Consumer Reviews and Testimonials Rule - Informal Hearing | February 13, 2024

Judge Foelak:

Good morning. This is the informal hearing in the rulemaking on the use of consumer reviews and testimonials, which is Project P2145404. And I am Judge Foelak, and also with me in the room is this attorney from our office, Joseph Lindell. All right, you can go ahead with the presentations.

Kathryn Dean:

Thank you, your Honor. Thank you, your Honor. Good morning.

I'm Kathryn Dean and I run Fake Review Watch. I've been investigating online review fraud for over six years and have produced over 90 videos documenting the scope of the problem across multiple third party review platforms. My research and commentary have been featured in over 60 news stories, opinion pieces, and podcasts, including in the New York Times and the Washington Post, as well as on international broadcasts such as the Canadian Broadcasting Corporation's Evening News, and Australia's A Current Affair.

Most Fake Review Watch videos, present case studies, displaying evidence of fake reviews, businesses benefiting from them, and the failure of the review platforms to address the problem adequately. My work emphasizes this last point. The review platforms themselves bear most of the responsibility for the massive problem of fake online reviews. Interested parties can find the videos on Fake Review Watch's YouTube channel or Rumble channel.

Also, I've posted supporting documentation for this presentation on the Federal Register's website as a comment to the notice for this hearing. The supporting documentation includes evidence for my assertions. As the FTC itself has concluded, consumers today use online reviews extensively and ample evidence exists showing fake online reviews meant to deceive consumers are prevalent. The proposed rule is therefore a positive step and will hopefully deter many from engaging in this fraud.

However, the rule fails dramatically in one key aspect. It will not apply to third party review platforms, the architects of the whole corrupt system who profit from online reviews, whether real or fake. When I began researching online review fraud, I initially intended to present my research to platforms such as Google and Yelp so that they could act. Quickly however, I realized these companies could easily see all the fraud I was seeing, yet they failed to act.

I have shown time and again in my videos, the failure of the review sites to address the fake review problem in any serious manner. Google, Yelp, Facebook and others are not exercising a duty of care toward users of their services. They are in fact facilitating harm created by the rampant review fraud on their platforms. Moreover, according to my research, they either know or should know that they're facilitating that harm.

A recent case illustrates the problem. In October, 2023, the New York Attorney General's office secured a $100,000 penalty from a Manhattan orthopedic surgeon for manipulating his reviews on numerous websites, including Zocdoc, Google, Yelp, Healthgrades, Vitals, MD.com, RateMDs.com, and the Better Business Bureau. According to the investigation, the doctor and his wife used various methods to both suppress legitimate negative reviews and secure hundreds of fake positive reviews. My research spurred this case and attest to the role of the review sites and tech companies in allowing this fraud to occur. A July, 2020 Fake Review Watch video showed over two dozen obviously fake Google reviews for the orthopedic surgeon. Those reviews eventually disappeared after the video aired. But as depicted in a subsequent video nearly two years later in April, 2022, the surgeon had more fake Google reviews and a perfect five-star Google rating. Google apparently didn't examine the doctor's current reviews even though he had a history of receiving fake reviews. Moreover, according to the Attorney General's report, the doctor and his wife were also effective in getting Google to remove legitimate negative reviews. To quote the report, "On some platforms such as Google respondents would falsely flag negative reviews as violating the platform's policies prohibiting inappropriate content. This tactic was often effective on Google, as Google's automated system will remove a review that has been flagged without analyzing the content of the review, determine if in fact it violated the platform's policies."

Yelp was no better. Fake Review Watch pointed out fake Yelp reviews for the same doctor going back to 2018. While Yelp eventually removed some reviews, others remained recommended by Yelp to consumers for years until pointed out in my April, 2022 video. Yelp subsequently removed the reviews. The medical reviews sites weren't looking out for consumers either. My April, 2022 video showed clearly suspicious review patterns on both Healthgrades and Vitals for the doctor, going back to 2019. Some of those reviews had been active for months, others for years. Then their Zocdoc. The New York AG found that the doctor and his wife suppressed legitimate negative Zocdoc reviews, by falsely claiming patients booked through Zocdoc had not appeared for their appointments. In response to a negative review received on Zocdoc, in July, 2019, the doctor and his wife, "Began routinely marking patients he had seen as no-shows to prevent them from leaving potentially negative reviews. From July through November, 2019, respondents received 1,494 bookings through the Zocdoc platform and marked 756 of those patients, more than 50%, as no-shows." You'd think that Zocdoc would see this. But according to the report, it was only after a patient complaint that Zocdoc admonished the doctor and then only briefly suspended him from the platform. Samuel Levine, director of the FTCs Bureau of Consumer Protection has himself expressed frustration with the review platforms. Levine argued in the Washington Post, "They have the most visibility into what's happening. They're in the best position often to stop it, and we want them to be doing more. Many of them assert immunity under Section 230 of the Communications Decency Act."

And therein lies much of the problem. The review sites feel safe from liability and therefore, weigh any interest in eliminating fraud against the costs in doing so. Most review sites earn revenue from businesses advertising on their sites, not directly from consumers, creating an inherent conflict of interest. As noted by FTC Chair Lina Khan in her October 22nd, 2022 statement accompanying the advanced notice of proposed rulemaking, "The platforms that host reviews may have financial incentives to turn a blind eye to misconduct that brings in revenue." Whatever the reasons, the review sites and tech companies talk a good game when it comes to protecting consumers from review fraud, but their actions say something else.

I have found that Meta platforms, Facebook and Instagram, are both sources of review fraud appearing on other review platforms. Plus, Facebook itself is rife with fake reviews. Did Meta bother to provide comments on this proposed rulemaking concerning fake reviews? No. As my experience indicates, fake reviews are not high on the Meta priority list. Last March, I produced a video on fake Yelp, Google and Facebook reviews for a Las Vegas Pool builder. KTNV Las Vegas aired a story on the case and asked Facebook about the fake reviews for the pool builder. Facebook provided a canned response stating that it does not allow fraudulent and deceptive activity and takes robust steps to combat it. It then proceeded to do nothing. All 26 of the fake Facebook reviews identified in the video for the pool builder were still active nearly a year later on January 23rd, 2024.

Furthermore, this network of profiles has continued to posting fake reviews for other businesses, including a Texas dentist, as reported in my video from July, 2023. The dentist fake reviews remained active as of January 23rd as well. Regarding Google, I have found thousands of fake Google reviews using no automation and have meticulously documented the multiple ways Google fails to protect consumers and honest businesses against this fraud. My video, 10 Reasons Not to Trust Google Reviews, is a concise compilation of the research. Interestingly, Google's most significant comment to the FTCs advanced notice of public rulemaking last winter was that a proposed rulemaking should not apply to review platforms. When the FTC assured Google and other third party review platforms last summer that any new rule would not apply to them, Google apparently lost interest in the fake review problem and declined to submit any further input. The indifference of these tech companies toward review fraud harms small businesses as well as consumers.

