



**Faculty Review Board
CONFIDENTIAL REPORT
October 2017**

Overview

During Summer 2017, the Faculty Review Board (FRB)—comprising Angela Crispi, Amy Edmondson (chair), Stu Gilson, and Len Schlesinger—was convened to evaluate the extent to which Professor Ben Edelman demonstrated that he had internalized the feedback given to him following a 2015 FRB review. As outlined by the FRB in a July 6, 2017, note to Professor Edelman (see Exhibit 1),

The FRB now must assess:

- *whether you understand the aspects of your conduct—regardless of your intent—that made them problematic;*
- *whether there is sufficient evidence of changed behavior; and*
- *whether there is a reasonable expectation that your changed behavior will be sustained in the future.*

The FRB reviewed a March 2017 personal statement written by Professor Edelman in conjunction with the submission of his promotion package; requested and reviewed an additional statement; interviewed 21 individuals, drawn largely from a list that Professor Edelman had provided in that additional statement; received input from a handful of other faculty colleagues; met with Professor Edelman; and requested and reviewed a summary of and comments on his outside activities (see Exhibit 2 for his promotion package statement, Exhibit 3 for his additional statement, Exhibit 4 for the list of individuals to interview recommended by Professor Edelman, Exhibit 5 for the request for additional background on his outside activities and conflict of interest disclosures, and Exhibit 6 for his response).¹

This process was not an investigation, and we did not seek to pass judgment on the particular outside activities and work that Professor Edelman pursued. Instead, we looked at Professor Edelman's interactions and activities over the past two years using the narrower lens of the feedback he received in 2015 to determine whether there was sufficient evidence of learning and changed behavior.

Through this work, the FRB found examples of progress and improvement, including increased self-reflection, efforts to engage differently with staff, positive interactions with members of the FIELD 3 and LCA teaching groups, positive feedback from students in the LCA course, and efforts to support colleagues in their research and teaching at the School.

¹ Note that while the FRB has reviewed the full list of outside activities, we are not including them here reflecting the long-standing practice that reports are considered confidential to the Dean.

The FRB also discovered examples of activities and behaviors that cause continued concern, including whether Professor Edelman appropriately sought guidance on and disclosed his outside activities and potential conflicts of interest. Additionally, it heard unease voiced by colleagues about the extent to which those activities constitute a real or perceived risk to the School and reputational harm to the faculty by association. Additionally, the FRB found some indications that Professor Edelman's engagements with staff remain uneven and that his interactions with them changed when other faculty members were present.

The FRB acknowledges the extent to which the concerns we have evaluated are viewed differently by different members of the community. Those who count themselves close to and among Professor Edelman's supporters often recount relying on their knowledge of him and their appreciation for his motives in assessing his conduct. Others whose opinions are perhaps less favorable seem to rely more on their direct experience, weight more heavily the issue of reputational risk, and weigh his adherence to both community values and norms in their assessment.

We discuss our work and our findings below.

Background

On July 16, 2015, Paul Healy, in his role as Senior Associate Dean for Faculty Development, wrote to Professor Edelman notifying him that concerns related to his conduct—and his ability to meet the standard of "Effective Contributions to the HBS Community" outlined in the *Policies and Procedures with Respect to Faculty Appointments and Promotions*—had been raised. Professor Healy referred the matter to the Faculty Review Board (FRB), then comprising Angela Crispi, Amy Edmondson (chair), Forest Reinhardt, and Len Schlesinger. On July 31, 2015, Professor Edmondson, in her role as chair, wrote to Professor Edelman indicating that the FRB would undertake a review to evaluate his "ability to foster a healthy and constructive academic community (by, for example, displaying respect for others and contributing to the teaching and research environment of the School)." In carrying out its work, the FRB would consider two incidents from 2014 (Professor Edelman's blog posting about Blinkx and his interaction with Sichuan Garden) as well as his interactions with staff and other colleagues at the School.

The report of the FRB's findings, from November 2015, noted:

...[T]he FRB finds that Professor Edelman did not uphold the School's Community Values, and his conduct in each instance did not meet the criteria for "Effective Contributions to the HBS Community." In his dealings with Sichuan Garden and with staff at HBS, he did not demonstrate respect for others or for their commitment to the School. His tone was overly harsh, his approach was dogged, and he demonstrated a lack of appreciation for a difference of views. In connection with Blinkx, he failed to recognize that as a faculty, integrity in our activities—both real and perceived—is at the core of what we do. Across all three areas, his actions reflected a repeated inability to understand and adopt not just the technical requirements of the School's policies, values, and standards, but the underlying principles they convey.

Professor Edelman has consistently exhibited a tendency toward absolutism and extreme certainty that his view is the right view. His apparent certainty that his is the single right perspective, without regard for others' perspectives, was evident in his written and oral response to the committee and was mentioned (although not always as a weakness) by senior colleagues. We do not see persuasive evidence of accountability for personal behavior that would reflect evidence of learning. Although Professor Edelman might argue that his work is in fact "making a difference in the world" and is consistent with the School's mission, we would suggest that how he goes about his work matters and is essential to our Community Values.

The FRB went on to assess the implication of its findings, including two areas of concern:

...[E]xternal, related to the potential for risk to the institution and "the public's trust in the independent and objective nature of our scholarship," and internal, related to respect for others inside the institution.

The report was given to the Standing Committee of the Appointments Committee, which recommended a 2-year extension on Professor Edelman's promotion case so that additional evidence would be available to determine whether he had internalized the lessons from the 2014 incidents and could demonstrate more respectful interactions with the staff.

Based on the advice of the FRB, Dean Nohria and Professor Healy arranged for Professor Edelman to:

- Join the Leadership and Corporate Accountability (LCA) teaching group during 2015-2016.
- Teach LCA during 2016-2017.
- Relocate his office to the 4th floor of Morgan Hall.
- Join the Academic Technology Steering Group.
- Gain access to coaching resources.

Recent Activities

Respect for others inside the institution. To assess the extent to which Professor Edelman now interacts with others in respectful ways consistent with the School's standards, members of the FRB met with 21 individuals, including colleagues in the NOM unit, members of the FIELD 3 and LCA teaching groups, other faculty members with whom Professor Edelman has engaged (e.g., in the Digital Initiative), and staff members in MBA, IT, and elsewhere at the School. These individuals were people who had been suggested by Professor Edelman as among those with whom he had worked closely. We also, throughout the course of the work, were contacted directly by and received input from a handful of individuals not included on Professor Edelman's list.

Members of the NOM unit were uniformly and unambiguously enthusiastic about Professor Edelman as a colleague, pointing to examples ranging from the support he provided to a sight-

impaired junior colleague in devising an effective class participation tool, to his help in analyzing data sets or optimizing computer set-ups.

In assessing whether his conduct had changed since 2015, they made comments such as:

- He is much more reflective... it's as if he pauses now and decides whether to jump in.
- He is interested in how others see his work; he has sought out feedback on his teaching and his research.
- He seems to have worked hard to change; he is more sensitive to how he can be effective in this environment.
- He understands his instincts are not solid.
- He thinks about where to apply his energy.
- He is even more conscious of what he is dealing with and thinking about.
- He used to shoot a rabbit with a cannon; now he understands the benefits of restraint.

Although he did not pursue the coaching resources suggested to him, Professor Edelman, during his meeting with the FRB, spoke about advice he had received from a number of colleagues, and most of his NOM colleagues indicated he had sought them out for input on teaching or research or for a second opinion.

Finally, unit colleagues in particular spoke to what they saw as Professor Edelman's fundamental character and the importance and merits of his work, using phrases such as:

- He focuses on making the world a better place.
- He has a sense of duty and obligation.
- He is above the bar in terms of honesty and integrity.
- He is always trying to help those who are weaker/victims/disadvantaged.
- He is unbelievably moral and caring.
- He is the most ethical person I know on the faculty.
- He persists in fighting people because it's the right thing to do.

The feedback from non-NOM colleagues, and from staff, also included positive comments. In terms of his interactions with others, many here, too, commented that Professor Edelman seemed to try hard to be helpful—from purchasing food for meetings or organizing lunches, to solving IT issues or developing IT tools, to upgrading airline tickets. Some, who had not met Professor Edelman before 2015 but had heard about the Chinese restaurant issue, expressed their pleasant surprise about his contributions to teaching groups, initiatives, and other activities, making comments such as:

- My perception is that he was a valued member of the teaching group.
- When I know that I'll interact with him, I'm glad.
- I've found him good to work with; he's a methodical and scientific thinker.
- He has great ideas and they come from a good place.
- He's earnest, committed, and participatory.
- I consider him a very good to exemplary colleague; he got along with everyone.

- I believe his intentions are good, and that's important.

In terms of positive evidence that his behavior had changed, the FRB heard comments such as:

- He asks great questions, and is accepting of an alternative argument—he agrees to disagree, and knows when not to push it.
- He is more sensitive to how he can be effective in this environment; he seems to have worked hard to change.
- My conclusion was that he had learned an important lesson. He won't stop going after the big guys, but we shouldn't want him to.
- He's learned over time that how he presents matters.
- He's open to redirection.
- He got the pushback early on, and adjusted his behavior.

However, members of the FRB also heard some feedback from the non-NOM individuals interviewed who expressed concern about his style, including both one-on-one interactions and his effectiveness as part of a group or committee. These were expressed as:

- He can have a tendency to threaten to take something to the next level.
- He's abrupt. He lacks grace. He's more apt to pressure others—he asks questions the way you might in a seminar.
- He can be disruptive; he lacks understanding of an appropriate path to a goal.
- We learned his style. He's grown some, but we also learned how to deal with him.
- He has worked on being less harsh, but his views are still quite clear to those who hear him.
- I would not be proud to know that he was a senior faculty member interacting with the business community.
- Sometimes he's unable to be reasonable.

Others noted concerns about his certainty and lack of consideration for other points of view:

- In conversations, he can be abrasive, arrogant, and stubborn; he is not empathetic to another side or point of view. I've never seen him change his mind in any conversation I've witnessed.
- He has a hard time thinking about other perspectives.
- He leaves a lot of unproductive work for people since he jumps to solutioning without thinking through implications or engaging others.
- He's incapable of seeing why his preferred solution can't or won't be implemented.
- He goes off on tangents or down rabbit holes, and he doesn't know as much as he thinks he knows.

Finally, some mentioned a concern that Professor Edelman may manage up, interacting differently with at least some staff than he does with faculty colleagues, and differently with staff depending on whether other faculty members are present, as expressed in the following:

- With his superiors, he has more of a filter.

This feedback may seem at odds with Professor Edelman's track record of going after firms that have violated consumer rights, or of offering help to HBS community members. It nonetheless reflects how some people experience him in contexts where they have to work together.

Moreover, what struck the FRB members was the depth of passion on each side: those who admire Professor Edelman *really* admire Professor Edelman, and those who have concerns—even those who have gotten to know and engage with Professor Edelman only over the last two years—express their concerns with equal intensity.

That these patterns remain evident even during a time when Professor Edelman knew and understood that he had to behave better was troubling to the FRB, as was the persistence of an approach, in the words of one interviewee, that harkens back to an older model of "I'm smarter than you are, and you're inferior."

Outside activities and conflict of interest. The FRB provides two illustrative examples that point to potential concerns related to Professor Edelman's work, outside activities, and disclosure.

The first stems from an article that was forwarded to the FRB by a faculty member, published in the Wall Street Journal on July 12, 2017, entitled *Hidden Influence: Google Pays Scholars to Influence Policy*. The story describes the company's payment for academic research, and goes on to note "[this] has long been a tool of influence by U.S. corporations.... Several of the [tech] companies are also active in funding academic research. Microsoft has paid Harvard business professor Ben Edelman, the author of papers saying Google abuses its market dominance."

To be clear and fair, neither the Outside Activities nor the Conflict of Interest policy at HBS (or at Harvard) prohibits faculty members from accepting paid or unpaid work with organizations who work in related industries; to the contrary, faculty members are encouraged to pursue outside activities that will deepen their understanding of practice and thus inform their research and teaching. What the Conflict of Interest policy requires is disclosure—specifically, "faculty members are required to disclose publicly all paid and unpaid outside activities, sources of external funding, and material financial holdings that are directly related to a work product that is available to the public."

The FRB, then, looked to determine whether Professor Edelman had made appropriate disclosures during the period October 2015 through September 2017, examining the following output related to the Wall Street Journal piece and Professor Edelman's work with Microsoft:

- Edelman, Benjamin. "Google, Mobile and Competition: The Current State of Play." *CPI Antitrust Chronicle* (Winter 2017) – "He has no current clients adverse to Google with respect to the practices discussed herein."
- Edelman, Benjamin, and Damien Geradin. "Android and Competition Law: Exploring and Assessing Google's Practices in Mobile." *European Competition Journal* 12, nos. 2-3 (2016): 159–194 – "Disclosure statement: No potential conflict of interest was reported by the authors."

- Dominant Platforms keynote (video) – September 27, 2016 – no apparent disclosure.
- Edelman, Benjamin, and Damien Geradin. "Spontaneous Deregulation: How to Compete with Platforms That Ignore the Rules." *Harvard Business Review* 94, no. 4 (April 2016): 80–87 – "Benjamin Edelman is an associate professor at Harvard Business School and an adviser to various companies that compete against major platforms."
- *EC Statement of Objections on Google's Tactics in Mobile*. (April 2016 blog posting) – no disclosure statement.
- Edelman, Benjamin, and Zhenyu Lai. "Design of Search Engine Services: Channel Interdependence in Search Engine Results." *Journal of Marketing Research (JMR)* 53, no. 6 (December 2016): 881–900 – "Although the first author advises Microsoft on subjects unrelated to this article and the second author was previously an intern at Microsoft Research, this article was not prepared at the request of or funded by any third party."

Professor Edelman's reporting of disclosures is, at best, inconsistent. Although it is not our intent that he be held to a higher standard than his colleagues, here, again, one might expect the need for appropriate disclosures to be top of mind for Professor Edelman during this time period, given the express concern raised by the FRB about "the public's trust in the independent and objective nature of [his] scholarship."

We would note, too, that the test offered through the Conflict of Interest policy is that of the reasonable reader: "a set of circumstances that reasonable observers would believe creates an undue risk that an individual's judgment or actions regarding a primary interest of the School will be inappropriately influenced by a secondary interest, financial or otherwise." It goes on to clarify features of an appropriate disclosure:

Although the exact placement and wording of the disclosure is left to the faculty member's discretion, the disclosure statement should be readily observable and should include the organization's name (the ultimate beneficiary in the case of an intermediary such as a consulting firm), the nature of the activity, and the dates of service in the case of relevant outside activities, and a statement regarding the entity's name and the existence of a material financial holding in the case of financial holdings.

We would suggest that rather than providing information so that a reader might determine potential conflict, Professor Edelman instead omits many of the required elements, and himself seeks to make that determination ("He has no current clients adverse to Google with respect to the practices discussed herein"). Although he did interact with Jean Cunningham in the Dean's Office three times during the 2015-2017 period related to his research and publications (with advance notice about the publication of his Airbnb paper, with a question about a research protocol for a study that was fielded by Professor Jan Rivkin and Jean, and with a question about disclosure for his April 2017 "Impact of OTA Bias and Consolidation on Consumers" article), none of the above outputs or their disclosures (or lack thereof) were pre-vetted.

