



**United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580**

Statement of Commissioner Rebecca Kelly Slaughter

**Committee on Energy and Commerce
Subcommittee on Consumer Protection and Commerce
United States House of Representatives
May 8, 2019**

Chair Schakowsky, Ranking Member Rodgers, and members of the Subcommittee, thank you for inviting us here today. I am Rebecca Kelly Slaughter, and I welcome the opportunity to appear before you with my colleagues on behalf of the FTC.

I want to begin by echoing Chairman Simons and most of my fellow Commissioners and ask Congress to pass a comprehensive federal privacy law that would give the FTC penalty authority, targeted APA rulemaking authority, and jurisdiction over non-profits and common carriers.

We have some of these powers in limited degree already, and, where we have them, we use them responsibly. In particular, where Congress has granted us privacy-related rule-making authority, the Commission has used it to put out clear rules, engage in meaningful, participatory notice and comment, and amend our rules to keep up with technological developments.

For example, the FTC has rule-making authority under COPPA. We put out an initial rule, and have since adapted it to address innovations that affect children's privacy – social networking, online access via smartphone, and the availability of geolocation information.

As we've made these changes, we have conducted workshops and sought input through formal notice and comment. The rule provides clear guidance to firms on how they can comply with the law. And then we enforce the law consistent with the rule – for example, in our settlement with TikTok earlier this year.

The Graham-Leach-Bliley Act also gives us some limited privacy-related rulemaking authority for information held by certain financial institutions. In March, the Commission

sought comment on proposed amendments to the Safeguards and Privacy Rules under this law.¹ Based on our experience, we determined that the rules could benefit from modernization, we analyzed different models for strengthening them, and we sought input from stakeholders regarding the best way to implement new requirements.

Just as you in Congress are doing, we at the Commission are reflecting carefully on the types of substantive privacy provisions that might best protect consumers today and in the future. The public hearings initiated by Chairman Simons have been a showcase for these debates.² I want to briefly highlight one observation for your consideration.

Much of our Section 5 authority and some of our privacy rules have, up to this point, been grounded in the principles of notice and consent. The notice-and-consent framework began as a sensible application of basic consumer protection principles to privacy—tell consumers what you are doing with their data, secure consent, and keep your promises.

But in order for a notice-and-consent regime to be effective, each element must be meaningful—notice must give consumers information they need and can understand, and consumers must have a choice about whether to consent. But today, notice is mostly in the form lengthy click-through contracts. Few consumers have the time and legal training required to understand them.

And, consumers often have no choice but to say yes to these contracts. They must cede all control over their data to access services critical to their everyday lives—they don't have the option to turn to a competing, more privacy-protective service.

In other words, today, when it comes to our digital lives, neither notice nor consent feels particularly meaningful.

As you consider better protections for consumer privacy, I want to encourage solutions that don't place all the burden on consumers as much of the existing framework does.

Finally, amidst the important ongoing discussions of the resources allocated to our agency, I want to conclude by highlighting what a good return on investment the FTC is for the American consumer. In fiscal 2018, the Commission's budget was \$306 million and our actions

¹ FTC, Press Release, *FTC Seeks Comment on Proposed Amendments to Safeguards and Privacy Rules*, <https://www.ftc.gov/news-events/press-releases/2019/03/ftc-seeks-comment-proposed-amendments-safeguards-privacy-rules>.

² FTC, *The FTC's Approach to Consumer Privacy* (Apr. 9–10, 2019), <https://www.ftc.gov/news-events/events-calendar/ftc-hearing-competition-consumer-protection-21st-century-february-2019>.

returned over **\$1.6 billion** to consumers. **So for every dollar the American taxpayers give to the FTC, staff returned five.**

We welcomed the recent letters from Chairs Schakowsky and Pallone asking what the Commission could do with more resources, and the Commission's response illustrated the good use to which we could put additional funding.

Approximately two-thirds of our budget goes to our greatest asset: staff pay and benefits. Unfortunately, our headcount has declined over the last decade or so, even as demands on the agency have increased. As the Chairman outlined, if the FTC received an additional \$50 million in ongoing annual funding, we could hire approximately 160 more staff, and another \$75 million would let us hire 260 more staff. That would put us around the staffing level we had in 1982—before the internet—and still well below the levels in the late 1970s.

With increased staff, the FTC could devote more resources to enforcing existing rules and future privacy rules. We could expand our staff dedicated to monitoring compliance with our orders. Additional staffing could be used to expand our pool of technologists, generate original research, conduct 6(b) studies of industry, and focus on strategic targeting, investigation, and case generation.

Thank you. I look forward to answering your questions.