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

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

FEDERAL TRADE COMMISSION

Request for Information on Gender-Affirming Care for Minors

September 26, 2025

The Electronic Privacy Information Center (EPIC) submits these comments in response to the Federal Trade Commission (FTC)'s Request for Information (RFI) regarding gender-affirming care for minors.[1] We call on the Commission to close this wasteful and misguided inquiry.

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.[2] For decades, EPIC has worked with the Commission under different administrations to safeguard consumers' personal data.[3] EPIC also fights to protect the privacy rights of individuals and marginalized communities, including the LGBTQ+ community. EPIC has submitted FOIA requests,[4] provided comment on regulations,[5] and filed complaints[6] regarding unlawful practices harmful to LGBTQ+ persons.

Soliciting information from the public is an important means of ensuring that the Commission's work aligns with the interests of consumers. Unfortunately, the instant Request for Information bears all the hallmarks of a fishing expedition engineered to promote a radical political agenda at the expense of vulnerable minors. Moreover, this RFI and the Commission's July 2025 workshop have already diverted the FTC's limited resources away from important matters the Commission is actually qualified and empowered to regulate.

There is no sound basis to believe that medical providers of gender-affirming care are deceiving consumers about its risks or effectiveness at a scale to justify the Commission's inquiry.

---

[1] Press Release, FTC, FTC Requests Information Regarding "Gender-Affirming Care" for Minors, (July 19, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/07/ftc-requests-public-comment-regarding-gender-affirming-care-minors. ["RFI" or "Inquiry"]
[2] EPIC, *About Us* (2025), https://epic.org/about/.
[3] EPIC, *Federal Trade Commission*, https://epic.org/agency/federal-trade-commission/.
[4] EPIC, *Freedom of Information Act* (2025), https://epic.org/issues/open-government/foia/.
[5] EPIC, *FTC Rulemaking on Commercial Surveillance & Data Security* (2022), https://epic.org/ftc-rulemaking-on-commercial-surveillance-data-security/.
[6] EPIC, *In re Grindr, LLC,* (2023), https://epic.org/documents/in-re-grindr-llc/; Comments of EPIC, CHLP, PrEP4All, et al. to HHS (Feb. 22, 2023), https://epic.org/documents/comments-of-epic-chlp-prep4all-and-patient-privacy-rights-to-hhs-on-hiv-prep-database-sorn/; EPIC Comment to the Department of State on Notice of Proposed Information Collection: U.S. Passport Application, Renewal Application, and Limited Passport Replacement for Eligible Individuals (Mar. 20, 2025), https://epic.org/documents/epic-comment-to-department-of-state-on-notice-of-proposed-information-collection-u-s-passport-application-renewal-application-and-limited-passport-replacement-for-eligible-individuals/.

Rather than citing peer-reviewed medical research[7] or documentary evidence of widespread misconduct by gender-affirming care providers, the Commission relies upon a dubious mixture of opinion pieces, nonmedical authorities, fringe activist literature, and ill-considered restrictions on gender-affirming care adopted by state legislators to rationalize its far-reaching inquiry. None of this material corroborates, let alone establishes, that gender-affirming care providers are broadly engaged in deceptive or unfair trade practices within the meaning of Section 5.[8]

Even assuming—as the FTC contends—that there is a bona fide debate over the efficacy and safety of gender-affirming care, mere debate is not a legal foundation to conclude that providers of such care are harming or deceiving consumers. To censure as unfair or deceptive the practices of gender-affirming care providers would require making conclusive (and likely erroneous[9]) medical judgments about their efficacy and safety that go far beyond the FTC's competence. Not even the U.S. Supreme Court has gone so far as to deny the "safety, efficacy, and propriety" of gender-affirming treatments.[10]

Yet in an apparent effort to circumvent this legal deficiency (as well as the great weight of medical research[11]), the Commission's inquiry starts from the implicit premise that the provision of gender-affirming care to minors is harmful and misleading. It disregards voluminous peer-reviewed, scientific evidence in favor of fringe theories and cherry-picked anecdotes. It is not wrong, as a general matter, for the Commission to address business practices that can harm consumers as they try to manage their own (or their children's) health. But to do so, the Commission must begin with rigorous analysis rather than pretextual vilification of established medical practices.