The second example relates to a class action complaint, *Bazerman V American Airlines, Inc.*, filed on July 13, 2017, by plaintiff Max Bazerman and alleging that American Airlines (AA)

fails to honor contracts it enters into with its passengers—specifically, related to fees for checked bags.

The complaint was brought to the attention of Dean Nohria and Professor Healy by Professor Bazerman five days later, on July 18, 2017:

Dear Nitin and Paul:

I delivered a review letter on Ben Edelman on 6/30/17, explicitly revised from two years earlier. I just sent in a revision, and I wanted to make sure that you both had full information on why I revised the letter.

Marla and I flew from Phoenix to Boston in February, and for a strange combination of reasons (unconnected to Ben), checked two bags. American Airlines charged us \$25/bag, even though I was pretty sure I was entitled to free baggage check. I am skipping details, but if interested, you can find them at <http://www.universalhub.com/files/bazerman-complaint.pdf>. When I got back to HBS, I was telling Ben about this, and he quickly figured out that AA systematically charges people for baggage fees that they do not owe, and he began the process of creating a potential class action law suit, with me as the lead plaintiff – resulting in the complaint mentioned a sentence earlier. Most of this happened with little involvement by me.

I thought that this was a non-public event, but then was referred to <http://www.universalhub.com/2017/american-airlines-pissed-wrong-harvard-business>² by a former HBS executive student. I do not believe that I did anything wrong, nor do I think that Ben has done anything wrong. But, I can imagine incorrect information diffusing about this story. These events led me to revise my letter, and earlier today, I sent in the revision. I have attached the highlighted version of the letter I just submitted, with all changes since the 6/30 letter highlighted.

As I note in the letter, I have committed to donate all proceeds that I potentially receive from this case to a pre-specified charity. But, just for clarity, there is a chance that Ben could earn a significant amount of money. Of course, I would be careful to not benefit financial [sic], even indirectly. The main goal of the letter revision is to be as transparent as possible about my legal connection to Ben.

I would be happy to discuss this situation with either of you, or anyone else you would like to have in the loop. I am in Vermont through 7/29, but can be reached at [phone number]. I will be in town 7/30-8/3.

With appreciation,

Max

Professor Healy acknowledged receipt of Professor Bazerman's note; given its focus on Professor Bazerman's review letter and its informational tone, it was not forwarded to the members of the FRB.

² "American Airlines Pissed Off the Wrong Harvard Business School Professor." Universal Hub story posted on July 15, 2017, 12:23pm.

When the FRB met with Professor Edelman on August 14, 2017, however, this was one of the outside activities the members asked him about; Professor Edelman had referred to the lawsuit in his July 31, 2017, "Response to the FRB Questions" letter:

After careful consideration, I recently elected to file a class action lawsuit against American Airlines as to its imposition of baggage fees contrary to its prior promises to customers (in contracts, tariffs, and onscreen purchase promises), seeking refunds for everyone who was overcharged. I decided to pursue this matter in part in light of the large amount of money at issue—as much as \$200 to check a bag that the airline had specifically promised would be included at no additional charge, times many tens or hundreds of thousands of passengers affected. I was also mindful of the virtual impossibility of passengers pursuing these claims on their own. (Beyond the usual impediments, some of the key promises appeared in on-screen statements during booking, but passengers had no reason to preserve these promises in screenshots, so would struggle to prove what the airline had promised.) I have no illusions about the beneficiaries: Some of our claims pertain to “elite” frequent fliers (who fly often and who are particularly likely to be well-to-do business travelers) and those with business and first-class tickets—as some of American’s false promises distinctively affected these groups. Even coach air travelers without elite status are surely wealthier than average Americans. Nonetheless, the principle of honoring written contractual commitments is one that I hold dear, and I am hopeful that others will see this similarly. Note that this is not a charitable activity: If the case is successful, my co-counsel and I will ask the court to award us payment for our efforts at market rates.

The FRB was particularly interested to understand how Professor Edelman had chosen the particular path he did.

Professor Edelman described learning about the issue in August 2016 when he was personally affected by it and, in fact, reaching out to the company at that time. He received a response he described as “lawyerly” and “obviously wrong”; rather than writing an “obnoxious response,” however, he “stumbled into an online forum where others were complaining.” Professor Edelman noted that the magnitude of the problem—total excess charges as high as \$100 million—as well as his sense that no one else would put the pieces together to figure out the problem, combined with his desire to see passengers reimbursed, was what drove him to file a suit.

Professor Edelman also noted that, before Professor Bazerman agreed to serve as plaintiff, he had reached out to a number of passengers who had aired complaints on online chat rooms to ask them to play that role. He said that the others had turned him down, with one expressing concern, for example, about being involved in legal action while applying for a mortgage, and another high-profile individual worried about the adverse publicity of being associated with litigation against a company. Contrary to Professor Edelman’s statement in his September 8, 2017, “Supplemental Response to FRB Questions” that “risk to reputation” (at least at the individual level) did not factor into his decision-making, during the interview he acknowledged that there could be PR risk to Harvard. He also noted a belief that he had to move forward anyway: “I can’t sit on my hands when I know about something like this.”

The American Airlines case already has been connected back to the School and to Harvard University, as witnessed by the headline of the story that Professor Bazerman included in his July 18, 2017, note, and by articles such as "Harvard Professor Who Went After Chinese Restaurant Files DOT Complaint Against American Airlines For..."³ and "American Airlines Class Action Lawsuit Challenges Bag Fees,"⁴ which notes that "Bazerman is represented by Benjamin Edelman of the Law Offices of Benjamin Edelman, and Linda M. Dardarian, Byron Goldstein and Raymond Wendell of Goldstein Borgen Dardarian & Ho." Given his prior history with situations that had complicated consequences for him and for the School, the FRB is concerned that he did not engage the Dean, the Dean's Office, or Brian Kenny (who Professor Edelman had contacted in advance of the Airbnb article), before the suit was filed. It gave us continuing reason to be concerned that Professor Edelman can be quick to act on his perceptions of wrongdoing by others, without first reaching out to understand different points of view.

Summary

The FRB appreciates the steps Professor Edelman has taken during the last two years; clearly there are signs of effort and improvement both in his interactions with others and in his approach to outside activities and conflict of interest, as reflected back throughout the interviews with colleagues and with Professor Edelman himself. Many expressed genuine admiration for him, the work he is doing, and its impact and importance, including for the School.

At the same time, there were a number of individuals within the group interviewed—individuals whom Professor Edelman himself had identified—who were less certain, not about the work, but about his methods, the extent to which he had internalized feedback from the 2015 review, and his willingness and ability to seek guidance from others in the future. Moreover, they experience Professor Edelman's interactions as disrespectful and his work as not always meeting standards of disclosure that pose reputational risk and damage to the School, as well as to themselves as members of the School's faculty.

This bifurcation among responses troubles us; while it is common to see disagreement among colleagues, and while we don't expect anyone to be liked by everyone, the depth of enthusiasm *and* dismay was noticeable and unusual.

We are mindful that the issues raised here rely on judgment—one's assessment of Professor Edelman's interactions, of potential risk and reputational benefit, and of the degree to which his activities are core and central to his research or outside activities that should be more thoughtfully connected to the Harvard name.

We therefore find ourselves unable to say, with full conviction, that the issues raised following the 2015 review have been satisfactorily resolved. In this report, we are presenting to the best of our ability the views and facts to which we had access, as input to our colleagues.

³ "Boarding Area" – <http://viewfromthewing.boardingarea.com/2015/07/15/harvard-professor-who-went-after-chinese-restaurant-files-dot-complaint-against-american-airlines-for/>, accessed 22 September 2017.

⁴ "Top Class Actions" – <https://topclassactions.com/lawsuit-settlements/lawsuit-news/814089-american-airlines-class-action-lawsuit-challenges-bag-fees/>, accessed 22 September 2017.

Dear Ben,

I am writing on behalf of the Faculty Review Board (FRB) – comprising Angela Crispi, Stu Gilson, Len Schlesinger, and myself (chair) – to let you know that we met last week to review your "Reflection on Feedback from Faculty Review Board" dated March 15, 2017.

As you know, in 2015, at the request of Paul Healy in his role as Senior Associate Dean for Faculty Development, the FRB was tasked with assessing your ability to meet the standards outlined in the *Policies and Procedures with Respect to Faculty Appointments and Promotions*. As articulated in our October 2015 report, the FRB found that your conduct in the Blinkx and Sichuan Garden incidents, as well as in interactions with staff, did not uphold the School's Community Values and did not meet the School's green book criteria for "Effective Contributions to the HBS Community." We recommended that these concerns be taken into account during the promotions process. In November 2015, the Standing Committee then recommended deferring your case for two years to enable you to demonstrate whether you had indeed internalized lessons learned, anticipating that the FRB would again be activated during summer/fall 2017 to review your conduct.

The FRB now must assess:

- whether you understand the aspects of your conduct – regardless of your intent – that made them problematic;
- whether there is sufficient evidence of changed behavior; and
- whether there is a reasonable expectation that your changed behavior will be sustained in the future.

With appreciation for the thought you have put into drafting your initial reflection, after reviewing the document, we would like to ask for your thoughts on these and the following questions:

1. Your response provided examples of outcomes you believe to be more in line with the School's Community Values and with the guidance you received from the FRB report and from a number of senior colleagues. Your reflection focuses more on the "what" than the "how." We would find it helpful if you might comment or provide (more detailed) examples that give us a better window into *how* you thought about your activities and how you interacted with staff. Put differently, if a previous challenge was the disconnect between your perception of your actions and behaviors, and how others perceived your actions and behaviors, how have you gained confidence that you now are on a better path? What does it mean to pick projects "with significantly greater care"?
2. You have provided a comprehensive listing of suggested individuals to whom the FRB might speak. While we will make every effort to be thorough, with the passage of time since your reflections were submitted in March, are there individuals you would prioritize who may be best able to speak to your conduct?

It would be helpful to receive your response before the end of July and, ideally, your prioritized listing earlier if possible. Our plan is to schedule conversations over the next few weeks and,

after your additional input, with you as well. We aim to have a draft report for your review as the new term begins.

As a reminder, consistent with the FRB principles and procedures (attached), you are able to designate an advisor who might join you for meetings or interviews, or review any written materials. To be clear, we will be letting Brian Hall know about the upcoming work from a logistics and process perspective, but we will not be sharing documents or information with him.

If you might let me know when we can reasonably expect to hear back from you – we are mindful of the potential for longstanding summer plans – it would be helpful; we want to move forward expeditiously and thoroughly but thoughtfully. We then can schedule time for you to meet with the FRB.

Ben, please don't hesitate to reach out with any questions. I look forward to hearing from you.

Best,

Amy Edmondson

Reflection on Feedback from Faculty Review Board

Benjamin G. Edelman

March 15, 2017

Reflecting on the 2015 report of the Faculty Review Board and about my time at HBS more generally, I took a moment to review the school's mission as elaborated in the community values statement:

The mission of Harvard Business School is to educate leaders who make a difference in the world. Achieving this mission requires an environment of trust and mutual respect, free expression and inquiry, and a commitment to truth, excellence, and lifelong learning.

The FRB's 2015 concerns link most closely to the community values call for trust and mutual respect. I was saddened and alarmed by the FRB's report that some staff previously found me disrespectful, and guided by the FRB's assessment, I have tried to change my style to make sure my interactions accurately and unambiguously reflect my respect and concern for others. I took some solace in the FRB's recognition my positive intentions, but I credit that good intentions are not enough. Showing respect to everyone I work with, and having them perceive me as respectful, is crucial in each and every interaction, without exception, even if it means moving more slowly or foregoing some opportunities.

Drawing in part on the FRB's report, I have also thought carefully and critically about the subjects I work on and the way I approach them. Broadly, I think I have improved in my efforts to pick subjects that are (and are seen to be) appropriate; I now choose my methods and style more carefully in order to make sure my work is seen as constructive; and I explicitly pause to consider other points of view. Meanwhile, my winter 2017 LCA teaching is providing a valuable opportunity for me to reflect on key areas the FRB considered. And my new office location, with LCA colleagues, immerses me in a different environment where it has been particularly natural to see the world from a different perspective. In this document, I provide an update each of these topics in turn.

Improving my approach to internal projects

I previously attempted to convey to the FRB my longstanding and ongoing passion for improving and updating our software and systems to help make HBS the best it can be. My prior and updated personal statements, both at heading "Contribution to the HBS Community," list my efforts in this area. These range from large (participation tracking software at peak used by more than half the faculty, and once credited by Dean Nohria as importantly reducing the disparity in grades for male versus female students) to small (quick tools to help colleagues with one-off requests). There have always been obvious tensions in this work. For one, it's untraditional for HBS faculty to write software, and while some have done so in the past (notably including Jan Hammond and Frances Frei writing earlier versions of the participation tracker), this has been a greater focus for me. Meanwhile, changing software architecture makes it more difficult for faculty to get involved: As we move away from freestanding files on individual computers, towards applications running on servers, we naturally become more reliant on centralized IT—leaving less room for faculty to build improvements even if they have programming skills. Nonetheless, I haven't turned away from these efforts, but instead have tried to do this work better and smarter.

In particular, I have attempted to focus my software efforts on areas where I can be most helpful, which necessarily includes respecting others' decisions even if I disagree. In that regard, a notable experience occurred in summer 2016 when, in preparation for the Canvas rollout, I alerted IT leaders to some important limitations in their proposed implementation. I was particularly concerned that 70 clicks

were required for a RC course assistant to copy a changed template through to the 10 sections, especially since this process must be repeated every time there is new material to distribute – every supplement added or typo corrected. In short order, I built a script that reduced the process to two clicks. IT staff examined my approach, evaluated it at some length, and decided they preferred to retain the approach they had planned. (They were concerned that my tool might malfunction in unforeseen circumstances. Their approach had the notable benefit of being entirely supported by Canvas's developer, while my approach was an unofficial "hack.") I disagreed, but it was their decision to make. I have not pursued this matter further.

Yet even as I hoped for more from some aspects of Canvas, I haven't turned away from the IT team that managed that rollout. Quite the contrary, I remain in contact with these staff roughly once per month, sending specific suggestions that I gather are sometimes quite useful. In one suggestion, sent just last month, I suggested improvements for tracking student absences, combining four separate systems where such information is currently stored. IT's Jeanne Po replied the next day to thank me for my suggestions, mentioning that "As always, it is extremely helpful," and adding that my effort was also "timed so perfectly" as her team was also thinking about this subject. We may never know whether my suggestions went beyond what her team was already planning, but her unsolicited thanks meant a lot to me as I continue to evaluate whether I'm on the right track.

Meanwhile, I've found particular satisfaction in helping a sight-impaired colleague use novel IT to teach without special staff assistance, specifically by repurposing classroom "polling" buttons to let students register their interest in speaking and even convey the urgency of their interest. For her, this was a big step forward: I gather she was not looking forward to having a staff member handle calls or whisper names in her ear, whereas my software makes her independent. Indeed, with the urgency feature, there's a sense in which the software lets her prioritize calls better than fully-sighted instructors. As you might expect, the process had twists and delays, taking almost a year from initial articulation of the concept until first use in the classroom. But I think we reached an outcome that's better than anything my colleague had hoped for. Furthermore, my software could be useful to other sight-impaired instructors as well as to anyone wanting the urgency/priority feature. (In fact, Josh Coval first proposed this feature and says he wanted it for years.) I hope this tool demonstrates two things: First, the substantive result is something I am proud of—a major service to a colleague in need. Second, this process entailed close work with multiple Media Services staff, and even with their outside AV contractor. It seems the ultimate burden on Media Services was relatively low—modest cost and modest staff time. I hope their experience, working on this with me and with the affected instructor, is something they see positively too.