A Florida construction company was recently bombed with fake negative reviews on both Google and Facebook, as documented in a November, 2023 Fake Review Watch video. Google failed to respond to the businesses and treaties and acted on the fake reviews only after my video and follow up news story by WPTV West Palm Beach. Not even videos and news stories have been able to move Facebook. Of the 37 negative fake Facebook reviews for the construction company identified in my November video, 35 remained active on Facebook as of January 25th, 2024. Fake Review Watch has thoroughly explained why consumers should not trust Yelp, from finding thousands of fake Yelp reviews to exposing the corruption of its Elite program to showing that Yelp's recommendation software does not operate how Yelp claims. While Yelp has provided substantive suggestions to the FTC in support of the proposed rulemaking, consumers should be wary of Yelp's public relations effort and use of careful or even deceptive phrasing to portray itself as the review platform leader in fighting fake reviews.

Consider these statements from Yelp's September 29, 2023 input to the FTC, and its introductory comments explaining its commitment to fight against deceptive review practices. Yelp touts its most recent effort, "An index that identifies nearly 5,000 businesses list on Yelp that have ever received either a compensated activity alert or a suspicious review activity alert, each of which aims to fight the spread of misinformation on Yelp." Yelp says it hopes that this index, "Will help Yelp users make more informed decisions about where to spend their money and reward those businesses that are following Yelp's rules and avoiding deceptive review practices."

If Yelp was serious about helping users make informed decisions, the information in the index would be clear and conspicuous to users. However, Yelp business pages do not indicate whether businesses have had consumer alerts in the past and do not even link to the index. To determine whether a business has ever had a Yelp Consumer alert, consumers must first know that the index even exists. Second, they have to know where it resides on Yelp's website. Third, once they find it, they have to complete separate searches for the different types of alerts. Yelp issues. I see this hard to find index as another Yelp scheme to portray itself as the industry leader against fake reviews, while at the same time minimizing the risk of losing advertising dollars from the 5,000 businesses on the index.

In its September comments to the FTC, Yelp also spends considerable time bloviating about its Elite program and cites a study that claims that according to Yelp, a credibility badges such as Yelp Elite status reinforced reviewer trustworthiness. Perhaps a credibility badge does in fact enhance reviewer trustworthiness with consumers. But in the case of the Yelp Elite program, it shouldn't. I've produced multiple videos documenting the corruption of Yelp's Elite program. An active black market exists for fake Yelp Elite reviews on Facebook and Instagram. And I have shown evidence of Yelp Elites on Facebook and Instagram being paid 20 to $50 to post fake reviews. Marketing researchers may view Yelp's Elite program as a good method to build trust with consumers, but it also attracts fraudsters. I see many suspicious Yelp profiles friend Yelp Elites, evidently with the intention of boosting the status of their profiles with Yelp's algorithm or even enhancing their chances of gaining Elite status themselves. While Yelp may claim it has systems in place to evaluate Elite nominees, I've shown multiple cases where Yelp community managers and ambassadors are reaching out to Yelp profiles who are posting fake reviews, even fake negative reviews, and recommending they apply for the Elite Squad. I've also seen Yelp representatives praising Elite reviewers who are at the same time posting fake reviews.

Moreover, I found numerous Yelp Elite profiles who aren't even real people and who are plagiarizing TripAdvisor reviews to curate their Yelp profiles. The fact that a lone researcher using no automation can find this level of fraud among Yelp's premier reviewers is reason enough to question Yelp's credibility. While Yelp touts its Status endowment Elite program as a means of becoming a guardian of trust for review information, the reality is that this program has created a black market for fake reviews. And why is that? I argue that Yelp Elite reviews are treated differently by Yelp's recommendation software and are never dumped into the reviews not currently recommended category. Businesses obviously agree, which accounts for the black market for Elite reviews. Yelp claims in its commons to the FTC, "Just like every other review on Yelp, Elite's reviews are evaluated by Yelp's recommendation software. This in turn can result in cancellation of Elite status or an account closure, which removes reviews from Yelp."

Yelp is being disingenuous here. I have observed thousands of Elite reviews over the past six years and have yet to see a single one not currently recommended by Yelp's recommendation software. Yes, Yelp has taken action to remove fake Elite reviews, especially when they're brought to its attention by Fake Review Watch videos or news stories. But that is a different issue than what the reviews are recommended or not recommended by Yelp's software in the first place. Those are just a few comments to explain why consumers should not trust the tech companies and third party review sites to look out for their best interests. If the FTC believes Section 230 prevents it from holding third party review platforms liable for the mountains of fake reviews they push on consumers and perhaps it can at least require the platforms to be more transparent. Greater transparency would give consumers better ability to decide on their own whether to trust reviews for a given business.

I offer the following nine recommendations for consideration as part of this proposed rule. These would apply to all third party review platforms hosting business reviews, but the same concepts would also apply to sites with product reviews. I've provided exhibits in support of these recommendations and the comments I posted to the Federal Register Notice for this hearing. One, review platforms must show users the number of fake or deceptive reviews the platform has removed from a given business's page in a clear and conspicuous manner. The very fact that a business has had fake reviews removed is valuable information for consumers. For example, as I show in my supporting documentation, wouldn't consumers want to know that Google removed over 130 fake reviews in a three month period, for an Ohio lawyer they might be considering? Two, review platforms must give users access to information pertaining to all reviews for a given business, even those that have been removed by the platform and no longer count for the business's star rating. All removed reviews, or at least the profile name, date, and number of stars should be readily accessible and grouped under separate headings depending upon reason for removal, such as deceptive content, offensive content, or irrelevant content. Currently, most platforms provide no record of removed reviews to consumers. The reviews just disappear. Yelp usually shows that removed reviews existed, but they're not easily found and are not grouped by reason for removal.

Three, review platforms must require reviewers to be identified through a unique profile name and state for users to see. Of course, reviewers should not be required to use their real names, but users should be able to differentiate one reviewer from any other. Knowing the reviewer's city and state of residence is also valuable for consumers in determining whether to trust that individual's reviews. For example, if a reviewer says she's from Los Angeles, but she's reviewing a Houston carpet cleaner, a Detroit dentist and a Vancouver Pet Hospital, a user may decide not to trust her reviews.

Four. To follow up on the last point, review platforms must give users linkable access to all other reviews posted by a reviewer. Whether the review is active, removed from active status, or in Yelp's case, not currently recommended. Such transparency would give users the full picture on the activity of any reviewer and the ability to make their own judgments on the reviewer's reliability. To be clear, this would mean that as a user scrolls through the reviews for any business, whether active, removed or Yelp's case, not currently recommended, the user can click on each individual reviewer to see all other reviews that reviewer has posted as well as the status of those reviews.

