

Commissioner Slaughter Opening Statement
[as prepared for delivery]
Committee on Energy and Commerce
Subcommittee on Innovation, Data & Commerce
United States House of Representatives
April 18, 2023

Chairman Bilirakis, Ranking Member Schakowsky, [Chair McMorris Rodgers, Ranking Member Pallone,] and members of the Subcommittee, I am grateful for your invitation to testify today about the vital work of the Federal Trade Commission. As you know, I am somewhat under the weather, but I was committed to being here if I could because of the value I place on the oversight work of this Committee.

The two themes I will emphasize today are resources and authorities. Our talented staff have extremely full plates policing everything from dark patterns and data abuses in novel digital markets to old-school deceptive advertising and hardcore fraud across nearly the entire economy. I meet regularly with our staff, and the top concern I hear from them is that we lack adequate resources to do the job. This has been true in each and every year of my service, especially as we take on the biggest and richest firms on behalf of the American people. One salient data point: We had nearly 50% more employees at the beginning of the Reagan Administration than we do today.

But today I have a new message about FTC resources: Thank you. Thank you, Congress, for investing in the Commission's work, enabling us to retain expert staff, conduct complex investigations, deepen our market expertise, and even have a more fair shot in litigation against some of the wealthiest companies and law firms in the world. The appropriation authorized at the end of last year gave the Commission a significant budget increase, for which we are deeply grateful.

This wise investment is a crucial downpayment on empowering the FTC to police modern markets, but—yes—more is needed. Just consider that our Division of Privacy and Identity Protection has around fifty staff, whereas, for example, the Information Commissioner’s Office in the United Kingdom boasts a staff of nearly 1000. That’s about twenty times as many staff in a nation with about a fifth of our population. So, thank you—and please continue to invest in the FTC. Americans deserve no less.

In addition to more resources, more robust authorities are necessary for the FTC to effectively protect American consumers. I will touch on two that are well known to this Subcommittee. The first is the opportunity before you to pass a comprehensive national privacy law. Thank you for your hard work on this project, which included passing a bill out of the full Committee on a bipartisan basis during the last Congress. I continue to believe that passage of such a bill represents the best possible path for protecting Americans from data abuses.

As you know, last year we launched an advance notice of proposed rulemaking on commercial surveillance and lax data security under Section 18 of the FTC Act. The record we develop in that process may allow us to promulgate rules to address prevalent practices that violate the FTC Act. This is more than we have been able to do through one-off enforcement actions but substantially less than Congress could do with a new bill. I heartily recommend to you and your staffs the large comment record our rulemaking has already developed as an important, historic corpus in the privacy field. And I know that, as our work continues, we stand ready and willing to support your efforts to enact a comprehensive national privacy law.

Even as we look forward to the day when Americans are better protected from the novel harms of the 21st Century’s data-driven economy, we must not lose sight of the urgent need to restore one of the 20th Century’s best tools for protecting consumers: Section 13(b) of the FTC

Act. As you know, for more than forty years under bipartisan administrations and with the blessing of eight circuit courts, the FTC brought actions in federal court to return money to consumers from whom it was unlawfully taken.

Unfortunately, two years ago, the Supreme Court decided, in *AMG Capital Management v. FTC*, that Section 13(b) does not authorize equitable monetary relief. I am grateful to this Subcommittee for your work to pass an urgently needed fix to Section 13(b) to make explicit that courts can order law violators to return the money they wrongfully took.

While Congress continues to work on this issue, the Commission is using every available tool to deliver justice to harmed consumers. We are partnering whenever possible with state enforcers who have redress authority. We are exploring new rulemakings, which can enable consumer redress. And we are bringing actions under Section 19, which allows limited redress. I applaud these heroic efforts of our aggressive and creative staff and terrific enforcement partners, but make no mistake: It is not enough. We need a Section 13(b) fix. So I implore you to keep at it—your constituents deserve to be made whole when they get ripped off.

I thank you and look forward to your questions.