In a recent speech, the Director of the FTC's Bureau of Consumer Protection stated that the Commission under Chairman Andrew Ferguson "recognizes that individuals and families, not government, understand what products or services are best for them" and promised that the FTC will "enforce the law as Congress directed—and no more—no matter our policy preferences."[12] If there is any truth to these statements, the Commission will promptly close this docket and return to the work of protecting consumers rather than devising new reasons to insert itself into private medical affairs.

---

[7] *See, e.g.,* E. Coleman, et al., *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, International Journal of Transgender Health, DOI: 10.1080/26895269.2022.2100644 [hereinafter *WPATH Standards of Care*].

[8] 15 U.S.C. § 45(a)(1).

[9] *See, e.g.,* Wylie Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline,* 102 J. of Clinical Endocrinology & Metabolism 11:1 3869, 3881-82 (Sept. 13, 2017), https://academic.oup.com/jcem/article/102/11/3869/4157558?login=false [Hereinafter *Endocrine Society Clinical Practice Guideline*].

[10] *Skrmetti v. United States*, 145 S. Ct. 1816, 1837 (2025) (asserting only that such matters are subject to "fierce scientific and policy debates").

[11] *See, e.g.,* Jason Rafferty et al., *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142(4) Pediatrics (Oct. 01, 2018), https://doi.org/10.1542/peds.2018-2162 [hereinafter *AAP Guidelines*].

[12] Christopher Mufarrige, *Prepared Remarks for the National Advertising Division Annual Conference 2025*, FTC 6-7 (Sept. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/mufarrige-nad-speech.pdf.

I. The provision of gender-affirming care to minors does not, in the ordinary course, constitute an unfair or deceptive trade practice.

a. The prevailing standards for gender-affirming care reflect a broad consensus of medical professionals and have been peer reviewed using rigorous scientific protocols.

Gender-affirming care for minors includes a wide variety of treatments, many of which are non-medical. There are various standards of care for transgender or otherwise gender diverse individuals, including those drafted by World Professional Association for Transgender Health (WPATH),[13] the Endocrine Society,[14] and the American Academy of Pediatrics (AAP).[15] These organizations offer consensus amongst the medical profession, and their standards are peer reviewed using rigorous scientific protocols. These standards of care often vary by age. For example, for younger children who have not yet hit puberty, WPATH's Standard of Care does not recommend medical intervention, merely recommending social transition.[16] Social transition includes name changes in social settings, encouraging support from loved ones, and supportive cognitive behavioral therapy.[17]

For adolescents reaching puberty, WPATH recommends careful medical assessments and individualized plans. To receive medical care, the guidelines recommend certain criteria be met: a qualified mental health professional must diagnose the individual with gender dysphoria; the individual must experience the gender dysphoria sustained over time, and that the adolescent demonstrates the emotional and cognitive maturity required to provide informed consent/assent for the treatment; when other mental health concerns (if any) have been addressed; and when the adolescent has been informed of any risks.[18] Some individuals who experience gender dysphoria may require more intervention, such as the use of gonadotropin-releasing hormone agonists (GnRHa) to stop the progression of pubertal developments and affirmative hormone interventions such as testosterone and estrogen administration.[19] Importantly, GnRHa is a widely used treatment for central precocious puberty in non-transgender minors and other illness like prostate cancer in adults.[20] The law upheld by the Supreme Court in *Skrmetti v. United States* even contemplates this, as it specifies that these treatments are only prohibited for individuals receiving it to transition from the minor's gender assigned at birth.[21]

---

[13] *WPATH Standards of Care*, *supra* note 7.
[14] *Endocrine Society Clinical Practice Guidelines*, *supra* note 9.
[15] *AAP Guidelines, supra* note 11.
[16] *WPATH Standards of Care*, *supra* note 7, at S69.
[17] *Id.* at S69.
[18] *Id.* at S48.
[19] *Id.* at S110-11.
[20] JC Carel, et al., *Consensus statement on the use of gonadotropin-releasing hormone analogs in children.* Pediatrics. (2009) 123:e752–62. 10.1542/peds.2008-1783; U.S. Food & Drug Admin., *FDA approves relugolix for advanced prostate cancer*, https://www.fda.gov/drugs/resources-information-approved-drugs/fda-approves-relugolix-advanced-prostate-cancer (last visited Sept. 26, 2025).
[21] Tenn. Pub. Acts § 68-33-101 *et seq.* (2024).

b. The provision of puberty blockers and other commonly accepted forms of gender-affirming care is not deceptive, as such products and services conform to the representations made by providers and manufacturers.