Based on the FRB's report in 2015 and knowing a further review would soon follow, it would have been easier and arguably safer to stop trying to get involved in IT improvements—mindful that any such efforts could backfire or could be seen as out of line. Indeed, both before and after the FRB's report, multiple colleagues questioned why I spend time on these internal projects. I understand their reasoning, but I tried to take something more nuanced from the FRB's assessment—not that it's improper to try, but that I needed to redouble my efforts to make sure that I do it properly and leave others feeling fully respected and as good about me as I do about the underlying purpose.

Choice of outside projects; methods and style

Well before the FRB's report, I had already begun to rethink certain of my outside activities. My November 2015 reply to the FRB summarized some of those changes, and I have continued in the same direction. In response to the Blinkx matter, I became increasingly skeptical of relationships that might

create an appearance of a conflict of interest, even when clearly permissible under law and even when otherwise a good match for my skills and interests. I have declined several such projects and expect to continue to decline them in the future. I'm confident that there are ways to do such work without creating a risk of an appearance of conflict, most naturally by declining payment of any kind from any source, or perhaps through improved disclosures that leave no doubt what I'm doing or why. But mindful of public concern at the way I handled the Blinkx matter, I have stayed away from such projects.

As to consumer protection projects, I have continued to follow the approach I conveyed in 2015, namely picking my focus areas with significantly greater care. I previously told the FRB about some of the litigation matters I originated, including efforts to protect first advertisers, and later consumers, from a variety of improper charges. I have been pleased to see the interested public broadly receptive to these efforts, some of which have led to substantial refunds to victims. My newest consumer protection efforts include some embodied in class action litigation, and I anticipate (and have seen early signs seeming to confirm) public support. For example, airlines' growing fees are notoriously unpopular, and where I can demonstrate that such fees are not just arbitrary but indeed unlawful (for example, breaching some regulatory duty or prior contractual commitment), it seems the interested public shares my goal of reducing the fees and even compelling airlines to provide refunds. Consider also my May 2016 online article about Uber billing errors—overcharging consumers, promising “refunds” but delivering credits, and adding undisclosed restrictions to seemingly-simple promotions. With proof in screenshots on my site, with my tone appropriate throughout, and with my explicit focus on refunds for everyone affected, these were straightforward discussions about contract terms and truth in advertising, not a tirade or impassioned debate. Meanwhile, I was pleased to see Uber change its practices to cease the overcharges I revealed. I count that as a success, and while it's incomplete (victims only refunded if they read my article, realized what happened, and contacted Uber to request benefits), I don't plan to pursue it further.

Considering other points of view

The FRB found me deficient in understanding and accepting other points of view. I took the feedback to heart and have made changes, including a new approach that allows me to deliberately and thoughtfully consider others' perspectives. Specifically, I try to mitigate my strong instincts by pausing to assess the counterarguments. For tougher cases, I endeavor to pause further to restate the counterarguments in my own words, as persuasively as I can, stepping into the shoes of whoever I'm talking to, or into those of a possible future critic who assesses a given project. This builds in part on a suggestion I received from Jan Rivkin, and I've found it an effective and rigorous way to deepen my appreciation of multiple points of view.

Importantly, even when this process hasn't changed my mind about the “right” answer or the best answer, it has helped me see other perspectives and has broadened the set of questions where I recognize that reasonable people can disagree. For example, this approach led me to conclude that even as I disagreed with IT's approach to certain aspects of the Canvas rollout, it was their decision to make and I needed to leave them to it.

Impact of teaching LCA

Since January 2017, I've been teaching LCA. There was an unavoidable irony to this assignment. Nonetheless, in my view the course is going extraordinarily well. I have much to say about the course substance, depth of the cases and questions, and teaching group, all of which I have found impressive and satisfying. But perhaps much of that goes beyond the interests and scope of the FRB.

For FRB purposes, a particularly relevant facet is the relationship between course concepts and my prior activities. For example, my experience in the Blinkx matter connected directly to questions that arise in the course—what methods equity analysts may lawfully and ethically use to assess company prospects, a question that arose in the final pasture of our discussion of insider trading in *Martha Stewart*. It was tempting to leave my saga out of the teaching plan. (One key worry: What insight could come from discussing my own activities, when students with negative views would inevitably feel limited in what they could say with me facilitating discussion?) Nonetheless, I concluded that I needed to explore my experience, including what I did and how others saw it—not just because it was personally relevant, but because some students were likely to know about it already, and I couldn't ignore the elephant in the room. Whatever trepidations I had, the pasture was compelling. Students were intrigued, and they were quick to apply their skills to assess the situation. I'm not one to be emotional in teaching, but this discussion brought me closer to these students than I've ever felt to others.

Looking ahead, I see other areas where my personal experience—and the activities the FRB examined—are bound to come into the classroom. Should my restaurant pricing experience find its way into the *responsibilities to customers* module, as I teach it in my section? Here too, given my amply documented experience which the students of course know, I think it has to. I wouldn't wish this on other instructors, but nonetheless it will make a reasonable mini-pasture. Separately, some of my class action litigation efforts, seeking refunds for consumers or advertisers or others, will also arise. Writing weeks before those sessions, I cannot yet state precise teaching purposes or takeaways. But between the process of preparing to teach and the insights from students, I'm confident that I'll emerge with a richer understanding of what I'm doing, whether it makes sense, and how it should be adjusted.

Sitting with LCA instructors and others in general management

In my new office with LCA instructors, the world looks somewhat different. Where NOM colleagues might discuss the latest paper in AER or methods for improving identification in field experiments, the northwest quadrant of Morgan 4 is more likely to talk about an ethical dilemma in the news or a possible addition to the LCA curriculum. More generally, sitting with a different group provides a natural opportunity to see the world in a different light and to rethink my prior perspective in light of the focus of those now around me. It's a big change, but ultimately I feel comfortable in both places.

Moving to Morgan also has benefits beyond LCA colleagues. People I'd previously see every few weeks are suddenly just down the hall. Baker always felt a bit distant from the core of HBS, and Morgan 4 is the very opposite of that.

Suggestions on additional sources and evidence

Both when I first read the FRB's report, and again as I reread it more recently, I remarked that the report did not discuss the perspectives of the faculty or staff with whom I have worked most closely. In the accompanying addendum, beginning on the next page, I list a variety of such faculty and staff, the contexts in which I have worked with them, and what I believe the FRB might learn from consulting with them. I intentionally omit most faculty and staff affiliated with NOM in light of the FRB's prior sense that evaluations are most useful when they come from outside the unit.

I hope that these colleagues can provide insight into my approach and a useful perspective on the concerns raised in the original FRB report.

Other Staff and Faculty with Extended Observations Yielding Possible Insight on My Character

Faculty outside my unit:

Tom Eisenmann ran a teaching group as Peter Coles and I took over his EC course in 2008-2009. We also worked together on questions of Independent Project structure and overlapping students, EC courses for "tech tribe" students, skills-based teaching (particularly software design), faculty rights in case publications, and online distribution of cases. We often discuss research due to overlapping interests. From dozens of discussions going back to the very beginning of my time at HBS, I think Tom has a full sense of who I am, what I'm interested in, and what I'm likely to do in the future.

John Deighton and Sunil Gupta led focused Exec Ed programs in which I taught perhaps half a dozen times, often with one of them observing. John and I also presented jointly at faculty reunions on approximately a dozen occasions—offering provocatively opposite assessments of the effectiveness of online marketing. From these sessions, as well as overlapping research interests which we've also discussed at some length, I think John and Sunil are particularly well positioned to assess who I am and where I'm headed.

Marco Iansiti and Shane Greenstein lead the Digital Initiative, in which I have participated as a regular and active seminar participant (among other things). We often discuss research due to overlapping interests. From these activities, as well as overlapping research interests which we've also discussed at some length, I think Marco and Shane are well positioned to assess my approach and my prospects.

Jeff Polzer was FIELD 3 course-head when I taught in that course during winter 2015. Other senior track faculty in the FIELD 3 teaching group included Mike Toffel (2015) and Cynthia Montgomery (2016). I think they would report that I was a well-liked participant in the teaching group, making substantive contributions relating to my skills and research (for example, strategies and guidance for teams working on software-based businesses and particularly marketplaces) as well as administrative contributions to facilitate delivery of a complex, logistics-intensive course.

Mike Toffel, in his capacity of TOM course-head, in fall 2016 inquired about a random-call tool I had made previously, as he thought that tool could help add excitement to the final day of TOM. In a quick discussion, we concluded that a new tool would be even more effective. I wrote it quickly, and I understand that he and some other members of the teaching group used it the next day. I think Mike would report that he was pleased to receive a tool that did everything he wanted, reliably and easily, on an unusually tight timetable.

Joshua Coval, [REDACTED] and [REDACTED] are familiar with my ongoing efforts to integrate my software with built-in classroom hardware (specifically, polling buttons) both to assist sight-impaired instructors [REDACTED] and to facilitate market-based call prioritization (Coval). I think they're all pleased that the software now exists and provides the features we discussed at length. I think [REDACTED] who in winter 2017 is using the software intensively, will report that it transformed her approach to teaching and increased her confidence in the classroom.

[REDACTED] and I also worked at some length to devise other IT improvements that make the most of her vision. For example, I reworked the ergonomics of her office workspace, including loaning her stopgap equipment before official HBS accommodation equipment became available. I devised an

unobtrusive software solution to let her view seminar slides on a tablet, at a distance and angle that work for her, without requiring that the presenter do anything extra. I think Christine will report that these benefits improved her comfort and productivity and allowed her to feel like a full participant in seminars.

Youngme Moon led the MBA program during the period in which I first raised concerns about proposed reduction in classroom projector screen size. I think she'll report that she was alarmed by the changes, all the more so because changes were made without IT telling her or seeking or receiving her approval. She may remember thanking me for discovering the problem before the semester began, with enough time left for her to undo the change without impact to a single class (and indeed without most faculty learning about the issue or needing to spend a moment thinking about it). Some of her contemporaneous emails on this subject are in Exhibit 2 to my Reply to FRB (November 6, 2015).

Richard Nolan and Robert Austin led a focused Exec Ed program in which I taught repeatedly. I think they'll report that I was an effective instructor. They may recall that after I taught a case they wrote, *The iPhone at IVK*, I then wrote and published a teaching note for that case—I gather, a rarity, in that few faculty write teaching notes for other instructors' cases.*

Arthur Segel and John Macomber led a focused Exec Ed program in which I taught once, and we have repeatedly discussed overlapping research interests as well as connections between our courses and research. I think they'll report that I was an effective instructor and that we have enjoyed exploring related interests.

David Parkes (the George F. Colony Professor of Computer Science and Area Dean for Computer Science) leads the SEAS expansion into Allston. For several years, we have discussed transportation options to link the Allston and Cambridge campuses, drawing on my research and casewriting as to certain transportation innovations. I think David will report that my remarks changed the way he thinks about transportation options and convinced him to look into novel options he would otherwise have rejected without serious consideration.

Shawn Cole teaches a required course for HBS-HKS joint degree candidates, and in both 2016 and 2017 invited me to guest-teach in that course. I think Shawn will report that my sessions were effective and well-received.

Mitch Weiss and I have repeatedly discussed a range of overlapping research and course development interests at the intersection of technology and public policy, as well as course development associated with technological skill-building and entrepreneurship (grounded in our joint FIELD 3 teaching in 2015). I think Mitch will report that in FIELD 3 I was well-liked and a full contributor, and that our subsequent discussions have helped guide some of the most challenging aspects of his course development.

Joe Badaracco is the Course Head of LCA, in which I am currently teaching. I have also worked closely with Lena Goldberg on developing new teaching materials. Within the teaching group, I have worked most closely with Nien-hê Hsieh on teaching plans and pedagogy. In the first few weeks of teaching, I

* A colleague asks why I wrote a teaching note for someone else's case. I thought my teaching plan might be helpful for others looking for teaching ideas for this material. I do not claim that my substantive contribution was extraordinary or even notable enough to be starred in my review packet (which it is not). Nonetheless, for FRB purposes, I think this document demonstrates my longstanding contributions to the HBS community. Notice that I published this note in 2010, years before Blinkx or restaurant pricing raised the prospect of a FRB review or similar scrutiny.

was pleased to see that David Fubini substantially adopted my one-page bring-to-class teaching plan for the second day of the Enron case. When I proposed an alternative approach to the final pasture of the Martha Stewart case, Amy Schulman reported successfully using my approach. I think all will report that I am an effective and well-liked member of the teaching group. I hope they'll also report that my technical contributions have improved the group's operations.

Philip Heymann (the James Barr Ames Professor of Law at the Harvard University Law School), Harry Lewis (Gordon McKay Professor of Computer Science and the Director of Undergraduate Studies in Computer Science at Harvard University), and Scott Kominers (in his then-capacity of instructor of the Harvard Economics Department graduate course in Market Design) teach or taught courses elsewhere in the university. Each invited me to guest-teach in their respective courses. I think they will all report that my sessions were effective and well-received.

Staff:

FSSs and their managers, including Imelda Dundas, can assess my work with the FSSs to whom I was assigned. I think they will report that I was able to work productively with all the FSSs assigned to me. They may remember that I happily accepted even FSSs who had difficulty working productively with other faculty.

Jenny Sanford, my FSS during 2015-2016, and later my part-time RA, can assess the way I conducted myself in response to media coverage in 2015, as well as my interactions with FSSs. I think Jenny will report that I was humble but composed, and that I was well-liked by FSSs.

Paul Craig of HBS IT can assess my work on campus-wide educational software, including my efforts on Learning Hub specifications and requirements, finding and documenting bugs, suggesting improvements, and devising workarounds for key limitations. I think Paul will report that I was respectful, easy to work with, and appropriately focused on obtaining the best possible outcomes for all users. More recently, my primary contact for such matters has been Jeanne Po, and I hope she will convey a similar assessment.

Niel Francisco and Michael Soulios of HBS IT can assess our joint work on various desktop support anomalies such as computer encryption complexities and support for faculty with special needs, as well as routine matters such as desktop support and loaners. I think they will report that I was respectful, easy to work with, and appropriately focused on obtaining the best possible outcomes for all users.

Media Services classroom technicians, including Matthew Briggs and Paul Shoemaker, can assess my work with the technicians assigned to my classrooms, including my responses to occasional failures in classroom technology and my classroom technology innovations now used by others. I think they'll report that despite my unusual classroom equipment, I was respectful, easy to work with, and accepting of the inevitable glitches.

Willis Emmons (and historically Tara Abbatello) of the Christensen Center can assess my efforts in software to measure and analyze participation, including the groups I interacted with in designing and improving this software and my approach to feedback and requests. I think Willis will report that my participation tracker implemented a vision he had articulated for years, but that he had been unable to obtain for lack of technical resources. I think Willis will report that I was respectful and easy to work with, and that I went above and beyond to provide the best possible features to all faculty and staff.