Five. This recommendation applies to Google specifically. Google normally gives users linkable access to a profile's other reviews. However, Google allows profiles to be locked, meaning users are no longer able to access the profiles other reviews. In this case, when a user clicks on the profile name, they're told this person hasn't written any reviews yet or has chosen not to show them on their profile. I have noted that an increasing number of profiles posting fake reviews are locking their profiles, preventing anyone from seeing their suspicious review patterns.

The whole point of posting online reviews is to offer opinions to the public so the public's interest and transparency would seem to override any privacy concerns that would justify hiding review histories. In accord with recommendation four, all Google profiles should provide linkable access to all of their reviews.

Six. This recommendation pertains to Yelp specifically. On an individual reviewer's profile page, Yelp portrays that person's reviews as if they're all recommended. This is deceptive because, as I've shown in the videos, exposing Yelp's bogus recommendation software and Yelp's recommendation software scam, Yelp often simultaneously recommend some reviews and does not recommend other reviews posted by the same person. Yelp users would only know this, however, by visiting the separate Yelp pages of each business, the reviewer has reviewed, a very cumbersome process. Yelp should show the current status of all reviews, recommended, not recommended and removed on all individual Yelp profile pages.

Kathryn Dean:

...pages. This would also benefit legitimate reviewers. When they log into their accounts, they would automatically see the status of each of their reviews. Seven, there are cases usually pertaining to fake negative reviews when a business itself requests that the reviews be removed. Review platforms must keep a record of any request submitted by businesses to remove fake or deceptive reviews from their business pages and respond expeditiously. Eight, review platforms must provide a specific date each review was posted. Many review sites do this, but Google simply says the review was posted a week ago, three months ago, or two years ago.

This prevents consumers from noting obvious suspicious patterns such as dozens of reviews being posted on the same day, followed by long periods of odd time with no reviews posted for a business. Nine, review platforms may not change the date that a review was posted. I don't know how prevalent this is, but I've documented a case of it. In this case, the medical review site Vitals, was repeatedly recycling old reviews for a doctor with new review dates so that the reviews appeared to be current. To conclude, given the scope of the fake online review problem and the harm it causes consumers and honest businesses. Fake Review Watch welcomes this rulemaking by the Federal Trade Commission.

However, as recognized by FTC Leadership, third party review sites are themselves in the best position to combat fraud on their platforms, and my research has shown that their actions are wholly inadequate. If section 230 precludes holding third party review sites accountable for the fraud they facilitate, then I encourage the FTC to consider requiring greater transparency by these platforms through implementation of these recommendations. I want to thank the Federal Trade Commission for giving me this opportunity to speak.

Judge Foelak:

Thank you.

Lartease Tiffith:

Good morning, your Honor. I am Lartease Tiffith. I'm the next speaker.

Judge Foelak:

Good morning. Please proceed.

Lartease Tiffith:

Thank you. Great, thank you. Thank you for the opportunity to speak today. I am Lartease Tiffith and I'm the Executive Vice President for Public Policy at the Interactive Advertising Bureau. IAB represents over 700 leading media companies, brand marketers, agencies and technology companies that are responsible for selling, delivering, and optimizing digital advertising and marketing campaigns. Together, our members account for 86% of online advertising expenditures in the United States. IAB supports the commission and its goal of improving the authenticity of reviews and testimonials in retail and commercial transactions.

Bad actors have taken advantage of reviews for products and services and feature that is intended to benefit consumers for their own financial gain at consumer's expense. Fake reviews also hurt businesses who rely on trustworthy consumer reviews to validate and promote their products and services. Ensuring that this rule is effective and targets the bad actors that create, sell and disseminate fake reviews to consumers is crucial, which is why today's hearing is so important. Today we would like to address the reasons that IAB supports the commission's goals with this rule, as well as our substantive and procedural concerns with the rule in a hearing process.

As to the substance of the rule, IAB incorporates the concerns raised in our NPRM comment and our petition as well and others, things that we follow with, your honor, of the numerous concerns raised in that in our comments. IAB wishes to highlight language in the proposed rule that is overbroad and threatens to sweep in non-deceptive conduct. The overbreadth of the proposed rule carries significant adverse consequences for both regulated entities and customers. Indeed, the use of vague language such as disseminates and procurious is likely to lead to the suppression of legitimate reviews as businesses grapple with how to implement moderation policies that will avoid liability under the proposed standards.

Similarly, despite what the BCP staff has claimed, knowledge standards such as should have known that are incorporated into the proposed rule will create uncertainty for companies absent clarification of when they might be held liable and subject to civil penalties. Ultimately, the lack of clarity in these standards would disincentivize businesses particularly smaller or newer businesses, from displaying reviews to avoid liability under the proposed rule. This type of shift would cost consumers a valuable resource in making their purchasing decisions.

In addition, we do not think that the proposed rule is consistent with existing law including section 230 of the Communications Decency Act and the First Amendment. With respect to the hearing process, IAB has raised serious concerns that the commission denied IAB's request for cross-examination by applying a newly announced and incorrect legal standard. The commission recently employed a similar approach to the recent hearing on the negative option rule. This presents a disturbing pattern of the commission attempting to sidestep the statutory requirements for the informal hearing process, which is intended to be an important mechanism by which consumers, businesses and other members of the public may participate in developing the rulemaking record.

I'd like to start by first underscoring just how important consumer reviews are to consumers and IAB's members. For this reason, IAB supports the FTCs goal of combating the abuse of reviews and testimonials. Authentic reviews and testimonials are important sources of information for consumers, allowing consumers easy access to genuine positive and negative feedback, which enables them to make informed purchasing decision without having to purchase the product themselves. Authentic reviews also help sellers including small businesses, attract customers, increasing the visibility of their products and establish credibility in competitive marketplaces.

Businesses including IAB's members have a strong interest in ensuring that the reviews on their websites are trustworthy and reflect real customer experiences and feedback. Earning and retaining customers trust is of paramount importance to IAB's members. The rise of fake reviews across the internet degrades the customer experience. IAB strongly supports a rule that targets bad actors who exploit an otherwise valuable resource for financial gain. Businesses work hard to proactively combat these frauds devoting significant resources to the detection, prevention, and removal of fake reviews.

Even so bad actors will continue to adapt their strategies in pursuit of profit. Combating the score of fake reviews is an important goal and one that IAB and its members look forward to working with the FTC and others to achieve. This is why IAB requested an informal hearing. We want to make sure that this rule is appropriately targeted to stop bad actors and promote review integrity. Given the importance of getting this rule right, IAB has serious concerns with the procedures the commission has prescribed for this informal hearing. Instead of facilitating a thorough examination of important issues that commoners have identified with the proposal's rule, the procedures provided by the commission will lead to an underdeveloped record on these issues.

