

Mr. BEDOYA. He was—I'm sorry, I take this very seriously, and so what I would ask is if you submit it for the record, I'll take a good look at it and give you a full and complete answer, but I'm not familiar with the context of the statement.

Chair JORDAN. Why did you have to know about Jim Baker, why he was terminated? Companies are allowed to fire people.

Mr. BEDOYA. Mr. Chair, I did not sign those CIDs, I did not sign the subpoenas, and so I don't know the exact circumstances surrounding that individual.

Chair JORDAN. OK. OK. No comment there. All right.

Mr. Coniglio, Mr. Bedoya raised three concerns earlier, and I just have a few seconds. Any of you three can comment on this. Three warnings that he pointed out. Vertical integration, AI keeping private data private, and then the surveillance concern. Do you have a different perspective on those three concerns? Or tell me what your thoughts on the three warnings he laid out in his testimony?

Mr. CONIGLIO. Thank you for the question. I can start with the first one about AI partnerships and vertical integration and any competitive conduct. I think that the concerns about foreclosure, which are the typical anticompetitive harm that you think about when you go to vertical integration are certainly very premature at this stage. We see robust competition at the foundation model level and the cloud level, which suggests that a vertical integration between, let's say, a cloud company and a foundation model is unlikely to result in any sort of exclusionary conduct.

With respect to the partnerships and the horizontal, so to speak, reduction of competition between let's say a big tech firm that may have a partnership and the idea of being that because they are investing in these companies, they're less likely to compete, again, it's unlikely that's going to result in a substantial lessening of competition. Again, because of the robust competition that exists at the foundation model level, but also because of the procompetitive benefits that these partnerships can have, specifically providing internet—excuse me, AI foundation model startups with the sort of pa-

tient capital they need to grow sustainably and actually innovate faster.

Chair JORDAN. OK. I know I'm out of time, but can you talk about the privacy issue really quick, too? Anyone of you want to talk on privacy? I have concerns about this whole facial recognition stuff and some of the examples that Mr. Bedoya gave in his testimony, so give me your quick thoughts on that, and then I'll be happy to yield back, Mr. Chair.

Mr. CHILSON. In many ways, the privacy issue and artificial intelligence, especially these deep learning models, is much more complicated than it is in the form of social media, and so, when you train these models, what you get is something that does not have any of the actual training data in it. You can never look into a model and see the specific training that was in there.

The privacy implications here are once more on the inference side and not about actual data being in these, and so it's much more like remembering that something happened, but not remembering it precisely, and therefore, I think—

Mr. FITZGERALD. Gentleman's—

Mr. CHILSON. Sorry. I think the privacy concerns are less.

Mr. FITZGERALD. Gentleman's time has expired.

Chair JORDAN. Thank you, Mr. Chair.

Mr. FITZGERALD. Gentleman yields back. Ask unanimous consent to enter into the record the letter from Gary Shapiro and Kinsey Fabrizio of CTA dated April 2, 2025. Also, the statement of Jennifer Huddleston from Cato dated April 2, 2025, and the letter from Graham Dufault of the App Association dated April 2, 2025. Without objection.

Mr. GARCIA. Mr. Chair.

Mr. FITZGERALD. Gentleman from Illinois has a UC request.

Mr. GARCIA. Yes. Thank you. Chair, I request unanimous consent to add to the record a *Tech Policy Press* article entitled, "DOGE Plan to Push AI Across the U.S. Federal Government is Wildly Dangerous."

Mr. FITZGERALD. Without objection.

Mr. GARCIA. Thank you.

Mr. FITZGERALD. The Ranking Member of the Full Committee is now recognized for five minutes.

Mr. RASKIN. Thank you kindly, Mr. Chair, and thanks to our witnesses today.

