epic.org

Electronic Privacy Information Center
1519 New Hampshire Avenue NW
Washington, DC 20036, USA

+1 202 483 1140
+1 202 483 1248
@EPICPrivacy
https://epic.org

June 2, 2025

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: *Workado, LLC.*, FTC File No. 232-3092

Dear Federal Trade Commission,

By notice published May 2, 2025, the Federal Trade Commission (FTC or Commission) announced a proposed consent order with Workado, LLC (f/k/a Content at Scale AI) for Workado's alleged violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), prohibiting unfair or deceptive acts or practices.[1] The proposed consent order is the result of the FTC's complaint alleging Workado made deceptive statements concerning the accuracy of its AI products and services.[2]

The Electronic Privacy Information Center (EPIC) submits this letter to recommend approval of the FTC's proposed order with some modifications and to encourage the Commission to continue instituting robust data protections through enforcement and regulations. EPIC is a public interest research center in Washington, D.C. established in 1994 to focus public attention on emerging civil liberties issues and to secure the fundamental right to privacy in the digital age for all people through advocacy, research, and litigation. EPIC routinely files comments in response to proposed FTC consent orders and complaints regarding business practices that violate privacy rights.[3]

EPIC commends the Commission for its use of Section 5 authority to protect consumers from Workado's harmful practices and urges the Commission to continue protecting consumers in the same

---

[1] *See* Agreement Containing Consent Order, In re Workado, LLC, File No. 232-3092 (Jan. 22, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/agreement_containing_consent.pages_from_232_3092_-_content_at_scale_ai_consent_package_without_signatures-2.pdf [hereinafter Workado Settlement]; *see also* Workado Complaint, *In re* Workado, LLC, File No. 232-3092 at ¶18 (Apr. 28, 2025) https://www.ftc.gov/legal-library/browse/cases-proceedings/2323092-content-scale-ai [hereinafter Workado Complaint].

[2] Workado Complaint at ¶¶ 16-17

[3] *See, e.g.*, Comments of EPIC, Demand Progress, and EFF in re the Federal Trade Commission's Proposed Order & Settlement with X-Mode Social, Inc. (Feb. 20, 2024), https://epic.org/documents/comments-of-epic-demand-progress-and-eff-in-re-the-federal-trade-commissions-proposed-order-settlement-with-x-mode-social-inc/; EPIC, EPIC Commends FTC for Including Data Minimization & Data Rights in Chegg Settlement (Dec. 12, 2022), https://epic.org/epic-commends-ftc-for-including-data-minimization-data-rights-in-chegg-settlement/; EPIC, EPIC Applauds FTC SpyFone Ban, Urges Similar Remedies in Future Privacy Cases (Oct. 8, 2021), https://epic.org/epic-applauds-ftc-spyfone-ban-urges-similar-remedies-in-future-privacy-cases/.

way.[4] Companies should not lie to consumers to peddle technology that collects, uses, and retains consumers' personal information for a certain purpose—in this case to detect human or AI generated content—without fulfilling that purpose.

Tech companies, corporate consultants, and vendors often tout their AI services as near-magical. These bloated claims purport that AI can do the impossible—a product or service that can do anything, perfectly or near perfectly, with no negative externalities, cheaply, and instantaneously. The average user cannot know the factors and logic of the algorithms used in AI services. Therefore, the average consumer has no ability to investigate these claims or to test their accuracy. The average consumer then relies on a company's statements and promises.

But frequently these claims are not, and cannot, be true. Evidence of AI companies overinflating their accuracy abounds. AI-powered gunshot detection technology from the company Flock Safety was reported to have 34% confirmed false positives from Feb. 2023 to July 2023, despite the company claiming it is 90% accurate.[5] Epic Health Systems marketed an algorithm that can predict patients experiencing sepsis at 76-83% accuracy, but a later study of 27,000 patients found that the system was closer to 63% accuracy and produced many false positives while failing to identify risk in 67% of the patients that actually experienced sepsis.[6] A health tech start up overpromised the efficacy of its automated system that can "cut costs" but only generated a fraction of the savings it promised.[7] Report after report continues to demonstrate that major AI search tools have "serious accuracy problems."[8]

Workado and other businesses have no shortage of best practices and regulatory guidance to rely on when it comes to marketing statements about AI and reasonably safeguarding consumers' personal data from being fed into an inaccurate AI system. The FTC has been clear about its AI accuracy expectations for businesses, including through the Commission's business guidance and its case-by-case enforcement. The Commission released multiple pieces of guidance warning companies

---

[4] *See, e.g.*, Comments of EPIC, *In re Chegg, Inc.*, FTC File No. 202-3151 (Dec. 12, 2022), https://epic.org/documents/comments-of-epic-in-re-the-federal-trade-commissions-proposed-order-settlement-with-chegg-inc/ [hereinafter EPIC re Chegg]; Comments of EPIC, *In re Blackbaud, Inc.*, FTC File No. 202-3181 (Mar. 2024), https://epic.org/documents/comments-of-epic-in-re-the-federal-trade-commissions-proposed-order-settlement-with-blackbaud/ [hereinafter EPIC re Blackbaud]; Comments of EPIC, *In re BetterHelp, Inc.*, FTC File No. 202-3169 (Apr. 12, 2022), https://epic.org/documents/comments-of-epic-in-re-the-federal-trade-commissions-proposed-order-settlement-with-betterhelp-inc/ [hereinafter EPIC re BetterHelp]; Comments of EPIC, *In re Global Tel*Link*, FTC File No. 212-3012 (Dec. 2023), https://epic.org/documents/comments-of-epic-in-re-the-federal-trade-commissions-proposed-order-settlement-with-global-tellink/ [hereinafter EPIC re GTL].