Specifically, the procedures for this informal hearing as provided in a hearing notice are inconsistent with Magnuson-Moss, its legislative history and past commission practice. One, Mag-Moss contemplates a robust hearing process in which participants may engage in cross-examination to draw out the intricacies of important disputed issues of material fact implicated by the rule. In deciding that there are no disputed issues of material fact, the commission has sidestepped this important statutory feature of this hearing, thereby devaluing this rulemaking process.

Two, the commission has also eliminated the opportunity for other interested persons to participate in this hearing, suppressing potentially important voices to this rulemaking. The commission only invited three participants to submit comments in response to the hearing notice, which is contrary to Mag-Moss, which provides interested persons the right to present their position orally or by documentary submissions or both. Three, additionally, the commission collapsed the initial and final hearing notices into a single notice, plotting its own rules and denying interested persons an additional opportunity to request cross-examination.

Moreover, the commission has attempted to constrain the presiding officer's important role in the hearing process. Mag-Moss provides for a presiding officer who must make a recommended decision based upon the findings and conclusion of such officers as to all relevant and material evidence. In the hearing notice, the commission purports to relieve the presiding officer of her statutory duty stating that the ALJ presiding today is not anticipated to make a recommended decision and that her role will be restricted to ensuring an orally hearing. The procedures the commission has prescribed for this hearing are also contrary to the legislative history of Mag-Moss.

In passing Mag-Moss, congress set forth heightened procedural and substantive requirements to ensure that section 18 rules will be issued based on a well-developed record necessary to support such rules. The informal hearing process is one of those heightened procedural requirements designed to permit the fullest possible participation in any such rulemaking proceeding and make available to the commission the widest possible expression of views in data on the issues presented by the proposed rules. The commission does the rulemaking process and the public a disservice by shortchanging this hearing's potential to develop a substantive, thoughtful, rulemaking record.

The commission also has not explained its stark departure from the commission's historical approach to informal hearings in past section 18 rulemakings. In these past proceedings, stakeholders were given the opportunity to develop the record more fully with the opportunity to set forth all key viewpoints. For instance, during the rulemaking process for the credit practices rule, the FTC held 10 weeks of hearings during which 319 witnesses testified. According to the final statement of basis and purpose, all of the following interests were represented at the hearing. Finance companies and their trade association, banks and bank association, retailers, credit unions, legal services attorneys, consumers and consumer groups, which were hundreds of people involved.

Hundred of organizations involved [inaudible 00:33:56]. Similarly, when considering the used car rule, the FTC provided all witnesses an opportunity to make an opening presentation, allow for cross-examination by representatives of all key stakeholder groups, including used car dealers, the auto rental and leasing industries and consumers groups, and accepted rebuttal statements after the hearings. More recently, the FTC has held a day long public workshop to explore proposed changes to the business opportunity role. The workshop was open to the public and welcome comments from the public as well. For reasons unknown and unexplained, the commission has elected to provide only a 90-minute hearing with no cross-examination and no opportunity for interested persons other than the three parties here. I'm fortunate IAB were one of them who were invited to speak today to participate. The process the commission has provided here appears to be designed to minimize the informal hearing's important role in the rulemaking process by limiting oral presentation to three commoners, denying IAB'S requests for cross-examination and prohibiting documentary submissions from any interested person except the three hearing participants.

IAB has unfortunately already seen the consequences of these procedural flaw at the recent informal hearing for the negative option rule. The commission's procedural choices in the negative option rule hearing undercut the informal hearing's important role and the rulemaking process. Presenters were given a scant 10 minutes each to highlight important issues and were not allowed the opportunity to conduct cross-examination. Additionally, the commission foreclosed input from other commentators who were not invited to present at the hearing.

At the initial presentations and in supplemental submissions, IAB and other commenters urge the presiding officer to designate disputed issues of material fact and have submitted evidence in support of those issues. In response to disputed issues of material fact were designated and cross-examination was permitted, although the commission has thus far put forward no witnesses or evidence to support the proposed rule. IAB urges presiding officer to designate disputed issues of material fact in this rulemaking as there are similar disputed issues related to the costs and other consequences from the proposed rule in this rulemaking as well.

In our comments on the notice of proposed rulemaking, IAB raised two disputed issues of material fact that have not been adequately addressed by the commission. The commission has excused itself from meaningfully engaging with these issues by erroneously determining that there are no disputed issues of material fact that need to resolved in this proceeding and thus not allowing cross-examination. In reaching this conclusion, the commission applied an incorrect legal senate that it never identified for commoners. IAB has serious concerns with the commission's refusal to allow development of the record on these important issues.

In his comment on the notice of proposal making, IAB identified three in this one disputed issues material fact, because the commission has decided not to pursue proposed section 465.3. We will discuss only two of those issues today. The issues are whether the compliance costs for businesses will be minimal, particularly if the new or should have known standard is finalized. Whether the commission finding that unattended consequences from the NPRM are unlikely is accurate. As an example for fear of violating the review suppression section, business will allow more fake reviews to stay up on their websites.

Mag-Moss states that an interested person is entitled if the commission determines there are disputed issues of material fact. It is necessary to resolve to conduct such cross-examination of persons as the commission determines to be appropriate and to be required for a full and true disclosure with respect to such issues. Analysis of these issues in accordance with the statutory text leads to the conclusion that both issues that IAB has raised merit cross-examination. With respect to compliance costs, the issue disputed because the commission has concluded without basis that compliance costs associated with the proposal will be minimum simply because the proposed rule is an application of preexisting law Under section 5.

In contrast, we, IAB, have explained that several provisions of the proposed rule are so vague and overbroad including in particular section 465.2 use of terms like disseminates and procures, that they will force legitimate companies to invest significant resources into compliance programs to mitigate their risk of liability and civil penalty exposure. In a recent letter to the presiding officer, BCP staff claimed that IAB's concerns with the should have known standard incorporated into the proposed rule are unfounded. IAB disagrees. And we have explained in a written submission that the proposed rule as drafted may reasonably be read to permit the commission to seek civil penalties even when a company does not know that a specific review or testimonial violates the proposed rule.

If this is not the commission's intent, then we respectfully requested the commission revise the proposed rule accordingly. Absent clarification, businesses will continue to bear the cost of uncertainty and risk of civil penalties. Other commenters, including the National Retail Federation, the Association of National Advertisers, the Chamber of Commerce and the National Automobile Dealers Associations have raised similar issues and a very similar disputed issue has also been designated as such in a negative option rulemaking proceeding.

