



Office of Commissioner
Rebecca Kelly Slaughter

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

STATEMENT OF COMMISSIONER REBECCA KELLY SLAUGHTER

In the Matter of Vision Path, Inc. d/b/a Hubble
December 8, 2021

The Commission's announcement of a proposed consent agreement in this matter highlights the tension between the FTC's competition and consumer protection sides and shows the importance of thinking with both hemispheres of the FTC's brain to protect consumers and the market from unlawful practices.

We are alleging serious violations of Section 5 and the Contact Lens Rule by Vision Path (d/b/a Hubble)—a relatively new entrant in the contact lens market. As I observed when the FTC finalized its review of the Contact Lens Rule in 2020, the market is woefully uncompetitive and consumers have little ability to seek competitive pricing or quality choices in contacts.¹ I believe the agency has done much to exercise its limited authority to increase consumer choice in this market and encourage needed competition.²

As a consumer of contact lenses and a believer in competition, I am eager to see startups displace monopolists and break up ossified markets. But not like this.

The FTC's complaint lays out in detail our allegations that Vision Path played fast and loose with the requirements of the Contact Lens Rule and Section 5, putting the health of their customers in danger, in their attempt to gain a foothold in this market. The complaint charges that Vision Path failed to obtain or properly verify people's contact lens prescriptions, sold contact lenses after their verification requests were denied, altered contact lens prescriptions from the prescribed brands to Hubble lenses, and failed to maintain records required by law. The company also allegedly deceived consumers by making representations that Hubble would ensure that customers receive lenses with valid and accurate prescriptions as prescribed by their eye care practitioners, falsely claimed that customer reviews were independent, and failed to disclose material connections between Hubble and the authors of those reviews.

These are allegations of serious deception and lawbreaking by a new market entrant. I write particularly to highlight the importance of thinking about the competition implications of

¹ *Statement of Commissioner Rebecca Kelly Slaughter In the Matter of Contact Lens Rule Review*, Federal Trade Commission (June 23, 2020), https://www.ftc.gov/system/files/documents/public_statements/1577127/r511995_contact_lens_final_rule_-_rks_concurrence.pdf.

² *See The Contact Lens Rule: A Guide for Prescribers and Sellers*, Federal Trade Commission (June 2020), <https://www.ftc.gov/tips-advice/business-center/guidance/contact-lens-rule-guide-prescribers-sellers>.

this kind of consumer protection violation. We are not in the business of nipping startups in the bud; broader market concentration and structural problems should be our priority. There are plenty of markets, like the one for contact lenses, where anticompetitive practices harm consumers; large market players generally ought to be the primary focus of our limited resources.

But market concentration does not give startups a free pass to break the law. We are living with the consequences of the “move fast and break things” mentality that has encouraged some founders and firms to think that abiding by the law is optional. We have seen lawless startups become lawless monopolists. Acting unlawfully cannot provide the competitive advantage to a startup that crowds out law-abiding market entrants and ultimately leaves both consumers and the market far worse off.

In other words, vigorous and targeted enforcement of consumer protection law is also integral to the project of ensuring fair and competitive markets. To serve the goal of a level competitive playing field, especially in markets that are ripe for competitive disruption, we must be vigilant in pursuing law violations by powerful incumbents, but we cannot ignore illegal conduct by new market entrants. By breaking down our competition and consumer protection silos and thinking with the whole of the FTC’s brain, we can incentivize law-abiding startups, increase competition, and help create a fair economy that works for everyone.