A deceptive trade practice includes a "representation, omission or practice that is likely to mislead the consumer."[22] Under the FTC's 1983 policy statement on deception, the practice must be evaluated from the perspective of a reasonable consumer, and it must be material.[23] A deceptive practice occurs when a business makes representation to consumers but "lacks a 'reasonable basis' to support the claims made."[24]

The Commission's RFI appears to begin from the premise that gender-affirming care is harmful for minors and that medical professionals who recommend, or even mention, such care are misleading patients and their parents. Even granting the Commission's assertion that there is "increasing professional debate over gender transition protocols,"[25] evaluating whether the offering of gender-affirming care constitutes a deceptive practice would require the FTC to make fact-intensive medical determinations far beyond its competence as an agency. Doing so would likely require evaluating what representations the provider made in confidential discussions with the patient and parents about treatment options. And any assertion by the FTC that a provider has deceived patient or parent would come up against the prevailing standards of gender-affirming care set out by WPATH, the Endocrine Society, and the AAP.

For example, drugs like GnRHAs are FDA approved, legal, and widely used for the treatment of cisgender and transgender minors alike.[26] The FDA's process for approving drugs is rigorous and rooted in scientific evidence.[27] That there is "debate" concerning GnRHAs does not change the fact that their use is consistent with well-established standards of medical care, which in turn provide a "reasonable basis" for making representations to patients concerning their efficacy and safety.

c. Gender-affirming care consists of safe medical procedures that are approved for both transgender and non-transgender individuals.

An unfair practice is one "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."[28] A substantial injury can be "a small harm to a large number of people" or by raising a "significant risk of concrete harm."[29] A substantial injury can also result

[22] FTC, *Policy Statement on Deception* (1983), https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf.
[23] *Id.*
[24] *Daniel Chapter One v. FTC*, 405 F. App'x 505, 506 (D.C. Cir. 2010) (quoting *Thompson Med. Co., Inc., v. FTC*, 791 F.2d 189, 193 (D.C. Cir. 1986)).
[25] *RFI*, *supra* note 1.
[26] Carel, et al., *supra* note 20.
[27] U.S. Food and Drug Admin., *Development Approval Process | Drugs*, https://www.fda.gov/drugs/development-approval-process-drugs (last accessed Sep. 26, 2025).
[28] 15 U.S.C. 45(n).
[29] *Am. Fin. Servs. Ass'n. V. FTC*, 767 F.2d 957, 972 (D.C. Cir. 1985).

when consumers are "injured by a practice for which they did not bargain."[30] The "not reasonably avoidable" prong examines the relative bargaining power of the consumer and the seller and the consumer's freedom of choice.[31] Finally, a balancing test is employed to inquire as to whether a practice is "injurious in its net effects." [32]

There is no substantial injury in the recommendation and employment of gender-affirming care to treat gender dysphoria in minors because the treatment is overwhelmingly safe and supported by authoritative and widely accepted standards of medical care. For prepubescent minors, the standard of care includes social transition and mental health support, not medical intervention. For adolescents going through puberty, the drugs available for puberty blocking were approved for cisgender youth in 1993 by the FDA to treat precocious puberty.[33] The use of puberty blockers is fully reversible.[34] Once the individual stops taking puberty blockers, the body resumes the original puberty process with minimal long term effects.[35] Importantly, the employment of gender-affirming care is by and large shown to affirmatively improve mental health and reduce deaths by suicide in the transgender community.[36]

Furthermore, the choice to employ gender-affirming care by the patient and their parents can—if desired—be reasonably avoided. The standards of care are clear that healthcare providers must discuss the positive and negative aspects of the treatments, as well as engaging in rigorous assessments on a case-by-case basis to ensure that the treatment is the right choice for the individual.[37] Even before meeting with the ultimate healthcare provider who provides the gender-affirming care, transgender and gender non-conforming individuals must typically meet with several doctors and mental health professionals. For example, to cover gender-affirming care, many insurance companies require a letter from a certified mental health professional diagnosing an individual with gender dysphoria.[38] With long wait times and sometimes insurmountable financial roadblocks, accessing gender-affirming care is costly and time consuming. By the time an individual reaches the final step, any knowledge differential that could otherwise allow healthcare providers to exercise undue influence is greatly diminished.

