

Testimony of
J. David Grossman, Vice President, Regulatory Affairs
Consumer Technology Association
“Informal Hearing Before the Administrative Law Judge on
Government and Business Impersonation Rule”
Federal Trade Commission
May 4, 2023

Good afternoon, Judge Chappell. Thank you for the opportunity to share the views of the Consumer Technology Association (CTA), on the impact business impersonation fraud has on our organization, our industry, and the need for expedited action by the Federal Trade Commission.

My name is David Grossman, and I am the Vice President of Regulatory Affairs for CTA, North America's largest technology trade association. Our members and customers are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA also owns and produces CES – the most influential tech event in the world.

Impersonation fraud is personal for CTA. In 2021 and 2022, our customers reported at least 60 different instances of fraudulent email solicitations related to CES, with 10 additional reports coming in the month leading up to this year's show.

Many of these emails purport to be selling CES attendee lists, which CTA does not sell or otherwise make publicly available. The fraudulent emails often use either the CES logo, or other CTA or CES branding in an attempt to deceive our customers.

Fraudsters have also attempted to commit CES exhibit space fraud, victimizing startups seeking to showcase their products. In one case, a bad actor impersonated a CTA employee to bilk thousands of dollars from a potential CES exhibitor in exchange for non-existent booth space.

CTA also sees multiple instances of website domain scams each year. While we attempt to stop these scams, existing tools offer limited recourse. Like many victims, if contact information can be located, CTA typically starts by sending cease-and-desist letters to imposter domain name owners. While legitimate businesses usually will comply with the cease-and-desist letters, fraudsters typically ignore such correspondence.

CTA also routinely files trademark infringement claims with the relevant domain registrar. However, we are not always able to pursue an informal trademark infringement claim without also filing a formal complaint in a court of competent jurisdiction.

Many of our customers have shared their own stories of how impersonation scams harm their brand and reputation, leading to significant consumer confusion and economic losses. CTA therefore strongly supports the FTC's proposed rule targeting government and business

imposters, and is encouraged as well by the NPRM's inclusion of non-profit organizations in the proposed definition of "business."

An appropriately tailored rule will benefit consumers and businesses by helping to combat damaging brand impersonation fraud committed through various communications channels.

As drafted, proposed Section 461.4 would make it unlawful "to provide the means and instrumentalities" for a government or business impersonation scam. CTA supports making clear that a party can violate the FTC Act by providing the "means and instrumentalities" for such fraud – including actors that intentionally create misleading collateral such as fake credentials or that design imposter websites.

However, we are concerned that the proposed rule does not explicitly include a knowledge requirement and could be misinterpreted to impose strict liability on a platform that unwittingly passes along another entity's false claims to third parties that then deceive consumers. To be consistent with the discussion in the NPRM, CTA encourages the FTC to make clear that the proposed rule only applies to entities that have knowledge or that consciously avoid knowing that they are making representations being used to commit impersonation fraud under Sections 461.2 or 461.3. Adding this knowledge requirement to the text of the rule will promote regulatory predictability and compliance.

Ultimately, business impersonation fraud is not unique to our association or industry. On March 31st, more than 200 trade associations and professional organizations in the face-to-face business events industry, joined CTA in urging the agency to proceed expeditiously to a final rule targeting government and business imposters.

Today's hearing is an important step in reaching that goal. Thank you again for the opportunity to testify, and we look forward to working with the FTC to combat this persistent problem.