



COMMITTEE ON
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DEMOCRATS
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Pallone Remarks at FTC Oversight Hearing

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Washington, D.C. – *Energy and Commerce Ranking Member Frank Pallone, Jr. (D-NJ) delivered the following opening remarks today at a Subcommittee on Digital Commerce and Consumer Protection hearing on “Oversight of the Federal Trade Commission.”*

Today’s hearing focuses on the important work of the Federal Trade Commission (FTC). I want to congratulate and welcome the new Commissioners—Chairman Simons, Commissioners Phillips, Chopra, and Slaughter—and welcome back Commissioner Ohlhausen.

The FTC plays a critical role in protecting consumers nationwide. It has a dual mission to prevent anticompetitive business practices and protect consumers from unfair or deceptive actions.

It’s an enormous endeavor—covering many industries and issues. It works to stop anticompetitive business practices that are likely to lead to higher prices and lower quality of goods and services. At the same time, it works to protect consumers from false advertising, annoying telemarketing, data throttling, and other forms of fraud.

While the FTC has had successes, such as its case against Volkswagen in which it obtained \$11 billion in compensation for consumers who purchased “clean” diesel cars that turned out not to be clean, the Commission should be doing more. But in order to do more in support of consumers, the FTC needs the support and legislative authorizations from Congress. Unfortunately, instead of working with the FTC, this Committee, just two years ago, sought to further reduce the already limited authorities of the FTC. I am hopeful we will not see that effort again.

The FTC is a relatively small agency, especially given the breadth of its mission. In the area of data privacy and security—one of the more critical consumer protection issues today—FTC’s

entire division is only 45 full-time employees. And only 35 of those employees are attorneys who are able to bring enforcement actions. These actions are important since the Commission's rulemaking authorities are hindered by overly burdensome requirements that effectively nullify its ability to establish regulations for consumer privacy and data security.

And even its enforcement authorities are limited. Most often, the FTC can only get an injunction stopping the unfair or deceptive acts for a first-time violation. The FTC cannot hit the offender where it hurts—with a monetary penalty. A slap on the wrist, with a promise not to do the bad act again, often fails to be a sufficient deterrent to further bad action. Only if the company commits the same unscrupulous act again, after promising in a consent decree that it would stop such conduct, can the FTC seek fines. That limitation on fining authority has allowed some companies to repeatedly take advantage of consumers without real consequences.

Just a few months ago, we were here listening to Mark Zuckerberg apologize yet again for Facebook's failures to properly inform users of how their data would be shared. If the FTC was able to fine Facebook in 2011, the first time it found that Facebook failed to properly notify users, we may not have seen the Cambridge Analytica scandal.

To make matters worse, FTC has only 40 employees reviewing the hundreds of consent decrees that are in effect. Those employees cannot possibly know whether any one company is keeping the commitments it made in the consent decree. After all, Facebook was under a consent decree and we saw what that wrist slap did—nothing. And yes, Equifax was under a consent decree too.

Today's hearing is not on the breaches at Facebook or Equifax, but those breaches are good examples for exploring how the FTC could better fulfill its mission. I look forward to hearing from the Commissioners about their ideas for the future of the FTC. And I hope we can discuss ways to support the FTC's dual mission and give it the tools that it needs.

Thank you, I yield back.

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