---

[30] *FTC v. Windward Mktg. Inc.*, 1997 WL 33642380, at *11 (N.D. Ga. Sept. 30, 1997) (citing *Orkin Exterminating Co., Inc. v. FTC*, 849 F.2d 1354, 1364–65 (11th Cir. 1988)). The FTC brings these types of cases "not to second-guess the wisdom of particular consumer decisions, but rather to halt some form of seller behavior that unreasonably creates or takes advantage of an obstacle to the free exercise of consumer decision making." Danielle Keats Citron & Daniel J. Solove, *Privacy Harms*, 102 B.U.L. Rev. Online 793, 848 (2021), https://www.bu.edu/bulawreview/files/2022/04/CITRON-SOLOVE.pdf.

[31] *See* Info. Comm'r's Off., *Overview of Data Protection Harms and the ICO's Taxonomy*, 6 (2022), https://ico.org.uk/media/about-the-ico/documents/4020144/overview-of-data-protection-harms-and-the-ico-taxonomy-v1-202204.pdf ("[E]conomic circumstances such as market power or barriers to switching can mean that harms are hard to avoid even if informed and unbiased consumers are unable to discipline providers by switching to alternatives.").

[32] *Policy Statement on Deception*, *supra* note 22.

[33] U.S. Food & Drug Admin., *Prescribing Information for LUPRON DEPOT-PED. Ref. ID 4099980* (May 2017), https://www.accessdata.fda.gov/drugsatfda_docs/label/2017/020263s042lbl.pdf (noting initially approved in the US in 1993).

[34] *Endocrine Society Clinical Practice Guidelines,* supra note 9 at 3881-82.

[35] *Id.* at 3881-83.

[36] *WPATH Standards of Care*, *supra* note 7 at S52 (collecting various peer reviewed journal findings).

[37] *Id.* at S48.

[38] *See, e.g.,* United Healthcare Community Plan, *Medical Policy: Gender Dysphoria Treatment*, Policy No. CS145.R (Aug. 1, 2025), https://www.uhcprovider.com/content/dam/provider/docs/public/policies/medicaid-comm-plan/gender-dysphoria-treatment-cs.pdf (Necessitating well documented gender dysphoria and other requirements before coverage for gender affirming care will be approved).

The countervailing benefits to consumers in recommending gender-affirming care practices, however, significantly outweigh the risks. The drastic drop in suicide and mental health concerns is widely documented in peer-reviewed scientific journals who study transgender individuals and access to gender-affirming care. In a study assessing long term regret and satisfaction in gender-affirming mastectomy, commonly referred to as "top surgery," the median satisfaction score was a 5 out of 5 (the highest possible level of satisfaction) with a median regret score of 0 out of 100 (the lowest possible level of regret).[39]

II. The FTC's history of enforcement actions concerning unfair and deceptive practices in the healthcare space illustrates the anomalousness of this RFI.

The Commission's RFI represents a significant departure from the FTC's history of enforcement actions against health-related entities and business practices. Indeed, despite the Commission's stated commitment to "enforce the law as Congress directed—and no more,"[40] this inquiry signals the FTC's willingness to upend the judgments of qualified medical professionals and disregard the statutory parameters of its enforcement authority for the policy preferences of the President.[41]

The Commission has a laudable track record of taking enforcement action against companies in the healthcare space when the offending practices subvert the reasonable expectations of the consumers. For example:

- The Commission settled separate actions against two lead generators that misled consumers about the amount of healthcare coverage they would receive from a plan they purchased and bombarded consumers with telemarketing calls;[42]
- The Commission settled a lawsuit with Evoke Wellness, a substance use disorder treatment clinic, because the clinic pretended to be other clinics and deceived consumers into believing that Evoke had a relationship with other clinics that consumers sought;[43]

[39] Lauren Bruce et al., *Long-Term Regret and Satisfaction With Decision Following Gender-Affirming Mastectomy*, 158 J. Am. Med. Assoc. Surgery 10:1070 (Aug. 9, 2023), https://jamanetwork.com/journals/jamasurgery/fullarticle/2808129#google_vignette.
[40] Christopher Mufarrige, *Prepared Remarks for the National Advertising Division Annual Conference 2025*, FTC 6-7 (Sept. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/mufarrige-nad-speech.pdf (quoting Howard Beales, Director, FTC Bureau of Consumer Protection, The FTC's Use of Unfairness Authority: Its Rise, Fall, and Resurrection (May 30, 2003), https://www.ftc.gov/news-events/news/speeches/ftcs-useunfairness-authority-its-rise-fall-resurrection.
[41] *See* Exec. Order No. 14187, 90 Fed. Reg. 8771 (Jan. 28, 2025).
[42] Press Release, FTC, *Assurance IQ and MediaAlpha to Pay a Total of $145 Million to Settle FTC Charges That They Misled Consumers Seeking Health Insurance* (Aug. 7, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/08/assurance-iq-mediaalpha-pay-total-145-million-settle-ftc-charges-they-misled-consumers-seeking.
[43] Press Release, FTC, *Evoke Wellness to Pay $1.9 Million to Settle FTC Claims That They Misled Consumers Seeking Substance Use Disorder Treatment* (June 10, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/06/evoke-wellness-pay-19-million-settle-ftc-claims-they-misled-consumers-seeking-substance-use-disorder.