This issue is material and necessary to resolve because it will impact the appropriate breadth of the rule and cause something the commission must consider under the APA and Mag-Moss. With respect to unintended consequences, this issue is also disputed because the commission has asserted without evidence that unintended consequences such as a seller reacting to the fake review provision by censoring legitimate reviews or displaying no reviews at all are very unlikely. However, these consequences are likely to occur, particularly because as I explained previously, several provisions of the proposed rule can be read to impose civil penalties even when a company does not know that a review or testimonial violated the rule.

In addition, the use of vague language like disseminates and procures as well as section 465.7's lack of clarity as to whether the list of permissible reasons to suppress a review is intended to be exhaustive will contribute to uncertainty for businesses and less useful information available to consumers. Other commenters, including the US Chamber of Commerce, Trustpilot and the Computer and Communications Industry Association have also raised similar concerns regarding the proposed rules potential to inflict unintended harm. And this issue is material and necessary to resolve because it relates to how broad or narrow the proposed rule should be and must be considered under the APA.

The commission asserts two reasons of support of its conclusion that there are no disputed issues of material fact. One, that the proposed disputed issues of material fact are not supported by affirmative evidence provided by IAB that would satisfy the summary judgment standard. And two, that the proposed disputed issues of material fact raised by IAB are legislative facts rather than specific facts. However, these are not legitimate basis for concluding that there are no disputed issues of material fact in these proceedings where the commission has not adequately explained the basis for its conclusion.

Shifting the burden of proof to commenters at this stage of the rulemaking is an inappropriate step where the commission has not provided evidence to support its conclusions about costs and unlikely consequences. BCP staff have claimed that IAB ignored their preliminary regulatory analysis but explained in our written submission, we specifically cited it in our comment and identified the conclusions in the preliminary regulatory analysis that lacked adequate support.

By requiring commenters to put forward affirmative evidence challenging the commission's findings in order to deem these issues disputed, the commission is presenting and preventing a full evaluation of important issues that is necessary to issue a properly tailored rule that targets the actual bad actors in this space. This approach will have the effect of relieving the commission of its obligation under the statute to engage in a meaningful fact finding exercise that affords adequate notice to commenters of the evidence the commission is relying on and gives commenters a meaningful opportunity to weigh in on that evidence and the commission's approach.

The commission also contend that the distinction between specific and legislative facts somehow excuses them from meaningful consideration of the issues at hand. According to the commission, legislative facts combined with empirical observation with application of administrative expertise to reach generalized conclusion and so they do not need to be developed through evidentiary hearings. Almost every piece of evidence in a rulemaking will involve both empirical observation and an application administrative expertise. By excluding all such evidence, the commission would render the fact finding process of the informal hearing irrelevant.

Furthermore, IAB's two proposed disputed issues of material fact do constitute specific facts and their resolution would be aided by cross-examination. For example, how much the rule will cost and whether the rules' overbreadth will lead to unintended consequences that harm consumers

Lartease Tiffith:

...and businesses are questions of fact, not policy judgments.

Finally, the presiding officer in this hearing has already determined in a negative option rule of proceeding that at a minimum, disputed issues and material fact related to costs turn on specific facts and are suitable for cross-examination. Thus, despite the commission's determination that there are no disputed issues of material fact, IB urges the presiding officers to take the same approach that has already been taken in a negative option rule making proceeding and designate costs as a disputed issue of a material fact.

Finally, IB would like to emphasize that it is the commission's burden to justify this rule. Today, the commission has not provided evidence adequate to substantiate its estimates of compliance costs or assertions that harmful consequences are unlikely. IB strongly encourages the presiding officer to reconsider the commission's conclusion as denying cross-examination on these issues will prevent the development of the record on issues that will help ensure the rule is narrowly tailored and effective in stopping the proliferation of fake and false consumer reviews by bad actors.

In addition to the number of concerns with the manner in which this hearing has been conducted, IB also would like to reiterate its concerns with the substance of the proposed rule. We have a strong interest ensuring that this rule appropriately targets bad actors who manipulate review systems meant to benefit consumers. First, IB supports proposed Section 465.2's purpose of targeting fake reviews, but we have several concerns with how broadly it sweeps. The proposed rule's vague and over-broad language such as, "Disseminating and procuring," requires clarification to avoid sweeping in companies that simply holds consumer reviews and testimonies. This provision, if not clarified, is likely to lead to negative consequences such as the suppression of reviews that contain information valuable to consumers, use of [inaudible 00:46:06] methods that may negatively impact consumer privacy, and imposition of significant compliance costs on businesses with little to no reduction in a number of fake reviews disseminated. Thus, this section not only creates significant costs for businesses but will also economically harm consumers by potentially taking away a source of important information.

IB also has concerns that the commission has not shown that reviews that materially misrepresent the reviewers or testimonial is experienced with the product, service, or business that is the subject of the review or testimony are relevant, or prevalent rather, as required by Magnuson-Moss. Further, section 465.2 as proposed, absent clarification that it does not apply to online retailers for merely hosting reviews or testimonials is also inconsistent with Section 230 of the Communications Decency Act in that it would seek to hold online retailers liable for simply hosting third party reviews that are fake or false. Filing the rule is not consistent with the First Amendment because it would not satisfy strict scrutiny and would have a significant chilling effect on non-deceptive speech, as companies are likely to limit the consumer reviews or testimonies that seek out or permit on their websites to avoid exposure to civil penalties. As noted previously, if the commission intends to require that companies acknowledge that a specific review or testimony violates the rule before imposing civil penalties, the rule should be clarified accordingly.

Next, IB supports proposed Section 465.4's prohibition on buying consumer reviews. We applaud this provision as it targets bad actors exploiting reviews for financial gain at consumers' expense. IB supports the commission's decision to keep this section narrow and not address incentivized reviews that are not required to express a particular sentiment. As to section 465.5, IB agrees with the endorsement guide's overall principle that individuals with a material connection to the advertiser should disclose that connection to consumers. However, IB has concerns with the commission's approach to this issue and the rule. Proposed section 465.5 does not incorporate the flexibility that is embodied in the endorsement guides. The proposed blanket prohibition on certain employees and their family members writing reviews that lack disclosures without regard to the content or context of those reviews or prohibit reviews or testimonies that are not deceptive. Raising the knowledge standard in this section to actual knowledge and providing a safe harbor for those companies that comply with the endorsement guide staff guidance would better target companies complicit in the proliferation of deceptive insider reviews and testimonies.