Lee Gross in the MBA Registrar's office can assess our interactions as we coordinated my software's efforts to gather course and enrollment information from Registrar systems. I think Lee will report that I was respectful and easy to work with, and that I was careful not to intrude on her time or make unwarranted special requests of the Registrar. Lee may recall that when she occasionally needed to confirm the way IT systems presented information to faculty (to troubleshoot displays seen by other faculty), she contacted me, and I always promptly and happily provided the information she requested.

FIELD 3 staff, including Kari Limmer and historically Annie Hard (now at HKS Center for Public Leadership) and Greg Freed, can assess my participation in the FIELD 3 teaching group, including the software I built to improve productivity for faculty and staff as well as to streamline activities within the classroom. I think they will report that I was respectful and intently focused on improving systems for students, faculty, and staff. Kari may remember that Greg used some of my tools even outside of FIELD 3, finding that my tools could equally be applied in other parts of FIELD to streamline work by faculty as well as FSSs and especially FIELD staff.

Response to Faculty Review Board Questions – “How”

Benjamin G. Edelman

July 31, 2017

The FRB’s July 6, 2017 letter commented that my March 15 submission discussed more of the “what” (what I have done differently, after prior FRB guidance) and not enough of the “how” (how I have thought about my activities and approach). In this response, I seek to provide the additional information the FRB requested.

I mentioned in March that I have come to think increasingly carefully and critically about the subjects I work on and the way I approach them (paragraph three, first sentence). I choose these words with care, and I intend each word to have meaning that speaks to the “how” of my approach. In this statement, let me expand on each word in turn.

1) “Carefully.” There are some projects that are worth pursuing due to their substantive importance, and others not. My guiding principle is to be thoughtful, now more than ever, in what issues I choose to work on.

Sometimes this is easy. I suspect most people would agree that it was a worthy activity for me to help a colleague with a sight impairment whose teaching would be much improved via software I knew how to write. The factors that most swayed my thinking:

- a) The project was within my ability. (Had it been otherwise, it would have been a nonstarter no matter the other merits.)
- b) It mattered to the beneficiary. The importance of teaching independently, without unusual support staff in the classroom, is apparent. The school’s other proposals to this colleague, such as no MBA teaching or teaching only with a staff person or faculty colleague handling some aspects of in-the-classroom duties, were manifestly inferior and not her preference.
- c) My contribution was pivotal, in the sense that no one else was going to do it.

I was also influenced, though less so, by the opportunity to learn something from the project (including thinking critically about my own call patterns, as well as continuing to improve my skills at software engineering) and by the opportunity to work in partnership with Media Services staff.

Sometimes it’s less clear. For example, last year I discovered that certain Uber “free ride” offers were actually \$15 discounts (making a ride only discounted, but not “free,” if the price was more than \$15). I thought this was worth fixing—millions of users affected; collectively a large amount of money at issue; potential to distort competition if competitors honored their respective marketing offers while Uber was able to attract more passengers via a false promise. At the same time, I also considered the counterarguments—that it’s no big deal for middle-class passengers to save a few bucks, all the more so when they are themselves choosing to support a service with a tumultuous legal history; that Uber’s \$15 discount is generous and nothing to complain about. I ultimately concluded that the problems were worth documenting in the context of an online article which also presented several other Uber errors. I sought to retain a levelheaded, dispassionate tone, and to provide abundant screenshots showing what happened. Through those mechanisms, I sought to keep the focus on the substance of the practice at issue, not on me or my motives.

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Some years ago, I took pride in pursuing issues that no one else did—specifically because I knew that if I didn't, no one else would. I remember and credit the reasoning that led me to that approach, but it's no longer right for me: My substantive interests have shifted, and those issues are no longer of greatest personal or professional interest. They're incompatible with the increasing demands on my time. And there's a strong argument that small problems just aren't important enough.

These days, in choosing a problem to try to fix or a subject to work on, I try to consider a combination of the number of people who might benefit, the seriousness of the harm they are suffering or the improvement I can offer, and, where applicable, the blameworthiness of the putative victims versus putative perpetrator. I also consider the feasibility of the project—whether I can in fact do what I set out to do; how I'd give up, and with what backup plan if things don't work out as I hoped. The bottom line is that there are a lot of problems I decline to try to solve.

2) "Critically." The crux of the task, in this regard, is to anticipate, understand, and engage with other points of view. In March, I mentioned Jan Rivkin's suggestion that I restate counterarguments in my own words, as persuasively as I can, as if I were an attorney or other advocate speaking in favor of that position. I've found this a powerful approach, and I use it increasingly regularly.

I've found that I usually have the ability to make strong arguments on both sides of a question—perhaps the desired result of legal training. A necessary next step is to make a considered judgment of which argument is stronger, or if a question truly is a toss-up, to acknowledge it as such. My March 15 submission noted one situation where this approach led me not to pursue my suggestion, concluding that while I disagreed with IT's approach to a certain aspect of the Canvas rollout, it was better to leave this to IT staff to do as they see fit. I found this a genuinely difficult choice: I was sad to see the school ask our FSS colleagues—among the lower-status members of our community—to click 70 times to do a task I could help them do with two. Relatedly, I felt it demeaning to ask our administrative support staff to do repetitive, low-value work (and I was surprised that others didn't see it similarly). Meanwhile, I was disappointed by the barrier to teaching and learning if the longer process led course-heads to forego some updates because it was administratively burdensome to push the updates to all affected sections. Indeed, to this day I wonder whether I made the right decision. Nonetheless, on reflection, I stand by the approach I chose. Notably, I got there via a period of explicit introspection (not to mention discussions with senior colleagues) that led me away from the approach that was my initial instinct.

3) "The subjects." In a hierarchy of subjects, I suspect it's uncontroversial to place physical, emotional, health and other special harms above business-to-consumer economic harms, and in turn above business-to-business economic harms—of course trying simultaneously to give proper consideration to the magnitude of the harm. On reflection I notice that my recent research embodies this shift in priorities.

My early work at HBS focused almost exclusively on economic harms—analyses of prices, payments, and other events naturally measured in dollars. Perhaps that's the standard result of training in economics. But in general, it seems to me that the case for taking a vigorous, spirited position is stronger when the subject is in some important respect "more than money," and correspondingly weaker when the value at issue is purely economic.

I have increasingly tried to be attuned to aspects of my research that relate to these bigger questions, and I think I have found some. For example, when Airbnb designed its site in a way that is distinctively disadvantageous to both guests and hosts of disfavored minority groups, I was pleased to write about the problem and push the company to make changes. Arguably it all comes back to economics—a disfavored host can usually get a guest, despite his race, by offering a lower price. (In fact I measured

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just how much lower a price he'd likely need to offer.) And a guest who is willing to pay extra can probably find a room (if not through Airbnb, then in a hotel). But the connection to race and the important larger societal questions gave the project a greater sense of purpose and, in my view, a greater urgency.

Even within economic harms, I've tried to be more thoughtful about my choice of issues. A decade ago, I looked at length at business-to-business harms—one company overcharging another, for example through nefarious or at least negligent online advertising practices. Whatever else one says about those problems, in general companies have some reasonable defenses at their disposal, including consultants, experts, and ultimately litigation (though I have written about the important limits of these strategies). In contrast, when a company overcharges consumers or takes some other harsh action towards consumers, the consumer's options are usually considerably narrower.

After careful consideration, I recently elected to file a class action lawsuit against American Airlines as to its imposition of baggage fees contrary to its prior promises to customers (in contracts, tariffs, and on-screen purchase promises), seeking refunds for everyone who was overcharged. I decided to pursue this matter in part in light of the large amount of money at issue—as much as \$200 to check a bag that the airline had specifically promised would be included at no additional charge, times many tens or hundreds of thousands of passengers affected. I was also mindful of the virtual impossibility of passengers pursuing these claims on their own. (Beyond the usual impediments, some of the key promises appeared in on-screen statements during booking, but passengers had no reason to preserve these promises in screenshots, so would struggle to prove what the airline had promised.) I have no illusions about the beneficiaries: Some of our claims pertain to “elite” frequent fliers (who fly often and who are particularly likely to be well-to-do business travelers) and those with business and first class tickets—as some of American's false promises distinctively affected these groups. Even coach air travelers without elite status are surely wealthier than average Americans. Nonetheless, the principle of honoring written contractual commitments is one that I hold dear, and I am hopeful that others will see this similarly. Note that this is not a charitable activity: If the case is successful, my co-counsel and I will ask the court to award us payment for our efforts at market rates.

4) “The way.” I don't want to be a bully or a jerk, nor to be viewed as such, and it was alarming to hear that some people perceive me in that way.

In this regard, I periodically look back at my 2014 emails with Sichuan Garden. My tone there was far out of line and, in my view, really not normal for me. I've tried to understand what led to my unusual and unseemly approach. From our prior discussions, the FRB may recall that I concluded that the owner was engaged in intentional misconduct—not just keeping an old menu up inadvertently (as media tended to report), but intentionally advertising lower prices than he intended to charge, because he benefited from doing so. I recognize that not everyone shares this diagnosis, and evidence is mixed, but my conclusion in this regard clearly shaped my approach and tone. Whether I was right or wrong, my diagnosis actually didn't much matter; my tone should have been more respectful no matter what I thought the owner had done or why. This was an important lesson.

The FRB previously reported concerns about the style of my interactions with certain HBS staff. Clearly the right style depends on the subject matter, who I'm talking to, and the overall context, and I've tried to be aware of these factors in all I do. My sense has always been that a careful, precise, technical analysis is appropriate when talking to a technical professional about a technical subject. Some of these interactions took place via email, so I reread some of the relevant emails. For example, I reread my February 12, 2015 message to Rawi Abdelal about projector changes I thought he'd want to know about

(presented in my November 6, 2015 submission as Exhibit 4). My message was precise, quantitative, and analytical, and I also presented the opposing point of view but, to be sure, critiqued each argument firmly. No doubt some people would find my message off-putting. Rawi, at least, did not. (He replied "Many thanks for your note and the thoughtful reflections.") I thought my style was appropriate in light of the nature of the question at hand (ultimately an engineering matter which called for technical analysis), Rawi's stature relative to my own (more senior), and his request for this information (which, as the first paragraph of the message mentions, was incidental to us discussing it in person). Meanwhile, the FRB rightly flagged the increased care necessary when interacting with people of lower status, lest they feel personally or professionally slighted. I have tried to be particularly attuned to this risk. I have had some technical correspondence with HBS staff, for example with the TSS technicians who resolve desktop computer problems. Even when discussing complicated subjects—for example, troubleshooting unexplained hardware problems that run contrary to all our experience—we've been cordial. (I'd be happy to gather these emails for FRB review.) I like and respect them, and I hope that they feel the same way.

A separate set of "the way" questions arises out of relationships that might be seen as creating a conflict of interest. I mentioned in my March statement that I've raised my personal bar, declining projects that might appear to create a conflict of interest even if clearly permissible under law, even if fully disclosed, and even when otherwise a good match for my skills and interests (March 15 statement, paragraph spanning pages 2-3). I've also tried to be a steward for impeccable disclosure practices at HBS. In the FRB's October 2015 report, at page 47, Jean Cunningham mentioned in passing that I was one of just two faculty to participate in COI small group meetings, and that I brought substantive contributions. More recently, I have encouraged HBR online editors to prioritize improvements to their online publishing environment to allow superior article-specific disclosures of potential conflicts. (At present, the HBR.ORG platform allows only one disclosure per author, applied to all the author's articles on HBR.ORG, which falls short of my personal sense of best practice and also short of what I take the HBS COI policy to request.) Finally, I have further sought guidance from Jean periodically, including in April 2017, December 2015, and September 2015, about conflicts, disclosures, and related matters. With my increasing focus on this area, I think I've substantially reduced the likelihood of further concerns here.

I mentioned in my August 15, 2015 submission that I would not expect HBS to wish to retain me if every year brought media uproar like the two incidents in 2014, nor could I imagine remaining a happy and positive person if such incidents reoccurred. Since then, I have taken significant steps to see that they do not, and they have not. I have become more thoughtful about the possible externalities from, and perspectives on, my actions; and these experiences have redoubled my commitment to using my research and skills to make the Internet a safer and better place, and to making sure my role in the HBS community is, and is seen to be, positive. I thank the FRB for its effort in evaluating these subjects.

Prioritized Faculty and Staff with Extended Observations Yielding Possible Insight on My Character

In my March 15, 2017 submission, I provided a list of faculty and staff with whom I have worked in a variety of capacities. As the FRB requested last week, I prioritized this list to emphasize those who I consider most informative, based on a combination of the scope of my interaction with them, the recency, and the nature and subject.

In the reworked list below, I mark with asterisks the people whose assessments I think would be most informative, and I resequence entries to begin with those I'd consider the highest priority. I also add a bit of additional discussion, marked in underline, where there are relevant new developments or other clarifications, but I also removed some suggestions (and some details) that now seem less important. I retain the separation between faculty and staff, as I sense the FRB seeks to talk to members of both groups. I hope these expanded annotations can give additional context to help the FRB assess which perspectives would be most useful.

Where I present multiple faculty and staff in the same paragraph, I intend to convey that they know me from the same context—for example, two senior colleagues who jointly led a focused Exec Ed program in which I taught. I don't presume that they have the same view of me merely because we interacted in the same context, but that's one natural possibility. Given the limited time available to the FRB, it might be natural to choose (at most) one person from within each of these groups.

Faculty:

Tom Eisenmann* ran a teaching group as Peter Coles and I took over his EC course in 2008-2009. We also worked together on questions of Independent Project structure and overlapping students, EC courses for "tech tribe" students, skills-based teaching (particularly software design), faculty rights in case publications, online distribution of cases, and the joint HBS-SEAS degree program. We often discuss research due to overlapping interests. From dozens of discussions going back to the very beginning of my time at HBS, I think Tom has a full sense of who I am, what I'm interested in, and what I'm likely to do in the future. I suggest that Tom is a particularly appropriate person for FRB to interview based on the duration of our interactions and wide range of subjects discussed including research, teaching, school policies, and efforts to adjust school policies.

John Deighton* and Sunil Gupta led focused Exec Ed programs in which I taught perhaps half a dozen times, often with one of them observing. John and I also presented jointly at faculty reunions on approximately a dozen occasions—offering provocatively opposite assessments of the effectiveness of online marketing. From these sessions, as well as overlapping research interests which we've also discussed at some length, I think John and Sunil are particularly well positioned to assess who I am and where I'm headed.

Marco Iansiti* and Shane Greenstein* lead the Digital Initiative, in which I have participated as a regular and active seminar participant (among other things). We often discuss research due to overlapping interests. From these activities, I think Marco and Shane are well positioned to assess my approach and my prospects.

Joe Badaracco* is the Course Head of LCA, in which I am currently teaching. Even before I joined LCA, I had interacted with Joe repeatedly including on my first interview/job-talk visit (when I spent half a day with LCA faculty), to discuss his suggestions for Participation Tracker improvements (as early as fall 2007), and to discuss shared research interests. As the course-head of the course I now teach, and the de facto leader of the hallway where I now reside, Joe is uniquely positioned to assess my contributions and my interaction with the teaching group and others.

In the LCA teaching group, I have also worked closely with Lena Goldberg* on developing new teaching materials. Within the teaching group, I worked most closely with Nien-hê Hsieh on teaching plans and pedagogy. In the first few weeks of teaching, I was pleased to see that David Fubini* substantially adopted my one-page bring-to-class teaching plan for the second day of the Enron case, and we continued to collaborate closely on teaching plans and action questions, more so as the semester continued. I think all will report that I am an effective and well-liked member of the teaching group. I hope they'll also report that my technical contributions have improved the group's operations. Given the stated purpose of my move to LCA—for others in the school to get to know me and be able to assess me—I particularly hope that the FRB will speak with at least some of the other LCA instructors with whom I taught this fall.