- The Commission proposed an order with NextMed, a telemedicine company, to settle claims that it used fake reviews and made false claims about its weight loss programs;[44]
- The Commission joined the DOJ and FDA to sue B4B Corp. to block its deceptive ads that claim its tea is clinically proven to treat and prevent COVID-19;[45]
- The Commission sent refunds to consumers who purchased Pure Green Coffee, a sham weight loss coffee product marketed with false health claims and fake reviews;[46]
- The Commission sent refunds to consumers who were deceived by Razer Inc. when it falsely claimed its Zephyr face masks were N95 grade during the COVID-19 pandemic as the masks were never submitted to the FDA to be certified;[47]
- The Commission and the state of Georgia sued the Stem Cell Institute, resulting in a ban prohibiting the company and its co-founders from marketing stem cell therapy because the company deceptively marketed unproven stem cell therapy and trained providers to do so as well;[48]
- The Commission sent warnings to adoption intermediaries to warn against making deceptive claims to consumers regarding placement rates and times and concealing negative reviews;[49]
- The Commission sued Benefytt Technologies, et al. for deceiving consumers about sham health insurance plans and charging high junk fees for unwanted add-on products without consent.[50]

---

[44] Press Release, FTC, *FTC Takes Action Against Telemedicine Firm NextMed Over Charges It Used Misleading Prices, Fake Reviews, and Deceptive Weight Loss Claims to Sell GLP-1 Weight-Loss Programs* (July 14, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/07/ftc-takes-action-against-telemedicine-firm-nextmed-over-charges-it-used-misleading-prices-fake.

[45] Press Release, FTC, *FTC, DOJ, and FDA Take Action to Stop Marketer of Herbal Tea from Making False COVID-19 Treatment Claims* (Mar. 3, 2022), https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-doj-fda-take-action-stop-marketer-herbal-tea-making-false-covid-19-treatment-claims.

[46] Press Release, FTC, *FTC Sends Refunds to Consumers Deceived by Pure Green Coffee Weight Loss Ads* (Mar. 6, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/03/ftc-sends-refunds-consumers-deceived-pure-green-coffee-weight-loss-ads.

[47] Press Release, FTC, *FTC Sends More Than $1 Million in Full Refunds to Customers Deceived by False Claims of "N95-Grade" Zephyr Face Masks* (Jan. 13, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-sends-more-1-million-full-refunds-customers-deceived-false-claims-n95-grade-zephyr-face-masks.

[48] Press Release, FTC, *Stem Cell Institute Co-Founders and Companies Banned from Marketing Stem Cell Treatments and Ordered to Pay More Than $5.1 Million for Refunds and Civil Penalties* (Jan. 8, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/01/stem-cell-institute-co-founders-companies-banned-marketing-stem-cell-treatments-ordered-pay-more-51.

[49] Press Release, FTC, *FTC Warns Adoption Intermediaries Against Misleading Parent* (Sept. 10, 2024), https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-warns-adoption-intermediaries-against-misleading-parents.

[50] Press Release, FTC, *FTC Sends Nearly $100 Million in Refunds to Consumers Harmed by Benefytt Technologies' Sham Health Plans* (Mar. 18, 2024), https://www.ftc.gov/news-events/news/press-releases/2024/03/ftc-sends-nearly-100-million-refunds-consumers-harmed-benefytt-technologies-sham-health-plans.

As these cases illustrate, the Commission has often used its enforcement authority to protect consumers from unfair and deceptive practices relating to their purchase of health-related products and services. These actions have served to vindicate the reasonable expectations of consumers. We expect that if we purchase an insurance plan, we will receive the coverage promised. We expect that when we purchase a product advertised to have a certain physiological effect, it will deliver that effect.