Additionally, we think the rule as drafted would not withstand First Amendment scrutiny because the prohibition broadly applies to insider reviews or testimonies regardless of whether that speech is deceptive in context, and is thus not narrowly tailored to a compelling state interest. In addition, this provision would likely have a chilling effect on lawful non-deceptive speech by imposing liability on businesses for disseminating content of others that the business did not know violate the law. Finally, IB remains concerned to the extent the commission intends for this provision to apply to online retailers with hundreds of thousands of employees that the commission has not demonstrated that this is a prevalent, unfair, or deceptive practice as required by Magnuson-Moss.

IB has concerns with the commission's proposed Section 465.7 regarding review suppression, because it includes a discrete list of reasons for which the suppression of review is permissible and it is not clear from the text of the rule whether this list is exhaustive. Such an interpretation will be problematic for a few reasons. First, the commission has not just demonstrated that the suppression of reviews for reasons besides negativity is a prevailing, deceptive or unfair practice. Second, the commission has not considered that a prescriptive list of reasons for which reviews can be permissibly suppressed would hamper company's efforts to engage in legitimate non-deceptive review moderation practices.

The list and the proposed rule does not take into account the countless situations that can arise when moderating consumer reviews. Lastly, this discreet list of permissible reasons to suppress reviews is also contrary to section 230's protections for websites that engage in content moderation and would significantly infringe on the right of a company under the First Amendment to judge what content should be left up and which should be taken down on their websites. For these reasons, IB urges the commission to clarify that this list is not exhaustive. With respect to proposed section 465.8, IB reiterates its concerns that the commission has failed to meet the prevailing requirement with respect to this section, because the evidence cited in the record exclusively involves the use of fake indicators of influence that the seller or purchaser knew were fake, but the proposed rule is significantly broader. Furthermore, the commission has failed to consider the consequences of this section if interpreted broadly. Consumers may lose a useful and non-deceptive source of information if the breadth of this rule discourages companies from developing or awarding indicators of social media influence to avoid potential liability for the actions of bad actors. Instead, this section should be clarified so it is clear it would not apply when a legitimate business awards indicators of influence to an individual and that that individual turns out to have obtained those indicators of influence through inappropriate needs.

Once again, IB would like to emphasize our agreement with the commission's goal of ensuring that reviews and testimonials are trustworthy sources of information. Our members rely heavily on authentic reviews and testimonials to convey helpful information to consumers. As such, we are well positioned to speak to possible consequences of the proposed rule and accomplishing this shared goal. We raise these concerns to highlight potential issues with this proposed rule in the hopes that the commission can use them to draft an effective and targeted rule.

I'd like to also address comments that were raised earlier by the prior group, Fake Review Watch. We appreciate the time that Fake Review Watch invests in exposing bad actors who solicit, purchase, and facilitate the dissemination of fake reviews, and we agree that fake reviews harm consumers. We have concerns, however, about Fake Review Watch's recommendation that the commission require businesses to show all reviews, even those that are removed through a review moderation process. Many reviews that our members remove have no place on their platforms. For example, members remove reviews that violate community policies regarding hate speech and violence.

Additionally, we have concerns with Fake Reviews Watch's recommendation that platforms must require reviewers to be identified through a unique profile name, city, and state for users to see. While we appreciate Fake Reviews Watch's enthusiastic pursuit of measures that would reduce fake reviews, our members must also balance concerns about consumer privacy. Additionally, we have concerns that public disclosure of these details may deter some consumers from leaving legitimate reviews. We also disagree with Fake Review Watch's support for the new or should have known standard in proposed section 465.2. As we have discussed, this standard is over broad and could lead to the suppression of legitimate reviews.

With that, I'd like to thank you your Honor for your time and appreciate you listening to us today.

Judge Foelak:

Thank you. Okay, please proceed.

Dr. Ben Beck:

Yes, thank you your Honor and other distinguished members of the commission. We appreciate the opportunity to present to you. In lieu of a written script, we have prepared slides. Is it okay for us to present those slides?

Judge Foelak:

Sir, your audio seems not that loud.

Dr. Ben Beck:

Let me switch the microphone here.

Judge Foelak:

Can we [inaudible 00:54:42]

Dr. Ben Beck:

Can you hear me any better now?

Judge Foelak:

Yeah.

Dr. Ben Beck:

You can hear, okay. I switched the microphone. Is this better? Testing 1, 2, 3, 1, 2, 3.

Judge Foelak:

Sounds better.

Dr. Ben Beck:

Testing 1, 2, 3. Okay, I apologize for that. In lieu of a written script that I would read from, we did prepare slides. Is it possible for us to share those slides?

Judge Foelak:

As far as I'm concerned, yes, and in fact we're looking at two screens so I can see you on one and your slide on the other. If the Open Exchange can figure out how to accommodate that?

Dr. Ben Beck:

Appreciate that, your Honor. Open Exchange, is that possible for us to share screen?

Judge Foelak:

And can you stop the clock?

Dr. Ben Beck:

Thank you.

Kathryn Dean:

Yeah, this is Secretary Taper. We were not aware that there will be slides, so we had asked that it be not enabled. But thank you to Open Exchange for exploring whether it may be enabled in the middle of the Zoom.

Judge Foelak:

Okay. Just keep the clock stopped. The commenter is not speaking.

Kathryn Dean:

Mr. Beck, this is Secretary Taper again. I would invite you to please send the slides or circulate the slides to our attention at electronic filings at ftc.gov when this hearing's concluded, please.

Dr. Ben Beck:

Thank you for looking into that, I will be-

Judge Foelak:

It might be somewhat difficult for him to... Go ahead, if you can describe the situation without looking at the slides.

Dr. Ben Beck:

Thank you, your Honor, and thank you Open Exchange and Secretary for looking into that. I will do my best to verbally explain what is in the slides.

First, I would like to introduce my collaborators. Sandy Jap is the Sarah Beth Brown professor of marketing at Emory University's Goizueta Business School. And step Dr. Stefan Wuyts is a professor of marketing and he's the director of the Institute for the Study of Business Markets. He is at the Smeal College of Business at the Pennsylvania State University. And I am Dr. Ben Beck. I am an assistant professor of marketing at the Marriott School of Business at Brigham Young University. We greatly appreciate the opportunity to present our research because this topic is one of such importance. We have spent thousands of hours over the last four years analyzing how online review platforms can become guardians of trust. Namely, how they can fight fakery and build consumer trust.

As consumers rely more than ever on user reviews for consumption activities, the dangers that arise from fakery, misinformation, and fictitious word of mouth increases. Despite the potential for fakery, even if consumers continue to rely on reviews, they slowly lose trust in them as they come across inappropriate review solicitation practices, such as one that I received recently in a package from a major retailer. In this package with, I purchased a webcam for my son's new computer, there was a card that solicited a five-star review. And I will read part of this card to you. It says, "If you are satisfied with the item, would you mind leaving a positive review with full five stars on Amazon? We will provide you a $10 gift card for free and you can use it to buy anything on Amazon."