Joshua Coval*, [REDACTED] and [REDACTED] are familiar with my ongoing efforts to integrate my software with built-in classroom hardware (specifically, polling buttons) both to assist sight-impaired instructors [REDACTED] and to facilitate market-based call prioritization (Coval). I think they're all pleased that the software now exists and provides the features we discussed at length. I think [REDACTED] who in winter 2017 used the software intensively, will report that it transformed her approach to teaching and increased her confidence in the classroom. I know the FRB is interested in views from faculty outside my unit, and Josh seems to me a strong candidate in that respect. I recognize that the FRB probably hesitates both to consult junior faculty and also probably hesitates to consult further faculty inside NOM. Nonetheless, given the scope of my work with [REDACTED] and the unusual nature of the work, I hope the FRB will consider trying to speak with her.

Jeff Polzer* was FIELD 3 course-head when I taught in that course during winter 2015. Other senior ladder faculty in the FIELD 3 teaching group included Mike Toffel (2015) and Cynthia Montgomery* (2016). I think they would report that I made substantive contributions relating to my skills and research (for example, strategies and guidance for teams working on software-based businesses and particularly marketplaces) as well as administrative contributions to facilitate delivery of a complex, logistics-intensive course. As course-head, Jeff was uniquely positioned to assess my contributions and my interaction with the teaching group. I know the FRB is interested in views from faculty outside my unit, which I take to signal interest not just in views that cross unit boundaries but also spanning research methods and overall approach. In those regards, Cynthia might be a particularly useful person to talk to.

Mike Toffel, in his capacity of TOM course-head, in fall 2016 inquired about a random-call tool I had made previously, as he thought that tool could help add excitement to the final day of TOM. In a quick discussion, we concluded that a new tool would be even more effective. I wrote it quickly, and I understand that he and some other members of the teaching group used it the next day. I think Mike would report that he was pleased to receive a tool that did everything he wanted, reliably and easily, on an unusually tight timetable.

Youngme Moon led the MBA program during the period in which I first raised concerns about proposed reduction in classroom projector screen size. I think she'll report that she was alarmed by the changes, all the more so because changes were made without IT telling her or seeking or receiving her approval.

She may remember thanking me for discovering the problem before the semester began, with enough time left for her to undo the change without impact to a single class (and indeed without most faculty learning about the issue or needing to spend a moment thinking about it). Some of her contemporaneous emails on this subject are in Exhibit 2 to my Reply to FRB (November 6, 2015).

Arthur Segel and John Macomber led a focused Exec Ed program in which I taught once, and we have repeatedly discussed overlapping research interests as well as connections between our courses and research. I think they'll report that I was an effective instructor and that we have enjoyed exploring related interests.

David Parkes (the George F. Colony Professor of Computer Science and Area Dean for Computer Science) leads the SEAS expansion into Allston. For several years, we have discussed transportation options to link the Allston and Cambridge campuses, drawing on my research and casewriting as to certain transportation innovations. I think David will report that my remarks changed the way he thinks about transportation options.

Shawn Cole teaches a required course for HBS-HKS joint degree candidates, and in both 2016 and 2017 invited me to guest-teach in that course. I think Shawn will report that my sessions were effective and well-received.

Mitch Weiss and I have repeatedly discussed a range of overlapping research and course development interests at the intersection of technology and public policy, as well as course development associated with technological skill-building and entrepreneurship (grounded in our joint FIELD 3 teaching in 2015). I think Mitch will report that in FIELD 3 I was a full contributor, and that our subsequent discussions have helped guide some of the most challenging aspects of his course development.

Staff:

Willis Emmons* (and historically Tara Abbatello) of the Christensen Center can assess my efforts in software to measure and analyze participation, including the groups I interacted with in designing and improving this software and my approach to feedback and requests. I think Willis will report that my participation tracker implemented a vision he had articulated for years, but that he had been unable to obtain for lack of technical resources. I think Willis will report that I was respectful and easy to work with, and that I went above and beyond to provide the best possible features to all faculty and staff. Willis can also discuss our shared work on other aspects of academic technology, and most recently our overlapping time on the Academic Technology Steering Committee: he can report how he saw me interact with committee staff.

Paul Craig* of HBS IT can assess my work on campus-wide educational software, including my efforts on Learning Hub specifications and requirements, finding and documenting bugs, suggesting improvements, and devising workarounds for key limitations. I think Paul will report that I was respectful, easy to work with, and appropriately focused on obtaining the best possible outcomes for all users. More recently, my primary contact for such matters has been Jeanne Po*, and I hope she will convey a similar assessment.

Media Services classroom technicians, including Matthew Briggs* and Paul Shoemaker*, can assess my work with the technicians assigned to my classrooms, including my responses to occasional failures in classroom technology and my classroom technology innovations now used by others. I think they'll

report that despite my unusual classroom equipment, I was respectful, easy to work with, and accepting of the inevitable glitches.

Niel Francisco* and Michael Soulios of HBS IT can assess our joint work on various desktop support anomalies such as computer encryption complexities and support for faculty with special needs, as well as routine matters such as desktop support and loaners. I think they will report that I was respectful, easy to work with, and appropriately focused on obtaining the best possible outcomes for all users. I marked Niel with a star because our interactions were more recent.

Julianne Nolan, my current FSS as well as the LCA course assistant, can assess my current workplace approach, my style in requests to her, and my overall approach in the office suite and teaching group.

FSSs and their managers, including Imelda Dundas, can assess my work with the FSSs to whom I was assigned. I think they will report that I was able to work productively with all the FSSs assigned to me.

Jenny Sanford, my FSS during 2015-2016, and later my part-time RA, can assess the way I conducted myself in response to media coverage in 2015, as well as my interactions with FSSs.

Lee Gross in the MBA Registrar's office can assess our interactions as we coordinated my software's efforts to gather course and enrollment information from Registrar systems. I think Lee will report that I was respectful and easy to work with, and that I was careful not to intrude on her time or make unwarranted special requests of the Registrar. Lee may recall that when she occasionally needed to confirm the way IT systems presented information to faculty (to troubleshoot displays seen by other faculty), she contacted me, and I always promptly and happily provided the information she requested.

FIELD 3 staff, including Kari Limmer and historically Annie Hard (now at HKS Center for Public Leadership) and Greg Freed, can assess my participation in the FIELD 3 teaching group, including the software I built to improve productivity for faculty and staff as well as to streamline activities within the classroom. I think they will report that I was respectful and intently focused on improving systems for students, faculty, and staff. Kari may remember that Greg used some of my tools even outside of FIELD 3, finding that my tools could equally be applied in other parts of FIELD to streamline work by faculty as well as FSSs and especially FIELD staff.

Sunday, September 24, 2017 at 4:55:16 PM Eastern Daylight Time

Subject: FRB Update

Date: Friday, September 1, 2017 at 9:44:34 AM Eastern Daylight Time

From: Edmondson, Amy

To: Edelman, Benjamin

CC: Cunningham, Jean

Dear Ben,

Thank you very much for your recent meeting with the Faculty Review Board -- it was helpful to hear your perspective on the last two years.

As we have continued with our work, one area where we feel we still need greater clarity is around your outside activities, with the related issues of appropriate reporting and disclosure and the extent to which potential reputational risks to Harvard Business School and Harvard are being raised and evaluated as you pursue this work.

While we recognize that Outside Activities reporting typically is considered confidential to the Dean, given the centrality of this issue to the last FRB review and to our evaluation now, and with Nitin's approval, we are writing to ask that you provide additional detail. Specifically, I would ask you to submit for the approximately two years following your initial FRB review:

- a complete listing of your outside activities, including client names and litigation
- a complete listing of all work products in the public domain (e.g., articles, reports, presentations)

I realize the latter may be hard to fully reconstruct, and a good faith effort here will do; mainly I hope you will think about your "output" as including more than, for example, cases and articles.

Then, with this information as a backdrop, it would be helpful to understand how you thought about the issues noted above -- when and where to seek advice or approvals on your outside activities, and when and how to include disclosures on your output. As an example, it would be helpful to understand the role you are playing in the litigation with American Airlines. Members of the FRB have, for instance, questions about why the suit was not approved first by the dean, both because of the type of activity it entailed and because Harvard Business School was implicitly if not explicitly drawn into the suit given your and Max's HBS affiliation. Similarly, your report on "Impact of OTA Bias and Consolidation on Consumers" shares at least some similarities with Blinkx in that a third party provided funding for the work. How, in your mind, does it differ? What would you say to colleagues who raise the concern of faculty members engaging in "research for hire"?

Please know that the FRB will treat your outside activities as confidential; we will report on this issue using specifics as required but without, we trust, breaching privacy, and you of course will have an opportunity to review the draft report and offer feedback and comments before it is shared with the dean.

We are hopeful you might be able to submit this summary by the end of next week (8 September) with the hope that it is not a heavy lift; do let me know if that time frame feels unreasonable.

Best,

Amy

Supplemental Response to Faculty Review Board Questions – Outside Activities

Benjamin G. Edelman

September 8, 2017

The FRB's September 1, 2017 message posed several questions about my outside activities. In separate documents, I list my recent outside activities and recent work products. In this supplemental response, I turn to the broader questions the FRB asked.

First, as to when and where to seek advice or approvals on outside activities: I begin with the HBS Policy on Outside Activities of the Faculty. In many respects, the policy is unambiguous, and I seek to follow it strictly. When it appears to be ambiguous, I have consulted with Jean Cunningham and sought her guidance on its meaning. I have also discussed these questions with trusted faculty colleagues, most often senior faculty in my unit, though also colleagues in other units who I have reason to believe have relevant experience.

As to how to include disclosures on my output: I have long included disclosures within my output, including disclosures that predate HBS policy calling for this approach. Compare my "Labels and Disclosures in Search Advertising" (discussing certain Google practices and beginning with an unavoidable top-of-page disclosure with distinctive background color discussing my consulting work for companies that compete with Google; <http://www.benedelman.org/news/110910-1.html>, dated November 9, 2010) with the HBS 2012 Conflict of Interest policy (which, as I understand it, began the official requirement to include such disclosures where applicable). In fact I had posted relevant disclosures on online articles as early as 2004 or perhaps earlier, though my word choice, format, and placement have evolved based on my developing assessment of readers' expectations and the nature of relationships that call for disclosure. Relatedly, I have also twice mentioned efforts to improve the HBR.ORG content management system to provide better and more relevant disclosures. (See my November 6, 2015 Reply to Faculty Review Board at page 3, second bullet. See also my July 31, 2017 Response to FRB Questions at page 4, paragraph beginning "A separate set.") These efforts indicate the depth of my commitment to superior disclosures and my efforts not just to follow applicable rules and guidelines, but to lead.

As to when to include disclosures on my output: In my view, the HBS Policy on Outside Activities of the Faculty appropriately states the circumstances in which disclosure is appropriate. Restating the general approach as I understand it: Disclosure is appropriate, and indeed compulsory, when an outside activity is directly related to a work product, in a way that affects, or could reasonably be seen to, affect objectives or financial interests. Of course people may see "directly related," "affects," and even "objectives or financial interests" differently. Historically my approach to these questions has been grounded in the training I received as an attorney, including in the attorney ethics course required as part of the HLS curriculum. Subsequent events, including FRB guidance, have broadened my understanding, as I discussed in greatest detail in my November 6, 2015 Reply to FRB.

The FRB asked about my work in litigation adverse to American Airlines. First, the FRB asked about the role I am playing. I thought of the case while casually reviewing the applicable contracts and practices to assist friends and family. After I uncovered the violations and determined that they were appropriate for class action litigation, I identified co-counsel appropriate for the day-to-day work in the case. I

drafted most of the complaint and handed the case off to them. I expect that I'll work on some of the key legal strategy and drafting, but I do not expect to be involved in the minutiae of the case.

The FRB next asked whether I considered seeking approval from the Dean for my work on this lawsuit. I considered it but determined that it was not necessary. First, I was guided by the plain language of the applicable policies. In general, litigation does not trigger any of the specific categories listed in the HBS Policy on Outside Activities of the Faculty. Closest is the requirement of Dean's approval for service as an expert witness. But neither of the stated reasons (risk to reputation, scheduling inflexibility) obviously applies. (Service as an attorney tends to prompt fewer personal attacks than service as an expert, where opposing experts often criticize each other by name. Indeed, my prior litigation projects have yielded positive to neutral public response, reducing my sense of reputational risk from these projects and correspondingly reducing my assessment of the likelihood that Dean approval was necessary or appropriate. Meanwhile, co-counsel handle all court appearances and other day-to-day aspects of the litigation, so there is no sense in which this case will impact my academic duties in the way that OA Policy worries for service as an expert.) Moreover, service as an attorney simply is not service as an expert, and thus falls outside the plain language of this provision of the OA policy.

Second, I was guided by my 2008 disclosures and subsequent discussions with Jean Cunningham. In January 2008, I wrote to the "Office of the Dean" role account (officedean@hbs.edu) specifically pointing out my work as an attorney, noting that this was outside the scope of activities calling for Dean's approval, and seeking guidance. I received no reply. In October of that year, I discussed that question among others with Jean Cunningham. Jean gave specific guidance about service as an expert but did not indicate that work as an attorney required advance approval. Leaving that discussion, my understanding was that I do not need to seek approval for service as an attorney, and that has been my approach ever since.

Third, I was guided by senior colleagues. I sought their guidance (as discussed below) and proceeded as they directed.

Fourth, I was comforted by my limited role in the case, serving solely as an attorney. In some matters, concern arises in large part from shifting between multiple roles—for example, doing certain research for investors interested in Blinkx, then writing an article grounded in some of the same findings. Here, I have made no public statements about American Airlines bag fees, and I do not intend to do so, except in the limited ways typical for an attorney. Indeed, this has been my standard approach to litigation matters for some years. See e.g. my single public posting about Facebook overcharging kids and parents, "Refunds for Minors, Parents, and Guardians for Purchases of Facebook Credits" (<http://www.benedelman.org/news/071216-1.html>), in a formal lawyerly style, jointly written with co-counsel, simultaneously and identically posted to co-counsel firm web sites. This narrower single role reduces some concerns.

Although I concluded that the Dean's permission was not required for my work in this case, Max Bazerman and I nonetheless decided to alert the Dean to the project. Reflecting on the dual connection between the case and HBS (my role as an attorney, and Max's role as plaintiff), we both noted that this was unusual and would benefit from up-front discussion with others. In July 2017 we discussed the subject with Brian Hall and other senior colleagues whose judgment we trusted. In a lengthy email thread, we decided that Max would revise his letter as to my promotion case to mention this relationship with me (lest anyone think my representation of him affected his letter); that he would notify Paul Healy (in his capacity as Senior Associate Dean for Faculty Development); that he would pre-commit to give to charity any proceeds he received from the case; and that he would tell the Dean,

request guidance, and propose to discuss by phone or in person as the Dean saw fit. Max tells me that he promptly did all of those things (though I gather the Dean elected not to follow up). Thus, the Dean did know about this project, has been consulted, and did not object. Paul Healy replied to thank Max for mentioning this unusual relationship, but expressed no particular concern.