The Commission's RFI breaks sharply with this history, taking direct aim at well-established standards of gender-affirming care for minors and the medical professionals who administer it. This second-guessing of clinical judgment is both far beyond the FTC's expertise as an agency and a poor foundation for the Commission to assert an unfair or deceptive practice. Indeed, the FTC's inquiry appears calculated to *subvert* the expectations of a significant number of consumers: those who want access to gender-affirming care for themselves or their children, free from undue government interference. The FTC should learn from its own history and put an end to this RFI.

III. Conclusion

The Commission's line of inquiry repudiates decades of rigorous, peer-reviewed research and consensus among medical and scientific professionals. The FTC would seek to engage in medical determinations that often involve intensive review by multiple healthcare providers based on decades of training and practice. Even under the apparent premise of this RFI—breaking as it does with decades of FTC enforcement practice—the Commission would find that there are no categorical or widespread unfair or deceptive trade practices to be found in the implementation of gender-affirming care. EPIC urges the FTC to close this inquiry.

With the resources it is devoting to this RFI, the Commission could instead carry forward the FTC's prior work to rein in the data brokers and aggregators that traffic in our most sensitive personal information.[51] It could use its Section 5 authority to disrupt surveillance pricing,[52] targeted advertising,[53] and other harmful pillars of the commercial surveillance ecosystem that consumers revile. It could sharpen its focus on data security enforcement to combat the rising tide of breaches.[54]

---

[51] *See, e.g.,* Press Release, FTC, *FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data* (Jan. 9, 2024) https://www.ftc.gov/news-events/news/press-releases/2024/12/ftc-takes-action-against-gravy-analytics-venntel-unlawfully-selling-location-data-tracking-consumers; https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-prohibits-data-broker-x-mode-social-outlogic-selling-sensitive-location-data.

[52] *See, e.g.*, Press Release, FTC, *FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing* (July 23, 2024) https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-issues-orders-eight-companies-seeking-information-surveillance-pricing.

[53] *See, e.g.*, Press Release, *FTC Takes Action Against Mobilewalla for Collecting and Selling Sensitive Location Data* (Dec. 3, 2024), https://www.ftc.gov/news-events/news/press-releases/2024/12/ftc-takes-action-against-mobilewalla-collecting-selling-sensitive-location-data; https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-will-ban-inmarket-selling-precise-consumer-location-data.

[54] Trusted annual statistics from law enforcement, industry, and civil society, further reinforced by the FTC's sister federal consumer protection agency the Federal Communications Commission (FCC), all speak to the persistence of data breaches (including personal data breaches), demonstrating the need for stronger data security regulations. *See, e.g.*, FBI, *2024 Internet Crime Report* at 18, https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf (noting 64,882

It could take any number of other enforcement and regulatory actions to safeguard consumers and their personal information. Instead, the Commission has signaled its intention to intrude on personal medical decisions that are the rightful province of parents, minors, and qualified medical professionals. This marks a sad day, indeed, for "the chief federal agency on privacy policy and enforcement[.]"[55]

Respectfully submitted,

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

/s/ Sara Geoghegan
Sara Geoghegan
EPIC Senior Counsel

/s/ Maria Villegas Bravo
Maria Villegas Bravo
EPIC Counsel

complaints of personal data breaches, up from 55,851 in 2023); *see also 2023 Internet Crime Report*, FBI 8 (2023), https://www.ic3.gov/Media/PDF/AnnualReport/2023_IC3Report.pdf (noting 38,218 complaints in 2019); *2016 Internet Crime Report*, FBI 17 (2016), https://www.ic3.gov/Media/PDF/AnnualReport/2016_IC3Report.pdf (27,573 complaints in 2016); *2014 Internet Crime Report*, FBI 47 (2014), https://www.ic3.gov/Media/PDF/AnnualReport/2014_IC3Report.pdf (5,145 complaints in 2014); Notice of Proposed Rulemaking, *In re: Data Breach Reporting Requirements*, WC Dkt. No. 22-21 at para. 8 (Jan. 6, 2023), https://docs.fcc.gov/public/attachments/FCC-22-102A1.pdf ("These examples demonstrate the increasing severity and diversifying methods of security breaches involving customer information, which can have lasting detrimental impacts on customers whose information has been breached").

[55] *Protecting Consumer Privacy and Security*, FTC, https://www.ftc.gov/news-events/topics/protecting-consumer-privacy-security.