



Office of Commissioner  
Melissa Holyoak

UNITED STATES OF AMERICA  
**Federal Trade Commission**  
WASHINGTON, D.C. 20580

**Concurring and Dissenting Statement of Commissioner Melissa Holyoak  
Joined by Commissioner Andrew N. Ferguson**

*AI Partnerships and Investments 6(b) Study*, FTC Matter No. P246201

January 17, 2025

Artificial Intelligence has potential to benefit consumers and make American businesses more effective.<sup>1</sup> And the United States has been at the forefront of developing AI, thanks to our business environment. As Commissioner Ferguson wrote in a dissent last fall: “America is the greatest commercial power in the history of the world in no small part because of its tolerant attitude toward innovation and new industry. There has never been a better place in the world to have a new idea than the United States. We should go to great lengths to ensure that remains the case.”<sup>2</sup> Because FTC enforcement decisions affect market conduct and incentives, and ultimately consumers, we should act circumspectly to keep America first when it comes to AI. To help achieve that goal, we can use our authority to better understand evolving AI markets.<sup>3</sup> Today’s staff Report draws on information obtained from Google, Amazon, Microsoft, OpenAI, and Anthropic. Its analysis advances our knowledge of some of the commercial dynamics shaping AI’s evolution.<sup>4</sup> I have dissented from publishing misguided 6(b) analysis in the past.<sup>5</sup> But because this Report enhances awareness of how key technology companies have operated in this important and dynamic area of our economy, I concur in part, while dissenting from Section 5 and sharing the concerns Commissioner Ferguson articulates in his statement.<sup>6</sup>

At a high level, the Report—based on snapshots of partnerships between the world’s largest cloud service providers (CSPs) and the AI developers mentioned above—leaves no doubt about

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<sup>1</sup> See, e.g., Statement of Comm’r Melissa Holyoak, Subcommittee on Innovation, Data, and Commerce, Energy and Commerce Committee, U.S. House of Representatives, “The Fiscal Year 2025 Federal Trade Commission Budget,” at 4 (July 9, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/commissioner-holyoak-testimony-7-5-24.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/commissioner-holyoak-testimony-7-5-24.pdf).

<sup>2</sup> Dissenting Statement of Comm’r Andrew N. Ferguson, Joined by Comm’r Melissa Holyoak, *In re Rytr, LLC*, Matter No. 2323052, at 9 (Sept. 25, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/ferguson-rytr-statement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-rytr-statement.pdf); see also Dissenting Statement of Comm’r Melissa Holyoak, Joined by Comm’r Andrew N. Ferguson, *In re Rytr, LLC*, Matter No. 2323052, at 5 (Sept. 25, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/holyoak-rytr-statement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/holyoak-rytr-statement.pdf).

<sup>3</sup> See generally Statement of Comm’r Melissa Holyoak, *supra* note 1, at 4.

<sup>4</sup> See Fed. Trade Comm’n, Office of Technology, *Partnerships Between Cloud Service Providers and AI Developers: FTC Staff Report on AI Partnerships & Investments 6(b) Study*, at 1 (Jan. 2025) (the Report contains staff “findings from the agency’s 6(b) study into three partnerships involving generative [AI]: Microsoft-OpenAI, Amazon-Anthropic, and Google-Anthropic. These partnerships involve relationships between the world’s current largest Cloud Service Providers . . . and two of the most prominent AI model developers.” (citation omitted)).

<sup>5</sup> See, e.g., Dissenting Statement of Comm’r Melissa Holyoak, *In re Pharmacy Benefit Managers Report*, Matter No. P221200 (July 9, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Holyoak-Statement-Pharmacy-Benefit-Managers-Report.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Holyoak-Statement-Pharmacy-Benefit-Managers-Report.pdf).

<sup>6</sup> See Concurring and Dissenting Statement of Comm’r Andrew N. Ferguson, Joined by Comm’r Melissa Holyoak, *Regarding the FTC Staff Report on AI Partnerships & Investments 6(b) Study*, Matter No. P246201 (Jan. 17, 2025).

the significant roles Google, Amazon, and Microsoft play in shaping how AI products and markets develop. And while some of the Report’s analysis rests on public reporting, and may correlate to how other markets function, the Report has value due to its underlying context: a more granular understanding than previously available of a handful of key partnerships between some of the largest technology companies and AI developers.

Yet this Report has limitations. Continuing to expand our understanding of other potential dimensions of these types of partnerships may be worthwhile in the future. Of particular importance, we know that “generative AI may be used behind the scenes in ways that are opaque to end-users—such as in content moderation systems on digital platforms,” which increases the importance of how these technologies are developed.<sup>7</sup> We also know that some entities offering cloud services connected to AI development have shown a willingness to engage in lopsided censorship against certain viewpoints.<sup>8</sup> And some firms—including both CSPs and AI developers—have made commitments to the Biden-Harris administration about how they will develop or deploy their AI.<sup>9</sup> Hence, one aspect of partnerships that may be of future interest is whether business-to-business agreements between such companies may operationalize and incorporate terms and conditions, or design requirements, intended to reshape consumer-facing products or experiences in ways that restrict free speech.

At the end of the day, the topics this Report covers are important. While I do not agree with all of its contents or implications, what staff have described deserves attention from policymakers and the American public.

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<sup>7</sup> See Report, *supra* note 4, at 15; *cf.* Concurring and Dissenting Statement of Comm’r Melissa Holyoak, *Social Media and Video Streaming Services Staff Report*, Matter No. P205402, at 11 n.70 (Sept. 19, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/commissioner-holyoak-statement-social-media-6b.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/commissioner-holyoak-statement-social-media-6b.pdf).

<sup>8</sup> See generally, *e.g.*, Concurring Statement of Comm’r Melissa Holyoak, *In re 1661, Inc. d/b/a GOAT*, FTC Matter No. 2223016, at 2 n.14 (Dec. 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/holyoak-concurring-statement-re-goat.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/holyoak-concurring-statement-re-goat.pdf); *cf.* Ranking Member Ted Cruz, U.S. Senate Committee on Commerce, Science, and Transportation, *Weaponizing Terms of Service: How Online Service Providers Use Broad Policies to Silence Conservatives*, at i (Apr. 24, 2024), <https://www.commerce.senate.gov/services/files/253BF7A3-EA7E-41B2-85AA-6404BF484870>.

<sup>9</sup> See, *e.g.*, Interim Staff Report, Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government, U.S. House of Representatives, *Censorship’s Next Frontier: the Federal Government’s Attempt to Control Artificial Intelligence to Suppress Free Speech*, at 9 & n.40 (Dec. 18, 2024), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/12.18.24%20Censorships%20Next%20Frontier%20The%20Federal%20Governments%20Attempt%20to%20Control%20Artificial%20Intelligence%20to%20Suppress%20Free%20Speech.pdf>.