Incidental to these steps, we also considered several alternatives. For example, we discussed consulting with Jean Cunningham, but concluded that communication directly with the Dean was appropriate (albeit without extended explicit deliberation on this point). We also discussed my participation in some of the steps discussed above, such as me separately contacting the Dean, but we decided Max alone would proceed as discussed above. Among the factors that led us to that decision: As discussed above, we saw my role as plainly permissible under applicable policies, while more unusual questions arose from the dual relationship between me and Max (me serving as his attorney in the AA bag fee case, but at the same time, him writing a letter as to my promotion).

The FRB asked about my article entitled "Impact of OTA Bias and Consolidation on Consumers" and suggested that piece "shares at least some similarities with Blinkx in that a third party provided funding for the work."

First, as I've mentioned previously, I wouldn't characterize the Blinkx project as a client "provid[ing] funding for the work." For the Blinkx project, a client paid me to do a portion of the research later summarized in my online posting. Other portions of the research in that posting came years before, and some came after. Notably, it was my decision whether to post my findings online or otherwise tell the public. Indeed, as we have discussed, the client did not request that I post my findings, and in fact the client's initial request was for confidentiality, while I insisted on the *right* to tell the public given the possible importance of the findings and the fact that my work would rely only on publicly-available information that need not end up confidential. Many readers skipped over these aspects of the relationship, and I have learned that some readers place little or no weight on these factors. Indeed, my thinking on these subjects has evolved, as I explained in detail in my November 6, 2015 Reply to Faculty Review Board (at page 2, heading "Further learnings from Blinkx experience"). Nonetheless, I pause on this point to redouble my efforts to state the facts accurately: No one paid me to post the Blinkx research to my web site, nor did any contract or agreement require me to do so.

Turning to the Blinkx project versus this more recent project about OTA search bias --

Despite the similarity that FRB identifies, I see the projects quite differently.

For one, my disclosure practices differ sharply between the two projects. The FRB no doubt recalls that my initial Blinkx disclosure was both insufficient and inartful: The first version omitted some information that should have been included, and also allowed incorrect interpretations that led some readers to misunderstand my relationship with the investors who had previously asked me about Blinkx. In contrast, for the search bias paper, my relationship with AHLA was fully and carefully disclosed from the outset. I drafted a first disclosure for the OTA bias paper, but mindful of my own fallibility and Jean Cunningham's special expertise and work in this area, I consulted with her by email months before publication, and I implemented verbatim the revision that she suggested.

Turning to substance, the OTA bias paper also offered distinctive benefits for my professional development. For one, the relationship with AHLA provided superior access to key managers (a benefit not included in my relationship with the investors who asked about Blinkx). In particular, the AHLA

arranged for me to interview relevant managers including marketing, strategy, and general management leaders at hotel chains, large hotel franchisees, and individual hotels. At my request, AHLA also arranged for me to interview selected mid-level staff who handle OTA relationships on a day-to-day level. I could have obtained some of this access on my own, but it would have been much more difficult, more time-consuming, and less likely to reach the senior leaders with greatest insight.

Relatedly, the OTA bias project is distinctively related to my academic work. For one, I have written about search bias—largely, though not exclusively, in general-purpose search engines such as Google—for more than a decade. Furthermore, my recent work about “price coherence” (vertical price restrictions) connects closely to the way OTAs obtained market power over hotels and the way they prevent hotels from escaping their high fees and harsh terms. AHLA managers were familiar with both these lines of research when they approached me, and the special fit made the project seem a particularly good match on both sides. The Blinkx article also built on some of my prior work (examining Zango, an adware company that Blinkx acquired after an FTC enforcement action and bankruptcy), but that prior work was largely during graduate school and most readily understood as an outside activity.* In contrast, the OTA bias work is much closer to my core, recent research.

Meanwhile, it seems to me that the best public discussion of novel regulatory and policy topics occurs through academic analysis embodied in work for which faculty authors are typically paid. I share the FRB’s general concern about some aspects of this process. But it seems to me that the alternative is worse. I see little sign that, for example, FTC staff or congressional staff are well positioned to independently explore the OTA market in the depth and detail necessary to form a robust opinion. Instead, analysis by faculty helps frame the issues they need to look at. Close relationships between faculty and affected firms help assure that that framing is as timely and insightful as possible. Finally, competitive dynamics effectively compel firms to seek faculty assistance. Indeed, on the specific subject of OTA bias, the subject of my recent article, OTA’s have been diligent in seeking top talent. For example, Susan Athey, now of Stanford GSB, joined Expedia’s Board of Directors, I gather in large part to guide Expedia’s efforts in this area. With Expedia recruiting top Stanford faculty to assist with this subject, it seems to me entirely proper for the targeted hotels to have access to similar talent to respond in kind. If only Expedia has specialized assistance, and hotels do not, policy outcomes will be predictably lopsided. Tech firms arguably already have some big advantages—easier access to capital, greater market concentration that lets them better organize their arguments—and in my view the search for truth is better served by assuring that small firms, such as advertisers, are diligently and skillfully assisted.

Arguably there are also important distinctions grounded in the motives of my clients. Some people objected to my Blinkx work because my clients were (or were presumed to be) investors who were, in the basest sense, betting against a company and hoping that its stock would drop. They stood to profit at the expense of other investors—in some sense, taking money from other investors. Here, customers (hotels) are complaining about the tactics of certain dominant suppliers (OTAs). They stand to “profit” only by getting to keep money that they would otherwise pay as commissions or fees. To those who disliked the prospect of investors betting against a company, it may be more palatable for companies to seek to reduce their payments to suppliers. The fact that two huge companies control 95% of the OTA market probably makes their situation that much more sympathetic, particularly given increasing public concern about monopoly and oligopoly.

* Some of my adware testing led to academic publications. A representative article that used adware testing to address questions of management: “Risk, Information, and Incentives in Online Affiliate Marketing.” Journal of Marketing Research (JMR) 52, no. 1 (February 2015): 1–12. (Lead Article.) (With Wesley Brandi.)

Finally, my approach to this project was influenced by the fact that HBS rules nowhere prohibit such work and, indeed, plainly allow it. These rules were recently discussed at length and updated with care. During that process, I read the rules, internalized them, and followed them. I credit that there's always a penumbra around any set of rules; some grey areas require interpretation. But I don't think this is in a grey area. In discussing the rules, it was always apparent that outside organizations sometimes pay faculty for outside activities including speaking, testimony, and other writings. The required approach, under the OA and COI policies, is disclosure, which I did. We collectively approved the rules with the understanding that in situations such as this, robust disclosure suffices.

My advance consultation with Jean, as to the disclosure text, also led me to believe that she, at least, saw this project as well within the bounds of the HBS OA policy and also within the bounds of appropriate faculty conduct. She took a full business day to read my draft document, then indicated that she had read it in its entirety and found it interesting, and even offered a bit of other commentary in addition to her guidance on disclosures. Jean nowhere suggested that the project was out of line, was impermissible under the OA or COI policy, or should be withheld or suspended.

Finally, the FRB asked about the concern of "research for hire." I think we're all alarmed by some of what we have learned about certain faculty members' ties to certain companies. I've thought about this for years, beginning while a graduate student before joining HBS. I devised my personal lines that I will not cross and have not crossed. Most notably (with the exception discussed below), I never give any companies right to control (such as approve, veto, or forcibly revise) anything I write about them, with them, with their support, or even using data they provide. (My final requirement differs from many colleagues, who accept company data subject to data sharing agreements that let a company approve or reject a publication at the conclusion of the project—a relationship that makes faculty authors predictably subservient to company requirements, and all but assures results favorable to the companies they work with.)

Indeed, I have followed these principles at personal cost. For example, some years ago, Groupon approached me, seeking my assistance investigating an advertising fraud that cost it millions of dollars. Their standard consulting agreement included a non-disparagement clause that would have prevented me from giving frank advice to students wanting to know my view of the company's prospects. In negotiations with Groupon attorneys, I asked that the clause be removed. When they refused, I declined to assist them. My duties as a faculty member came first.

I say that I "have not crossed" these lines, but there is a notable exception: Our casewriting policies *require* me (and all other faculty authors) to agree not to publish a case using information learned during casewriting, unless the case subject approves. I've long been concerned about that requirement, worrying that it forecloses cases that explore sensitive or disputed subjects. Despite that worry, I understand the rationale for our approach, and of course I value the superior access the policy helps us retain.

My bottom line, then, is that questions of outside activities and conflict of interest are complex and multifaceted. In my view, the discussions during revision to OA and COI policy were appropriately nuanced, and the revised policies seem to me to strike the right balance between the competing objectives. If a colleague sees my work as "research for hire," I'd encourage that person to look again, and also to think carefully about the plausible alternatives for work that all but requires close relationships with companies. I would also hope that that person would see the benefits that come

from some of my outside activities—for example compelling Facebook to provide refunds to certain parents and kids; compelling Yahoo to let advertisers reject its most noxious advertising placements. I think a fair examination of those activities would reveal my level of care when choosing to work closely with companies, versus when choosing to oppose apparent corporate misconduct. Ultimately I am comfortable with—and proud of—the approach I have taken, the substance of my findings and recommendations, and the work I have done.

Reply to Faculty Review Board Questions

Benjamin G. Edelman

October 5, 2017

I appreciate the FRB's attention and the significant time and effort expended, particularly interviewing a broad group of the faculty and staff I have worked with. I am grateful for this opportunity to reply to the draft report.

Reading the FRB's draft report, I was pleased to see confirmation that many colleagues like what I've been doing and think I've been doing it well enough that FRB subjects shouldn't impede promotion. I was disappointed to read that some people don't think I've changed enough or as fast as they'd like, but happy to read that there was substantial consensus that I'm moving in the right direction.

I also felt the FRB's draft report makes some errors and material omissions, particularly in its treatment of the Microsoft disclosures and the American Airlines lawsuit risks. I discuss each of those in turn.

Let me begin with some broad thoughts on the way I approached the last two years. Knowing that the FRB review was coming up, I could easily have sought to avoid any possible controversy, even if that meant doing much less or foregoing opportunities that I would otherwise pursue. Some colleagues encouraged exactly this. But after careful consideration, I felt the honest way forward was to continue to be me—to learn from the FRB's 2015 guidance and adjust accordingly, but continue with the full range of projects that are the reason why I chose this career. I think my approach should influence the FRB's assessment: Had I turned away from every project that had the potential to create controversy, the FRB would have much less basis to assess how I've changed.

In parallel, I sought more guidance from senior colleagues, increasingly including those outside my unit, about both priorities and methods. Relatedly, I carefully considered the suggestion of outside coaching. Examining my decision not to use an outside coach, the FRB reports one factor I mentioned in an interview: that a coach might "take too much time to get to know me and the School." But that's an importantly incomplete summary of the considerations that I shared with the FRB. In interview remarks, I conveyed three separate reasons. First, I was mindful of the difficulty of familiarizing an outsider with the multifaceted relationships and tradeoffs including, yes, the time required to build a deep understanding. Second, a coach would be most effective after seeing my discussions and interactions first-hand, yet that was manifestly infeasible. Third, I found new sources of guidance from senior colleagues outside my unit. I discussed the possibilities and challenges of an external coach in several detailed emails with Angela Crispi in February-April 2016, and her suggestions further shaped my thinking. These considerations reveal that my decision was multifaceted and that I certainly sought and accepted coaching. Perhaps something would have been gained from an outside coach, but I don't think the FRB should draw an adverse inference from my choosing internal rather than external guidance.

Disclosure of work with Microsoft

The FRB criticizes my failure to disclose work for Microsoft, citing six examples during 2016-2017. Crucially, I did zero work for Microsoft during that time; my most recent work for Microsoft was a project completed in October 2015. The conclusion of my work for Microsoft was the reason I felt disclosure was no longer required on articles pertaining to Microsoft competitors.

The COI policy gives clear guidance about treatment of completed prior activities that are "directly related": Disclosure is compulsory for such a project within the past three years. If a faculty member

consults for Google in 2015, then writes a case or article about Google in 2017, the COI policy requires disclosure.

But my situation is quite different. In particular, my work for Microsoft (largely about advertising fraud) does not seem to me to be “directly related” to my writings about Google. Because many of my Google writings explored competition questions—how antitrust enforcement agencies should view Google practices—I nonetheless treated my work for Microsoft as falling within the broad purview of the COI policy, and I disclosed the Microsoft work in the way contemplated by that policy (indeed, often more prominently than that policy required). But once my Microsoft work ended, mindful of the fact it was not “directly related” to Google in the first place, I concluded that further disclosures were no longer appropriate. My conclusion was informed by my assessment of what a reasonable reader would consider important, by the increasingly distant relationship between current Google antitrust versus historic Microsoft advertising fraud, and by the fact that the COI policy offered no requirements to the contrary. Had I interpreted the rules to call for disclosure about the historic work, or had anyone suggested that such disclosure was required or appropriate, I would have added it without hesitation. Moreover, I would happily do so going forward if that is how the FRB interprets the disclosure rules.

The FRB calls my disclosures “inconsistent,” which seems to suggest oversight or inattention. But I included appropriate disclosures consistently when my work with Microsoft was ongoing. My September 8 response to FRB noted my 2010 “Labels and Disclosures in Search Advertising”¹ which, I pointed out, began with a superior disclosure (at top of page, with distinctive background color for emphasis) discussing my work with companies that compete with Google. I provided similar disclosures on a range of other Google-related publications from 2010 to 2015.² My historic disclosures, including consistent inclusion and prominent placement, reveal my commitment to this effort. And my numerous voluntary disclosures well before the HBS COI policy indicate that this commitment was personal and truly-held, not merely satisfying the School’s minimum requirements.

American Airlines lawsuit

I’ve considered reputational risk far more carefully since the media blow-ups of 2014, and I am committed to doing work that is seen as positive, including via approval processes for projects that create material risks. But in the American Airlines litigation in which I represent Max Bazerman (and seek to represent others similarly overcharged), Max and I carefully considered this concern and saw no significant reputational risk—rather, both substantive and reputational benefit to the School.

In assessing possible reputational risk, I began by considering public attitudes towards the general subject. Bag fees are notoriously unpopular, and there’s growing public concern about airlines’ customer service more generally, so we expect public sentiment largely on our side—especially about extra fees demonstrably contrary to contract.

My assessment of likely positive public response was shaped by positive public reception to my prior aviation consumer protection efforts.³ Representative media coverage is listed in the appendix “Favorable public perception of my prior aviation consumer protection efforts.”

My decision not to seek approval or guidance from the Dean or the School’s communication professionals was also informed by the factors mentioned in my September 8 response to FRB. I mentioned the plain language of applicable policies (not requiring approval), Jean’s guidance in 2008 (no approval needed for service as an attorney), Max’s assessment, and my role as an attorney (making no reference to my HBS affiliation and otherwise staying far from COI concerns).

As evidence of the supposed reputational risk, the FRB cites three articles. In my view, these articles do not support the FRB's conclusion of significant reputational risk. Considering each in turn:

- 1) "American Airlines Pissed Off the Wrong Harvard Business School Professor" (fn2). While the title is arguably snarky or otherwise negative, the body of the piece is neutral to positive, offering a straightforward summary of the case with zero suggestion that it is in any way improper. Indeed, Max's HBS affiliation is mentioned only once in the body of the article, for description and identification. I am nowhere mentioned, nor is my HBS affiliation mentioned.