[5] Todd Feathers, *The Mystery of AI Gunshot-Detection Accuracy Is Finally Unraveling*, Wired (June 25, 2024), https://www.wired.com/story/ai-gunshot-detection-accuracy-san-jose-nyc/.

[6] Tom Simonite, *An Algorithm That Predicts Deadly Infections Is Often Flawed*, Wired (June 21, 2021), https://www.wired.com/story/algorithm-predicts-deadly-infections-often-flawed/.

[7] Tyler Buchanan and Erin Brodwin, *Local Health Tech Startup Olive Overpromises*, Axios (Apr. 7, 2022), https://www.axios.com/local/columbus/2022/04/07/local-health-tech-startup-olive-overpromises.

[8] Kit Eaton, *If You Use AI Search at Work, Be Careful: A New Study Finds It Lies*, Inc. (Mar. 14, 2025), https://www.inc.com/kit-eaton/if-you-use-ai-search-at-work-be-careful-a-new-study-finds-it-lies/91161537; Klaudia Jaźwińska and Aisvarya Chandrasekar, *AI Search Has A Citation Problem*, Columbia Journalism Review (Mar. 6, 2025), https://www.cjr.org/tow_center/we-compared-eight-ai-search-engines-theyre-all-bad-at-citing-news.php.

"Keep your AI claims in check"[9] and "Don't exaggerate what your algorithm can do or whether it can deliver fair or unbiased results."[10] The Commission and the California Attorney General also settled allegations against CRI Genetics, a DNA testing firm, for marketing using false claims about its algorithm, including accuracy.[11]

EPIC is particularly supportive of the order's proposed mandate requiring Workado to stop falsely advertising the accuracy of its AI products. As mentioned earlier, misleading claims about AI are rampant and EPIC applauds the Commission for taking steps to address this harm.

EPIC suggests that Workado should be required to submit its algorithms to independent third-party testing to determine their accuracy. The best practice is for a company to conduct independent, third-party testing before its AI is deployed—particularly when a company has a demonstrated history of false AI efficacy claims. The average consumer has no way to test a company's AI claims, which is why the Commission should require it be done independently. As seen in this very case, companies cannot be trusted to verify the efficacy of their own products and cannot be trusted to make accurate claims to consumers about their AI practices. Provision II of the Consent Order would require Workado to retain competent evidence upon which it will rely to substantiate its AI claims. While this is an important step, Workado should not be permitted to make any marketing claims about its AI without independently verifying them.

EPIC further proposes that the Commission specifically identify this type of harmful business activity as an unfair practice. The FTC Act provides the Commission with a broad unfairness authority to uphold its mandate to protect consumers. The Act defines an unfair practice as one that "causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition."[12] Workado's unproven AI causes injury to consumers because they pay for a service that cannot perform as promised. A consumer cannot reasonably avoid this harm when it is concealed by a company's deception. Manipulative marketing practices do not offer consumers countervailing benefits and harm competition because a firm unjustly enriches itself at the expense of honest businesses.

EPIC urges the Commission to finalize the proposed Workado consent order with the addition of independent third-party testing requirements and accompanied by an assertion that Workado's conduct is also unfair. We also encourage the Commission to continue reinforcing its Section 5 authority in the context of harmful AI practices through enforcement actions and regulations. Harmful

---

[9] Michael Atleson, *Keep Your AI Claims in Check*, Fed. Trade Comm'n Business Blog (Feb. 23, 2023), https://www.ftc.gov/business-guidance/blog/2023/02/keep-your-ai-claims-check [https://web.archive.org/web/20230228003536/https://www.ftc.gov/business-guidance/blog/2023/02/keep-your-ai-claims-check].

[10] Elisa Jillson, *Aiming For Truth, Fairness, and Equity In Your Company's Use of AI*, Fed. Trade Comm'n (Apr. 19, 2021), https://www.ftc.gov/news-events/blogs/business-blog/2021/04/aiming-truth-fairness-equity-your-companys-use-ai [https://web.archive.org/web/20210419232819/https://www.ftc.gov/news-events/blogs/business-blog/2021/04/aiming-truth-fairness-equity-your-companys-use-ai].

[11] *FTC, California Obtain Order Against DNA Testing Firm over Charges it Made a Myriad of Misrepresentations to Consumers to Entice Them to Buy Ancestry Reports*, Fed. Trade Comm'n (Nov. 21, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/11/ftc-california-obtain-order-against-dna-testing-firm-over-charges-it-made-myriad-misrepresentations.

[12] 15 U.S.C. § 45(n).

AI practices are a serious problem deserving of the Commission's continued attention. If there are any questions, please contact Sara Geoghegan, Senior Counsel, at geoghegan@epic.org.

Sincerely,

/s/ *John Davisson*
EPIC Director of Litigation &
Senior Counsel

/s/ *Sara Geoghegan*
Senior Counsel