Receiving a card like that, it shakes my trust in online reviews. In particular, I read those online reviews before I purchased the webcam and used that to make a decision of product quality. If I later find out that firms and businesses are soliciting these reviews and thus the reviews may not be true, that decreases my trust in the platform.

So in our research we look at information sharing and information facilitating platforms. We are not particularly looking at retail platforms where their main purpose of existence is to sell or facilitate a transaction. Instead, the platforms we are looking at are those like Yelp, edmunds.com, TripAdvisor, TrustPilot, Angie, Zillow, and WebMD. These are platforms that facilitate the share of information. And so we turned to early research from Oliver Williamson. Oliver Williamson, he is one of the fathers of transaction cost economics. And he explains in his research that governance is needed to infuse order in relationships, transactional relationships. So if you can infuse order, you can mitigate conflict that might arise, and realize mutual gain. So this order is imperative for consumers to maintain trust in the platforms. But first, how do we define trust? We define trust as the belief that the review platform can be relied on to fulfill its future obligations, to provide accurate information, and to behave in a manner that will serve the consumer's needs and long-term interests.

Research identifies five practices and mechanisms whereby that trust can be built. And the first we refer to as identity disclosure, and this is where you require reviewers to disclose their actual name, location, and picture. Of course, such a practice has positives and negatives, and I'd like to review these with you briefly. One of the first positive benefits of identity disclosure is that it leads to a perception that the reviewer is more genuine and believable. Second, it also provides cognitive shortcuts to processing information from a more heuristic perspective. However, there are negatives, several negative aspects that we would like to touch on. The first is that research about privacy shows that consumers may share private information despite their risk concerns, and that revealing information may lead to the risk of misuse or exploitation.

Other research has demonstrated that giving reviewers the option of anonymity on a platform that previously required identity disclosure led to an average decrease in ratings and positive emotions and more negative emotions being communicated in those reviews. This is what we call positivity bias. If you're requiring identity disclosure, it can lead to positivity bias, which leads to a decrease in the sharing of more accurate information. Lastly, another negative aspect of identity disclosure is that of consumer liability, where consumers may face retaliation from businesses that they have left negative reviews for. Some examples of that. In September of 2022, a Kansas City Bridal shop filed a libel lawsuit against a bride and her bridal party for leaving a negative review. In December of 2018, a Florida veterinarian sued a dog owner for posting a harsh review online. HVAC company sued a customer last year for leaving a negative review. Also, last year, a cosmetic surgery center in the United Kingdoms sued five customers for leaving negative reviews. In Oregon, a customer was sued for over $100,000 for leaving a negative review for their roofing company.

So identity disclosure can lead to retribution and other privacy concerns for the consumer. With that in mind, we wanted to ask ourselves as researchers, are there other alternatives that can be used besides identity disclosure to build trust in these platforms? And we identified four governance mechanisms that can do so. Two of the governance mechanisms apply more to the firms and the businesses that have profiles on the platforms such as TripAdvisor or Yelp, and two of these other governance mechanisms apply more to the reviewers that are leaving the reviews. Let's talk about the two that are focused on firms.

First is monitoring.

Dr. Ben Beck:

Monitoring is where the review platform looks at the reviews as they come in and judges them for authenticity and decides to hide them or remove them if found unauthentic. This monitoring is usually done algorithmically with some manual level of reviews if the algorithm is not able to catch the fake review.

Another aspect that applies to the firm, another mechanism that applies more to the firm is that of sanctioning. Public exposure of firms that propagate fake reviews does lead to trust according to our research.

Two other mechanisms, governance mechanisms that apply more to the reviewer include community building and status endowment. Community building is when a platform allows the community, the community of reviewers and review readers or consumers, to connect together and have some kind of dialogue. This can take place in an online forum such as TripAdvisor is very popular when I'm going to go and stay at a new resort or in a new country. I will go to TripAdvisor and explore the community feature before I book with a hotel.

Status endowment, on the other side, is where you award a badge of credibility to the reviewer for doing good work, for leaving good reviews, for having those reviews being voted up if that is a mechanism on the platform, or if the platform identifies maybe longer content reviews. However it be done, status endowment is as seen as a badge of credibility.

So we have these five mechanisms; identity disclosure, monitoring, sanctioning, community building, and status endowment. And we wanted to explore how platforms are using these and if those use of those mechanisms does lead to trust. So our first... In our actual paper that was recently published in the Journal of Marketing Research, we have five studies. For the respect of your time, we're only going to go over two studies and these studies are more relevant to this hearing.

The first study looks at which platforms are using which mechanisms. We're doing this to see if there's external validity around these mechanisms. If the mechanisms aren't being used by anyone, this research isn't that helpful. But if they're being used by some players and if that's leading to benefits for the firm and the consumer, that's a great thing. That's what study one does. In study two, we test our theories that using these mechanisms leads to greater consumer trust.

So allow me to talk about study one here. So if you could see my slides, you would see that we have a number of different review platforms, several that I will tell you that we have on this slide. Yelp, Edmonds, Trustpilot, Angie, TripAdvisor, Healthgrades, Nextdoor Glassdoor apartments.com. These are some of just 25 different review platforms that we looked at. And we had three independent judges look at each of the platforms and evaluate if the platforms had adopted our five mechanisms or they had not done so. And then we compared the results from these three reviewers to see if there was continuity between their judging. And there was continuity, a high level of continuity.

So on my slide, if you could see it, you would see that there are some leaders in the space such as Yelp, Trustpilot, and TripAdvisor. Yelp and TripAdvisor have adopted all five of our mechanisms to at least some degree, and Trustpilot has adopted four of the five. So we see some leaders in the space.

We see other platforms such as Angie, previously known as Angie's List, where they have adopted almost one of the five mechanisms. And we would like to posit that this might result in different performances of the platform.

So the next step we did in study one, after we had evaluated which platforms had adopted which mechanisms and practices, we wanted to look and see if the adoption of those mechanisms actually resulted in benefits to the platforms.

As a marketer for many years, I have managed websites, and one of the most important things for a website is how many people are coming to your website. This is known as organic traffic. Other things that you can evaluate are things like domain authority, Alexa site rank, and how many other websites link to your website. That is somewhat an indicator of trust in itself if they're linking to your website.

And so we ran a correlation looking at whether the platforms had adopted these mechanisms and how many mechanisms they had adopted and how they were performing for organic site traffic, backlinking domains, Alexa site rank, and domain authority. And we saw strong correlations with domain authority and Alexa site rank, and marginally strong correlations as well with the number of domains that are willing to link to your platform, and the number of site visitors you're getting from organic traffic.