Of the 16 comments on that article, not one offered a personal attack, questioned our motive, criticized the School, or suggested that we had done anything improper. All either wrote in favor of our effort, or offered remarks that were unrelated or neutral.

- 2) A brief piece at Top Class Actions (fn4) summarizes the case in neutral terms. Notably, this piece nowhere mentions HBS. In that regard, this piece stands contrary to the FRB's claim that every piece of news coverage about this case "automatically connects back to the School." By its plain language, this piece does no such thing.
- 3) The FRB cites a July 15, 2015 post from blogger Gary Leff (fn3). But that post discusses a 2015 administrative complaint (not a lawsuit) which I filed with the Department of Transportation when I noticed certain other (allegedly) unlawful airline practices.⁴ That post is entirely unrelated to my 2017 class action on behalf of Max Bazerman and others overcharged for checked bags.

In support of its conclusion of reputational risk to the School, the FRB also cites my interview remarks about two people who were overcharged by American yet declined to serve as class representatives. But their concerns don't mean that the project is risky for me, Max, or HBS. The first person was applying for a mortgage and thought that computerized review of his mortgage might react unfavorably to a pending lawsuit. The second person wasn't just "high profile" (the FRB's summary) but, as I explained in my interview, a professional speaker whose corporate clients dislike class actions. He told me, and I told FRB, that he declined to serve as a class representative because does not want to disaffect his corporate clients. These concerns do not apply to me, Max, or HBS.

Had I thought that this project would create significant reputational risk to the School (as opposed to the reputational benefits that I continue to believe are much more likely), I would have consulted with Jean, as I did on other matters (including those discussed at section "The purpose and frequency of my consultations with Jean," below). Informed by the factors described above, I did not think that this project rose to that level.

"With his superiors, he has more of a filter."

The FRB reported one person commenting that I interact differently with those of higher status. That's a serious allegation, and it clearly influenced the FRB's thinking (one of two bulleted negative comments the FRB then discussed in prose). The nature of this allegation could carry disproportionate influence: Senior faculty may worry that even if their experiences with me have been positive, I treat staff or junior colleagues worse, rendering their personal experiences unrepresentative.

This allegation was surprising and disappointing to me, as it goes so strongly against who I am and who I try to be. Moreover, I think this allegation is in tension with other aspects of my interactions with those of lower status. I've offered some examples earlier in the FRB process. The accompanying appendix

"Distinctive interactions with staff, junior colleagues, and students" offers a voluminous list, including many that will be new to the FRB.

I am proud of the activities listed in the appendix, but I do not claim that any number of good deeds outweigh the deficiencies that the FRB reports. Rather, I offer these examples for two specific purposes. First, I think the quantity and variety demonstrate my commitment to lower-status members of our community, including that this commitment is longstanding and truly held. Second, I think these examples demonstrate that lower-status members of our community in fact come to me, and feel comfortable coming to me, on the most sensitive subjects and for their most difficult problems. The fact is, I care about the entirety of our community, including people who others tend to overlook. Reflecting on specifics, I realized that I know the janitor who cleans Baker Library common areas during the work day, the person who washes dirty dishes in Faculty Commons, and the person who *used to* wash dirty dishes in Faculty Commons. And I don't just know their names; I've had conversations with them and know a bit about them, and they know me and we like each other. I'd be pleased to learn that other faculty have similarly taken the time to build relationships with the cleaning staff, but my sense has long been that I'm unusual in this regard.

I'm sure FRB members will have views about which of the listed efforts are truly laudable, which less so, and which merely humdrum or maybe not worth doing at all. I particularly hesitated with requests that entail tension between staff versus RA or Harvard, as I feel genuine loyalty both to my friends and colleagues, and to the School and its vendors. Nonetheless, I want to support people coming to me in their times of need, on subjects that are important to them, sometimes with nowhere else to turn. With that in mind, I have tried to err on the side of saying yes.

I have never sought any credit for my efforts to help lower-status members of our community. I offer these examples with the greatest of hesitance, swayed primarily by the difficulty of offering any other response to the concerns the FRB conveyed.

The purpose and frequency of my consultations with Jean

The FRB also questioned why I consulted with Jean on only some recent projects. In short, I consulted with Jean when I saw specific reason to do so, using my judgment to try to identify which subjects rose to the level that she would want to be involved. As to Airbnb, I anticipated exceptional public interest plus the sensitive subject of race discrimination. As to the article about bias by online travel agents, I saw heightened sensitivity in the paid request from an outside organization, where disclosure was compulsory, and I wanted Jean's guidance on wording as well as overall approach. In contrast, the work products listed on page 6 of the FRB's draft report raised none of these concerns. To the extent that I considered these in any depth, the benefit of disclosure would have seemed particularly limited, both due to the passage of time and the distinct subject matter. The fact that my prior Microsoft disclosures had always been viewed as satisfactory or indeed exemplary, getting no criticism whatsoever in the FRB's detailed 2015 review, further reduced my sense that this was an area Jean was concerned about or interested in. Finally, I followed guidance from the respective publishers (CPI, ECJ, HBR, JMR) and discussed with coauthors (Geradin, Lai). They all considered this routine, reducing my sense that further consultations would be useful.

Concluding thoughts

I'm proud of the way I've spent my two-year extension. Teaching LCA was transformative—not just new colleagues and new material, but a framework for formalizing themes I've long thought about, genuine benefits to my research, and in multiple respects by far the most effective teaching I've ever done.

Meanwhile, I've thought increasingly carefully and critically about the subjects I work on, and the lack of further media blow-ups is consistent with the suggestion 2014 was a fluke not likely to recur. I've also worked to improve my methods and style, including declining to meddle in matters better handled by others, even if I would have approached the questions differently (including the various examples in my March 15 submission to FRB). The FRB's assessment seems to confirm that I've made progress and that many people noticed it. My changes are genuine, and I think my efforts over the past two years have fully lived up to, or indeed surpassed, reasonable expectations.

Appendix: Favorable public perception of my prior aviation consumer protection efforts

My assessment of likely positive public response to my recent American Airlines / bag fee lawsuit was shaped by positive public reception to my prior aviation consumer protection efforts.³ Representative media coverage:

- Christopher Elliott, "You've never heard of these people but they've changed the way you fly," *Washington Post*, June 1, 2017⁵—praising my efforts to "show[] air travelers how to negotiate the federal government's often confusing complaint system" and tabulating the recoveries the federal government has collected from airlines based on my complaints.
- Kelly Yamanouchi, "Fliers' right to video gets push from recent airline incidents," *Atlanta Journal-Constitution*, July 11, 2017⁶—favorably summarizing my Petition for Rulemaking asking the Department of Transportation to invalidate airline rules purporting to prohibit passengers from recording disputes; quoting multiple passengers who agree.
- Public comments on my DOT Petition for Rulemaking as to passenger right to record⁷—listing 32 comments received to date, unanimously in support: "I support this petition," "It is appalling that there is any question..." , "I agree with this petition..." , and similar.

Appendix: Distinctive interactions with staff, junior colleagues, and students

As to staff, within or related to their official duties:

- 1) My "Teaching Schedule Exporter"⁸ simplified, accelerated, and reduced FSS errors in the dull yet crucial task of copying irregular MBA teaching schedules into Outlook.
- 2) My "BookMe" self-service scheduler⁹ eased office hours and lunch scheduling including automatic confirmations, calendar entries, and reminders, reducing burden on FSS's.
- 3) My "Sequential Slideshows" tool¹⁰ streamlined FIELD staff efforts to show a series of student presentations (such as multiple FIELD 3 team presentations).
- 4) My "Countdown Timer"¹¹ streamlined FIELD staff coordination of limited class time, replacing a commercial predecessor that was distracting and uncustomizable.
- 5) My "Bulk View of VTS and IRS"¹² let FIELD staff see all students' submissions more quickly, replacing 90+ clicks with ~10. This tool was also used in FIELD 1, a course in which I had no role.
- 6) My "Hives Seatchart Maker" let FIELD staff prepare seating charts for Batten rooms, eliminating manual copy-and-paste of student names and photos.
- 7) My web-based mail merge tool let FSS's more easily send customized messages to FIELD 3 student teams, avoiding the error-prone copy and paste previously used by most FSS's.
- 8) The "freeze" feature, which I designed and which Media Services staff and their contractor built at my suggestion, is available in all MBA and exec ed classrooms. This feature is used by FIELD staff, I gather among others, to more effectively use all three classroom projectors to efficiently convey complex information to students.
- 9) I devised a procedure to let FSS's print student flashcards directly onto cardstock, eliminating the need for cutting paper and taping or gluing onto cardstock. My FSS shared this procedure on Slack, to immediate praise and thanks from other FSS's.
- 10) I repeatedly assisted various FSS's in troubleshooting case template errata, and I gathered bugs and suggestions for review by appropriate IT staff.
- 11) An FSS came to me to discuss ongoing difficulty working with her assigned faculty member. I encouraged her and suggested steps she could take to work productively.
- 12) For two of a colleague's research assistants, with whom I had not otherwise worked, I reviewed applications National Science Foundation graduate fellowships, and suggested specific improvements. Both received the fellowships they sought.
- 13) I offered expiring upgrades to staff traveling for FIELD2, suggesting that upgrades could be "a nice treat" for staff who usually fly coach.
- 14) As IT staff designed various tools (including RIS, Learning Hub, Canvas, video tools, and course materials archives), they sought my suggestions about features, requirements, and architecture. After the tools launched, I sent bug reports and suggestions with clarity and specificity. In various emails, they generously thanked me for these efforts.

- 15) On several instances, staff in the registrar's office sought my assistance when they needed to check how software systems show certain information to faculty. They indicated that they chose to request this assistance from me, alone, because they knew I could precisely describe what I saw and because they perceived, correctly, that I'd be happy to help.

As to food-service workers, relating to their employment:

- 1) A handful of food-service workers, who joined Harvard so long ago that they were direct Harvard employees (not employees of RA), contacted me to report that Harvard refused to provide them with certain benefits widely provided to others including short-term disability insurance and dental insurance. At their request, I helped them put their concerns into writing, including referencing relevant principles of law, giving their arguments increased clarity and precision. After multiple letters with my assistance, among other efforts, they obtained the benefits they sought, effective January 1, 2011 and continuing to this day.
- 2) Various food-service workers contacted me about matters affecting them collectively. For example, they were alarmed that when colleagues needed urgent medical attention, RA managers repeatedly refused to assist. (In one instance, a RA manager deposited a worker at the HBS Cumnock clinic, specifically designated as not providing urgent care. In another instance, a RA manager refused to call an ambulance, leading an employee to drive himself to a hospital where he immediately underwent emergency surgery.) I assisted concerned staff in writing a letter reporting their concern. In response, RA managers explicitly affirmed that workers needing urgent medical attention may obtain it, that managers will call an ambulance whenever a worker so requests, and that managers will notify emergency contacts.
- 3) Various food-service workers contacted me to request assistance with their individual disagreements with RA, Harvard, or their union. In a representative matter, a computer error led a RA staff member to be paid less than the applicable contract promised, a difference of \$0.20 to \$0.60 per hour, for ten years. I assisted her in tabulating the amount at issue and writing a letter which led to her obtaining a portion of the amount by which she had been underpaid. To her disappointment, RA declined to pay her the full amount of the error. At her request, I then referred her to a local attorney who practices in this field.

As to staff (including food-service workers), personal matters:

- 1) I assisted multiple staff including food-service workers and FSS's in preparing their tax returns. For those with sufficient computer skills, I provided computers with TurboTax, and I answered their questions about tricky portions of their returns. For those uncomfortable with the process, I typed in their information for them. I began this effort in 2008, and my records indicate 92 tax returns (46 federal and 46 state) for 11 different staff members (and, often, their spouses), saving them each the \$150+ (per year) that H&R Block and similar services regularly charge.
- 2) When a food-service worker was accused of assault, an accusation which he vigorously denied, I guided him towards practical next steps. Following my guidance, he was able to resolve the accusation.
- 3) When a staff member bought a used car with multiple concealed defects, I guided her through her rights under Massachusetts law, including helping her write a letter that led to the repair of all defects at no additional cost to her.

- 4) When I found myself with excess computer screens (bought with personal funds, not HBS funds), I offered the extras as long-term loans to FSS's. This allowed some FSS's to have two screens, for increased productivity and comfort, years before DRFD authorized the purchase of a second screen with School funds. At peak, every NOM FSS had a second screen provided by me.
- 5) I formalized the practice of bringing seminar snack leftovers back to the NOM suite for FSS's to enjoy, an effort which had previously been sporadic but is now routine.
- 6) When I saw others leaving behind a mess in common areas such as faculty kitchens, hallways, and conference rooms, I made a point to clean up, including washing dishes, discarding leftovers, wiping down tables, and the like, all on numerous occasions.
- 7) When a food-service worker was reassigned to a position and schedule that were not workable for her, I rewrote her resume, improving her prospects in seeking a new position elsewhere.
- 8) When a food-service worker's landlord sought a 60% rent increase, I wrote a letter challenging that increase as excessive and harsh. With my letter, she negotiated both a delay and a reduction of the proposed increase.
- 9) Several staff members sought my suggestions to reduce cost of air travel, including last-minute bereavement travel that was otherwise unduly costly. On three occasions, I provided free tickets via redemption of my frequent flier points.

As to junior colleagues (assistants, associates, and senior lecturers) within their professional work:

- 1) I designed software to let a sight-impaired colleague use tabletop polling buttons for calling.¹³
- 2) I devised an unobtrusive software solution to let a sight-impaired colleague view seminar slides on a tablet, at a distance and angle that work for her, without requiring that the presenter do anything extra.
- 3) I provided my "Real-Time On-Screen 'Chalkboard' Class Notes" tool¹⁴ to two junior colleagues whose temporary and permanent disabilities prevented them from writing with chalk. The faculty member with a temporary disability used the tool until his temporary disability ended. The faculty member with the permanent disability used it throughout her time at HBS and continues to use it at another university.
- 4) Multiple colleagues sought my guidance on company NDAs, data sharing agreements, and the like.
- 5) Three colleagues use my "courtesy copy"¹⁵ tool to more broadly distribute selected cases.
- 6) A colleague sought my assistance in regaining access to a software program, important in his teaching, that was designed for Windows 95, well over a decade earlier. On one day's notice, I managed to get the program running and extract key files so he could use the core features on a modern computer.
- 7) A colleague sought my assistance in processing an unusually large database which he was unable to open using standard tools or with assistance from Research Computing.
- 8) Multiple colleagues sought my advice on the scope of "fair use" reproduction of portions of others' copyrighted material.

- 9) Multiple colleagues sought my guidance on both technical challenges and legal concerns associated with collecting data from the Internet by "scraper."
- 10) Multiple colleagues sought short-term loans of cables, chargers, adapters, and similar accessories, all of which I bought in extra quantity and variety for others' use as needed.
- 11) I repeatedly hosted dinners at my home for all junior unit colleagues in my discipline and all the doctoral students and local coauthors they were collectively working with (20+ people).