It's hard to think of an antitrust matter more pressing than concentration in the AI market. The dominance of a handful of AI companies presents a long-term problem for our national security, our democracy, our privacy, and basic fairness in the marketplace. President Trump has plunged our government into chaos and disabled the Federal agencies that we depend on to address such problems. It will be difficult to effectively respond to dangerous market concentration in the assembly of all human knowledge if we have governmental power that is dangerously concentrated itself in the President to the exclusion of Congress as the law-making branch and the Judiciary as the protector of constitutional rights and values.

Over a century ago, Congress established the Federal Trade Commission. It was created as an independent agency to enforce

antitrust and consumer protection laws outside of the controlling pressure and power agendas of any single President or party. For more than a century, the FTC has protected Americans against scams, fraud, and other unfair and deceptive practices. It also promoted and protected competition in the marketplace, which benefits consumers, workers, small businesses driving innovation, and business without monopoly.

Congress designed the FTC to be led by five commissioners across party lines who served seven-year terms are subject to Senate confirmation and can only be fired for cause. Congress structured this independence to ensure that the FTC would serve the nonpartisan interest of the American people and be insulated from partisan political control.

Over 90 years ago, the independence of these commissioners was tested and the Supreme Court unanimously reaffirmed that the President cannot unilaterally fire an independent FTC commissioner without cause. Unitary Executive power violated the careful Federal design and infringed Congress's lawmaking power to establish the FTC as an effective and balanced instrument for the public good. Yet, President Trump chose to violate Federal law and defy the Court's longstanding precedent by attempting to fire without cause the two Democratic members of the FTC. He did so to end the nonpartisan independence of the FTC, and to make sure it responds to his momentary political demands above the national public interest as contemplated by Congress.

Accordingly, the commissioners have brought suit to reverse their unlawful firing, and two, as Commissioner Slaughter stated,

Make sure that the work of the Commission is done without fear or favor and more specifically that we can take on the biggest companies in America without fear of getting fired for failure to do a favor to the President's friends who are donors or corporate allies.

The strongest Federal rules on AI were established by President Biden in a 2023 EO. The Trump Administration reversed that Executive Order, which laid down the guardrails for the AI industry. Not content with this rollback, the President has now hobbled and undermined the lead cop on the AI beat, the FTC, which has for years been at the forefront of holding big tech, including AI, to account.

It's hard to debate the proper scope of regulation in this political space when Donald Trump has reportedly granted Elon Musk unlimited access to our most private and sensitive records, data that's undoubtedly invaluable to X AI and his AI company. Today, none of us here know whether Musk is using our data, classified information, and other sensitive data from data bases across government to train his company's AI models in gaining an unfair advantage over competitors and against citizens. Musk has refused to answer many requests on this topic, and now he's crippled the agency charged with investigating these very tech abuses.

Even if we came together and found agreement on regulatory reforms and safeguards for AI development, we still now lack an expert independent agency to enforce our decisions. The President and Musk are ushering a new regime in which monarchical power, cronyism, corruption, and sycophancy rule.

He's using his office to enrich himself, his friends, and his donors at the expense of the people. The attempted firing of two FTC commissioners and his subsequent removal of any FTC resource that might serve as a check on big tech illustrate how the President is dismantling the machinery of government to serve his own end.

Our Constitutional order is under attack to concentrate all political power in the President. It's the political equivalent of what we're trying to prevent in the economic sphere. I hope that our witnesses can give us their best insight as to how to deal with this problem, but we're facing a structural crisis now in our government.

Thank you, Mr. Chair. I yield back.

Mr. FITZGERALD. Gentleman yields back.

Chair JORDAN. Mr. Chair.

Mr. FITZGERALD. The Chair is recognized for a UC request.

Mr. JORDAN. I'd ask unanimous consent to enter into the record the letter from August 26th of last year sent by one of those oligarchs that the Ranking Member just put up there, Mr. Zuckerberg, the letter he sent to the Committee saying that they, in fact, censored Americans at the request of the Biden Administration. I yield back.

Mr. FITZGERALD. We thank the witnesses for appearing before the Committee today. Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. Without objection, this hearing is adjourned.

[Whereupon, at 11:49 a.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=118081>.