So this pattern suggests that the use of these proposed practices is indeed relevant to platform success. And this underscores the ecological value of our framework and its managerial relevance, and provides some empirical evidence that is consistent with our theory.

In the second study, we wanted to test our theory, our theories, the theories that these mechanisms, if used, can build trust. In this second study, we ran a conjoin experiment. I'm not going to get into too many details, I don't want to bore you all. But we ran an experiment in a lab with 365 respondents and we randomly showed them eight different scenarios. And in these scenarios it showed a fictitious platform and whether or not that platform had adopted or not adopted these different mechanisms.

And then after they had seen that individual scenario, they evaluated that platform, that fictitious platform, for how much trust they had in the platform. And we had a composite measure of trust where we were looking at benevolence. Is the desire there for trust? And competence. Is it a trust that it is occurring because the platform is competent to provide such? So we measure trust in a variety of ways and our findings... Well, before we get into our findings, I should tell you we have two sets of hypotheses.

One set of hypotheses we call our main effects. So generally, do these mechanisms increase trust in the platform? Very simple question. However, because we knew that identity disclosure had its own downsides and may have some negative aspects for consumers, we wanted to look if there were interaction effects. So an interaction effect is if you have multiple mechanisms turned on at the same time, do they water each other down? Do they amplify each other? What can you see from that? So that was the second set of hypotheses looking at interaction effects. Namely, we were hoping to find substitutes for identity disclosure.

As an aside, the first time, this was years ago, I was having breakfast at the table with my family and I brought up my research, and we hadn't thought too much about the identity disclosure negative aspect and so we didn't have these interaction effect hypotheses yet.

And I was telling my family about my research and one of my sons chimed up and said, "But dad, if you go to a restaurant and leave a negative review for that restaurant and it has your name on your profile, couldn't that lead to..." He didn't use the word retribution, but he said, "Couldn't that lead to something bad like maybe the restaurateur spitting in your food?"

And so because of that conversation, Sandy and Stefan and I started discussing that yes, identity disclosure might have some negative effects. And that's what led to our hypotheses that we needed to explore if there were negative effects there.

So after showing these 365 respondents, the eight scenarios, we now had thousands of data points that we could explore and look at and see which mechanisms are best at building trust.

So the main hypotheses that we were looking at, namely do the mechanisms and practices build trust, we did find significance across all five of these mechanisms. All five mechanisms and practices do build trust to some degree.

The most impactful mechanism for building trust is that of monitoring, and are the platforms communicating to consumers that monitoring is happening? That is what consumers wanted to see the most that led to trust. The next most impactful mechanism was exposure. So is there a sanctioned mechanism where if a firm is found out leaving fake reviews or soliciting fake reviews, then you need to be exposing them. The next highest mechanism was status endowment, so giving little badges of credibility to reviewers. And then the next highest was community building. Are you allowing consumers and reviewers to talk together? And then finally, identity disclosure. Even though we did find that it was statistically as significant creator of trust, it was the least impactful of the five. The second portion of analysis that we did with our data was we looked at the mechanisms and when they were used together. Were there interaction effects that were positive? A positive interaction effect would mean that there's greater trust being built. Or negative interactions. And we failed to find any interaction effects between our four mechanisms that are targeting the firm and the reviewer.

So monitoring and exposure, if they're on together, there's not necessarily an interaction effect. Community building and status endowment, et cetera. We did not find any statistically significant interaction effects.

Where we did find interaction effects, however, was between identity disclosure and that of exposure, community, and status. So if a platform has identity and exposure at the same time, we actually saw a decreasing effect of identity disclosure.

As an example, to make this a little bit more concrete, if a platform used exposure, community building, and status endowment at the same time as identity disclosure, so all five of these mechanisms of practices were turned on, it decreased the trust building capacity of identity disclosure by 75%.

So the significance of these interactions between identity disclosure and exposure, community, and status with a negative coefficient sign, this suggests that the presence of network governance mechanisms effectively renders identity disclosure redundant. So the mechanisms do act as a substitute for identity disclosure.

As a summary for study two, I would like to point out that identity disclosure has substitutes. Identity disclosure is weaker at building trust than the other four mechanisms, and that weaker effect is likely due to positivity bias that enters when identities are known. So positivity bias, as I mentioned earlier, likely results from the discomfort with honesty when sharing negative experiences.

Also, identity disclosure is considerably weakened, as I mentioned by 75% in the presence of the other mechanisms. So we would like to present that identity disclosure is not necessary in the presence of governance mechanisms.

We agree with so many of the things from the earlier presenters, from the IAB and Fake Review Watch. One recommendation on Fake Review Watch though, about transparency of the reviewer, that would fall under identity disclosure and we urge to not do that for the reasons we've identified.

To close, I would like to share some of our key takeaways from the research. First of all, we are grateful to you, Your Honor, and to the other members of the commission for allowing us to present. And mostly we're grateful for you that you are taking on this important task of increasing trust in review platforms.

So we do believe that legislation and rule updates are needed to enable the sanctioning and further prosecution of firms who might be doing bad things.

Second, we advise that review hosting platforms adopt the four trust building mechanisms that we've identified.

Third, we advise that selling firms should work with review platforms that have adopted these mechanisms, and specifically look for them. It is in the best interest of firms and consumers and review platforms to weed out fake reviews and to have trust in the system, and thus those selling firms need to be looking to work with partners that have already adopted these mechanisms.

Fourth, we advise that the commission had not impose the practice of identity disclosure on reviewers. Because even though it may increase consumer trust, it has negative effects such as introducing biased responding, and it carries privacy risk for reviewers.

Sandy and Stefan, is there anything that you would like to add to finish this discussion?

Stefan did share a quote from me from our paper and I would like to share this quote. He said, " While these mechanisms are salient..." In talking to probably close to 1000 consumers at different points in our research, we saw that consumers are aware of these mechanisms. "While these mechanisms are salient to a significant proportion of consumers, platform companies may stand to benefit from clearly communicating their use of these mechanisms."

So that is one other recommendation I should make. If the platforms are using these mechanisms, they need to let consumers know that they're doing so.

We thank you for your time and for your consideration.

Judge Foelak:

Thank you sir. Okay, that concludes the presentations by the commenters. I hope you can still hear me.

Speaker 1:

Yes, we can Judge [inaudible 01:23:36].

Judge Foelak:

Okay, very good. I will set a couple of dates. If any commenter wants to file anything more on the proposed, for example, IABs proposed disputed issues of material fact, they should do so within one week that is the 20th.

And in case another session is needed, you can pencil in the 27th, two weeks from today. And I will issue an order concerning whether or not to add any issues of material fact of the week. Okay. In that case-

Dr. Ben Beck:

Thank you, Your Honor.

Judge Foelak:

I have nothing more and today's hearing session is closed. And thank you everyone for your participation.