As to junior colleagues, personal matters:

- 1) When a colleague's elderly father-in-law faced an unexpected but large charge from a hospital, more than three hundred thousand dollars, the colleague came to me seeking guidance. I "ghost-wrote" a letter giving words to the family's concerns. My letter pushed the hospital and insurance company towards a resolution of the charges without further effort (or payment) by my colleague or his father.
- 2) When a colleague's spouse faced complications during a medical procedure due to possible physician malpractice, I guided the colleague and spouse through research, investigation, filing complaints and pursuing disciplinary action, and considering legal action.
- 3) When a colleague's landlord sought to retain a security deposit due to supposed infractions, I identified the landlord's violation of applicable Massachusetts law as to how such deposits must be handled, and I helped him write a letter that yielded the immediate return of his entire deposit.
- 4) When a colleague's landlord sought a penalty after she broke the lease early, I guided her towards fruitful arguments to avoid that expense. She was ultimately able to leave the property without penalty.
- 5) When a colleague leased a property to a tenant during the colleague's temporary appointment away from Boston, and the tenant caused extra expense through negligence, I helped the colleague resolve the dispute informally but fairly.
- 6) When a colleague was the victim of online fraud that placed \$5,000+ of disputed charges on his credit card, and when his card issuer denied responsibility, I assisted him in filing a more persuasive credit card dispute that ultimately made him whole.
- 7) When a colleague worried that her financial advisor was stealing from her, she came to me seeking guidance. I helped her evaluate the evidence and devise next steps.
- 8) When a colleague received a series of harassing emails, I analyzed message metadata for evidence of who sent the messages, and I helped her evaluate her legal and practical options.
- 9) When a colleague received a traffic violation with a surprisingly large financial penalty, I examined the notice of violation and identified a fatal defect. Via the approach I suggested, the violation and penalty were immediately dismissed.
- 10) When Amazon threatened to ban a colleague for (allegedly) excessive returns, I guided him towards an unofficial mechanism to submit evidence that his returns were appropriate in quantity and reason. My method led to an apology from Amazon and no penalty to his account.

- 11) When a colleague was involuntarily downgraded from business class to coach due to a cabin crew strike and associated complications, I wrote a letter on his behalf which led to him obtaining the refund to which he was entitled under law and contract.
- 12) Numerous colleagues repeatedly sought my assistance in using frequent flier upgrades and redemptions to travel at lower cost, in greater comfort, or with family.

As to students:

- 1) I devised software to let a sight-impaired MBA student see my slides and on-screen "board work" using the student's standard laptop and wifi. The student said the system worked well—far better, he indicated, than alternatives he had tried in other classes at HBS and elsewhere. Moreover, my solution required no special hardware, nor any special effort by Media Services or anyone else.
- 2) When several MBA students suffered water damage to their personal possessions due to a sprinkler malfunction in the building where they lived, I alerted them to their rights under law. Using the reasoning I provided, they recovered the entirety of their loss from the party at fault.
- 3) When an undergraduate research assistant's low-income parents struggled to rent a car to help her move out of her apartment, I guided them towards a cost-effective option within their budget.
- 4) Two MBA students came to me, separately, to discuss concerns relating to "hitting the screen"—each indicating that she thought language and cultural barriers were as much to blame as her genuine knowledge. Over the subsequent months, I met with each of them repeatedly, offering guidance on course selection, participation, and strategy for exams and papers.
- 5) I repeatedly hosted dinners at my home for all Business Economics "non-finance" doctoral students (30+ people).

¹ <http://www.benedelman.org/news/110910-1.html>

² Examples: Testimony of Benjamin Edelman, presented to the United States House of Representatives Committee on the Judiciary, Task Force on Competition Policy and Antitrust Laws, June 27, 2008, <http://www.benedelman.org/publications/ppc-competition-071008.pdf> (with a large bold-faced heading "Disclosures" listing unrelated work for Microsoft and service as cocounsel in two unrelated cases).

"Tying Google Affiliate Network," <http://www.benedelman.org/news/092810-1.html>, September 28, 2010 (with an unavoidable top-of-page disclosure, with distinctive background color for emphasis, disclosing both my unrelated work for competitors and my service as cocounsel in litigation against Google)

³ <http://www.benedelman.org/airfare-advertising/>

⁴ DOT-OST-2015-0137, <https://www.regulations.gov/docket?D=DOT-OST-2015-0137>

⁵ https://www.washingtonpost.com/lifestyle/travel/youve-never-heard-of-these-people-but-theyve-changed-the-way-you-fly/2017/06/01/847ce1a6-358f-11e7-b373-418f6849a004_story.html

⁶ <http://www.mvalc.com/business/fliers-right-video-gets-push-from-recent-incidents/iKpXLoeoGdcsg4LV4uORGL/>

⁷ <https://www.regulations.gov/docket?D=DOT-OST-2017-0084>

⁸ <http://www.people.hbs.edu/protected/bedelman/classestocalendar/>

⁹ <http://people.hbs.edu/protected/bedelman/bookme/>

¹⁰ <http://people.hbs.edu/protected/bedelman/sequentialslideshows/>

¹¹ <http://people.hbs.edu/protected/bedelman/timer/>

¹² <http://people.hbs.edu/protected/bedelman/field3/vtsview/>

¹³ <http://people.hbs.edu/protected/bedelman/buttons/>

¹⁴ <http://www.benedelman.org/boardnotes/>

¹⁵ <http://people.hbs.edu/protected/bedelman/courtesycopy/>

The FRB received Professor Edelman's October 5th reply to the "Draft Confidential Report." We have modified the report in areas where his reply suggests that our initial framing may not have been fully understood as we intended, as well as to add further context to arguments for transparency and clarity purposes (these changes are listed at the end of this document).

We also wish to offer the following thoughts to better communicate our thinking.

The introduction to the School's Outside Activities policy includes the following statement:

HBS faculty members share a *primary interest* in advancing the School's mission and core values. These values include assurance of personal and institutional integrity; independent, objective, and ethical scholarship; accountability for actions and conduct; and preservation of the School's standing as an institution worthy of public trust. Arguably, the School's greatest asset is its reputation for scholarly integrity in the creation and dissemination of knowledge, a reputation that benefits all members of the Harvard community.

The policy document goes on to offer a series of guiding principles, including:

In any outside activities, a faculty member is expected to preserve the School's mission, core values, and reputation. While it is the faculty member's responsibility to understand and comply with the School's policies, no set of formal policies can cover all circumstances that may arise as opportunities for outside activities emerge and evolve. Faculty members are expected to use good judgment in carefully evaluating which activities to pursue. They are encouraged to inform and seek advice from the Dean for activities or questions not covered by current policies.

It has emphatically not been our aim during this review to investigate or judge the ethical or other merits of "what" Professor Edelman does, nor to question the integrity of his actions and motives. To the contrary, we take at face value his assertions that he is motivated by a genuine desire to redress wrongs where he sees them, and, as clearly noted in our report, we found strong confirmation of that sentiment among many of the faculty colleagues and staff members with whom we spoke. Moreover, we saw clear examples of how his efforts have in some cases led to measurable and positive change: his research publication about Airbnb, for instance, exposed racial discrimination in booking practices and led to prompt action by the company.

Rather, consistent with the guiding principle noted above, our objective was to understand *how* Professor Edelman decides whether he should engage in an activity or project, and *how* he balances the potential positive social impact of the activity against the potential reputational or other risks that it could pose to the School. At the time of the 2015 review, the FRB noted: "[Professor Edelman's] actions reflected a repeated inability to understand and adopt not just the

technical requirements of the School's policies, values, and standards, but the underlying principles they convey. Professor Edelman has consistently exhibited a tendency toward absolutism and extreme certainty that his view is the right view." Our task in this review was to assess whether this tendency had changed.

We thus found the conflict of interest disclosures and the American Airlines case illustrative.

Professor Edelman's October 5th response speaks to this issue. It notes, with respect to his disclosure on publications relating to work with Google and the question of whether to disclose prior work for Microsoft:

My conclusion was informed by my assessment of what a reasonable reader would consider important, by the increasingly distant relationship between current Google antitrust versus historic Microsoft advertising fraud, and by the fact that the COI policy offered no requirements to the contrary. Had I interpreted the rules to call for disclosure about the historic work, or had anyone suggested that such disclosure was required or appropriate, I would have added it without hesitation. Moreover, I would happily do so going forward if that is how the FRB interprets the disclosure rules.

The FRB's understanding of the intent of the Conflict of Interest policy is not for the individual faculty member to unilaterally pre-determine what is or isn't a conflict of interest, nor what might pass the reasonable reader test; to the contrary, the goal is to ensure that faculty members provide sufficient information in publications about their outside activities and interests, so that **readers** can make that judgment themselves. This calls for erring on the side of disclosure and, in cases of ambiguity, seeking the input of the Dean. Because Professor Edelman did not seek input from the Dean or the Dean's Office related to his disclosures as a means of testing his judgment—something we had hoped he might have done, especially in response to the feedback in 2015—it was not possible for anyone to suggest that such disclosure would be appropriate. Thus, we were puzzled by Professor Edelman's statement that he would have disclosed more, "had anyone suggested that such disclosure was required or appropriate."

The American Airlines case similarly was considered only in terms of its usefulness as information on Professor Edelman's decision-making. The FRB did not consider the merits or appropriateness of the class-action lawsuit; members of the faculty are free to pursue work that falls within the bounds of the Outside Activities policy, and here, too, Professor Edelman points to the potential positive social value of the suit (which others might view similarly). Rather, we sought to assess whether Professor Edelman, again based on the feedback he had received in 2015, was more open to engaging others in identifying and assessing the potential institutional risk of the suit. While Professor Edelman points to "the plain language of the applicable policies (not requiring approval), Jean Cunningham's guidance in 2008 (no approval for service needed as an attorney), Max's assessment, and my role as an attorney (making no reference to my HBS affiliation and otherwise staying far from COI concerns)" as reasons for not doing so, he nonetheless acknowledged during his meeting with the FRB that the case could pose institutional risk.

The FRB was aware that institutional risks are borne by others in the institution—notably the Dean, the Dean's Office, and the Marketing and Communications group. When events happen that trigger public and alumni outcry, these are the groups who must respond to them—as they were required to do following the Chinese restaurant issue, facing an unprecedented number of emails and calls. This rationale motivated the FRB's surprise at Professor Edelman's lack of, at the very least, an early alert that the School's name might find its way to being attached to the case and our concern that he has not yet internalized the principles of the Conflict of Interest policy.

A major part of the response Professor Edelman provided to the FRB in his reply to our draft report is the lengthy Appendix outlining assistance to staff members, faculty members, and students. The FRB notes that a number of these interactions are clearly consistent with HBS promotions standards for "Effective Contributions to the HBS Community," notably related to advancing the teaching and research environment of the School. Here, we especially commend examples such as helping a sight-impaired colleague to use tabletop polling buttons for cold calling and to view seminar slides on a tablet, hosting dinners at his home for junior colleagues and doctoral students, developing tools to make the work of an FSS easier, and advising MBA students who hit the screen. Many of the remaining examples, while generous in their intent, are outside the defined scope of collegueship. Moreover, at least some examples further illustrate the "how" challenge with which we grappled. The solutions—e.g., travel upgrades, tax preparation support, and interventions on behalf of dining staff—Professor Edelman provides, while beneficial to an individual, sometimes create institutional challenges and burdens. This broader context does not seem to have been considered by Professor Edelman. We wish that he might occasionally have sought guidance on this work or even allowed others to try to resolve the issues at hand.

The FRB does not deny that Professor Edelman is doing important work that is making a difference. We celebrate his intellect, ingenuity, drive, and commitment to making a positive difference in the world. But we also believe that *how* he does so matters. We particularly note the continued variability in his interactions with others, his reluctance to seek broad input, and his inability to balance the letter and spirit of the School's policies. The FRB committee members uniformly were troubled by these issues. While recognizing his many positive contributions, we struggled to find a pattern of evidence—following the findings and feedback of the 2015 review—that would allow us to say, with conviction, that the issues had been satisfactorily resolved or that he meets the School's standards for collegueship.

List of changes made in the Summer 2017 FRB report

- 1) Added, on page 1, two sentences to clarify the nature and intent of the FRB report, immediately following the description of our process and the prior events that triggered this report:

This process was not an investigation, and we did not seek to pass judgment on the particular outside activities and work that Professor Edelman pursued. Instead, we looked at Professor Edelman's interactions and activities over the past two years using the narrower lens of the feedback he received in 2015.

- 2) Added the modifier "positive" in front of "feedback from students in the LCA course," in the last paragraph on page 1.
- 3) Made several edits to sharpen and clarify the first paragraph on page 2, for instance changing *permission* to *guidance*, which is a more appropriate description of what we ask of HBS faculty. Specifically, we changed from the original:

The FRB also discovered examples of activities and behaviors that cause continued concern, including whether Professor Edelman appropriately sought permission for and disclosed his outside activities and potential conflicts of interest, as well as the extent to which those activities constitute a real or perceived risk to the School and reputational harm to the faculty by association. Additionally, the FRB found some indications that his engagements with staff remain uneven and that his interactions with them changed when other faculty members were present.

To the revised:

The FRB also discovered examples of activities and behaviors that cause continued concern, including whether Professor Edelman appropriately sought guidance on and disclosed his outside activities and potential conflicts of interest. Additionally, it heard unease voiced by colleagues about the extent to which those activities constitute a real or perceived risk to the School and reputational harm to the faculty by association. Additionally, the FRB found some indications that Professor Edelman's engagements with staff remain uneven and that his interactions with them changed when other faculty members were present.

- 4) Similarly, in the following paragraph, we made several edits to sharpen and clarify the meaning, and changed it from the original wording:

The FRB acknowledges the extent to which the concerns we have evaluated are open to interpretation: they are not easily characterized in a black-and-white way as directly in or out of compliance with a particular policy, or within or outside of defined bounds of faculty conduct and community values, but rather are often read (quite) differently by different individuals.

to

The FRB acknowledges the extent to which the concerns we have evaluated are viewed differently by different members of the community. Those who count themselves close to and among Professor Edelman's supporters often recount relying on their knowledge of him and their appreciation for his motives in assessing his conduct. Others whose opinions are perhaps less favorable seem to rely more on their direct experience, weight more heavily the issue of reputational risk, and weigh his adherence to both community values and norms in their assessment.

- 5) On page 4, after noting Professor Edelman did not pursue the coaching resource offered, we deleted the unnecessary, "because, in his words, 'it would take too long to get to know me.'"
- 6) On page 5, we clustered the less positive feedback from our interviews into three categories, to match the structure of the positive feedback from our interviews.
- 7) Also on page 5, we removed the point about staff who had "worked to develop coping mechanisms" out of concern that it might inadvertently introduce inappropriate language.
- 8) On the top of page 6, we added a paragraph acknowledging that the concerns raised about Professor Edelman are at odds with his work and his efforts to support members of the community, and we clarified wording in the third paragraph.
- 9) On page 9, we removed reference to Professor Schlesinger, consistent with usage of "the FRB" throughout the remainder of the report, and we dropped the specific questions.
- 10) On page 10, we edited slightly the paragraph referring to the American Airlines suit, to be clear that our observation is merely to point out that Professor Edelman did not take advantage of opportunity to seek input before filing the suit. We changed the word "troubled" to "concerned" and removed some extraneous text.
- 11) Finally, we edited the Summary paragraphs to be clear that we acknowledge and appreciate the intentions behind Professor Edelman's work. The FRB review focused on potential impact, not on intentions, and was designed to explore whether and when Professor Edelman finds it useful engage others in assessing reputational risks. As noted in our final paragraph, the FRB viewed among its tasks as presenting to the Dean and our senior colleagues the views and facts to which we had access during this review.