



February 22, 2022

April J. Tabor  
Secretary  
Federal Trade Commission  
Office of the Secretary  
Constitution Center  
400 7th Street SW, 5th Floor, Suite 5610 (Annex B)  
Washington, DC 20024  
*Via Electronic Filing*

Re: Impersonation ANPR; FTC File No. R207000; Docket No. FTC-2021-0077

Dear Ms. Tabor:

The National Association of Broadcasters (NAB) hereby responds to the Advance Notice of Proposed Rulemaking (ANPR) released by the Federal Trade Commission (“FTC” or “Commission”) seeking comment on its proposal to commence a rulemaking proceeding to address certain deceptive or unfair acts or practices of impersonation.<sup>1</sup> NAB supports the Commission’s plans to initiate such a proceeding and urges the Commission to take steps within its authority to prevent persons, entities, and organizations from impersonating government agencies or staff and businesses or their agents.

As the ANPR observes, impersonation scams are a major form of consumer fraud resulting in significant financial loss for consumers, affecting both individuals and small businesses.<sup>2</sup> The Commission further states that, although it has brought many cases involving impersonator scams under Section 5 of the FTC Act, 15 U.S.C. § 45, its current remedial authority is limited. A rule addressing unfair or deceptive acts or practices involving impersonation “could help reduce the level of fraud in this area and serve as an additional deterrent for bad actors in the future because such a trade regulation rule would subject first-time violators to civil penalties.”<sup>3</sup> A rule also would enable the Commission to obtain redress for consumers who lose money to impersonation scams.<sup>4</sup>

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<sup>1</sup> *Trade Regulation Rule on Impersonation of Government and Businesses*, Advance Notice of Proposed Rulemaking, 86 Fed. Reg. 72901, 72901 (Dec. 23, 2021) (“ANPR”).

<sup>2</sup> ANPR at 72901 (observing that in the first three quarters of 2021, more than 788,000 impersonation scams were reported to the FTC, with a total monetary loss of \$1.6 billion dollars).

<sup>3</sup> ANPR at 72902-03

<sup>4</sup> ANPR at 72903.

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NAB has experience with impersonation fraud. NAB hosts the NAB Show, an annual convention that attracts more than 90,000 entertainment and media professionals and 1,600 exhibitors from around the world. Every year, some vendors of products and services unlawfully promote themselves by directly impersonating NAB or its staff and/or falsely claiming an affiliation with NAB when they have no such affiliation. These vendors often use NAB Show trademarks and claim to be an “official” or “designated” NAB Show supplier of a particular product or service.<sup>5</sup> Some impersonators send emails that offer to sell recipients a list of NAB Show attendees, but they have no connection to NAB and no access to any attendee lists (NAB does not sell its attendee lists). If the targets of these solicitations fit the profile of a typical NAB Show exhibitor or attendee, they are very likely to be small to medium-sized entities.<sup>6</sup>

Impersonators’ fraudulent solicitations can harm consumers by causing the recipients to purchase products or services that simply are not what they say they are. Although larger, more established companies may have sufficient time, staffing and expertise to recognize impersonator fraud, smaller, newer companies may fall prey to impersonator communications. Moreover, the harm that results from accepting an impersonator’s offer may be proportionately greater for smaller companies. Impersonator scams also divert revenue from NAB’s legitimate partners offering Show-related services. In addition, impersonations harm NAB by trading on the good will and reputation established by the association over decades of hard work and considerable capital investment. Such impersonations are particularly harmful given that many trade show events have been cancelled or transitioned to virtual or semi-virtual over the past two years due to the COVID-19 pandemic, reducing or eliminating the anticipated revenue from such events for trade associations, event partners and exhibitors.

NAB sends cease-and-desist letters to any impersonators we learn about. However, we have no way of knowing how many consumers are being deceived by the impersonators’ solicitations. Taking additional legal action beyond the cease-and-desist directives would prove time consuming and costly. Additional regulation in this area to deter would-be impersonators and allow redress for affected consumers would be a helpful and important step forward.

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<sup>5</sup> For example, approximately 50 companies with no connection to NAB have represented themselves as the “official housing supplier” for the NAB Show in recent years, which significantly undercuts the revenue of NAB’s actual official housing supplier.

<sup>6</sup> Most NAB Show participants are small and medium-sized businesses. As of our most recent in-person NAB Show in 2019, 31 percent of our exhibitors had fewer than 20 employees, and 57 percent had 20-499 employees. Similarly, 44 percent of attendees worked at companies with fewer than 20 employees, and 32 percent at companies with 20-499 employees.

For these reasons, NAB supports the FTC's proposal to commence a rulemaking to address impersonation scams and looks forward to providing additional comment in the future.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan  
Chief Legal Officer & General Counsel