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Federal Trade Commission
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Opening Statement of Acting Chairwoman Rebecca Kelly Slaughter
As Prepared for Delivery

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Of the Judiciary Committee
United States House of Representatives

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Chairman Cicilline, Ranking Member Buck, and members of the Subcommittee, thank you for the invitation to appear before you today. I am Rebecca Kelly Slaughter, Acting Chairwoman of the Federal Trade Commission.

Promoting competition and protecting consumers is the FTC's mission. But current market conditions across the economy have caused nearly everyone to question whether our competition laws and enforcement approaches are adequate to protect consumers from anticompetitive conduct and mergers.

Aggressive enforcement using the FTC's existing authority can and should be complemented by this Committee's work to sharpen antitrust laws and to impose broader market-wide restrictions that address pervasive anticompetitive conduct and conditions.

I believe the FTC must push antitrust law forward through bold agency action. Specifically, that means prioritizing deterrence and using the full range of the FTC's authorities to stop unfair methods of competition.

The Commission has spent far too many of our enforcement dollars and limited staff hours to challenge mergers that are plainly illegal and should never have gotten out of the boardroom. It is clear we have a deterrence problem.

To address this we must develop a higher tolerance for litigation risk, advocating for the most effective remedies—including structural separations—and refusing to accept settlements that don't fully correct harm.

At the same time, we must lay the groundwork for success for new theories and more aggressive enforcement. One way we are doing just that is with our announcement this week of a working group with international and domestic partners to build a new approach to pharmaceutical merger enforcement. We also need to make sure our merger guidelines—

horizontal and vertical—chart an enforcement path that fully addresses competitive harms and is appropriately skeptical of claimed benefits.

In addition to making our enforcement actions more effective, we need to dust off some important tools that have languished too long in our toolbox. We should activate our unfair methods of competition rulemaking authority to prohibit anticompetitive conduct that is difficult to litigate on a case-by-case basis. And we should consider bringing standalone Section 5 claims in our competition cases more frequently.

We can work hard to be strategic and aggressive with our toolbox, but we do face acute and urgent challenges in carrying out our mission, and that is where the work of Congress comes into play.

First, resources. While Congress has been very generous recently in helping our resourcing catch up to the demand, we are not there yet. Just one new data point: in the first five months of this fiscal year, we processed 60% more HSR filings than we had on average over the past five years. In February of this year, we had more than twice as many filings as we did the year before. Even before this recent wave, filings had about doubled in the last ten years while our FTE count stayed flat.

Another pressing problem for the Commission is the ongoing threat from the courts to our authority under Section 13(b) of the FTC Act; a series of bad decisions limit our ability to enjoin illegal conduct and seek monetary redress. In its motion to dismiss the Commission's antitrust complaint, Facebook cited these decisions and argued that Section 13(b) bars the suit. Together, all five Commissioners wrote to Congress and asked that you swiftly restore the longstanding interpretation of Section 13(b); I hope you will consider that request.

On top of addressing those FTC-specific challenges, I also support efforts by this Committee to reform the antitrust laws more broadly. Even our most effective enforcement efforts are no substitute for legislative changes that clean up bad case law, impose clear presumptions, and reduce untenable burdens on enforcers. These changes would minimize the need to engage in tortured and expensive efforts to both measure and balance harm and efficiencies, particularly in cases where the facts support a clear theory of harm.

Changes to the enforcement framework can work in tandem with the broader restrictions on dominant platforms Congress is considering. I firmly believe that effective enforcement is a complement, not an alternative, to thoughtful regulation.

Our antitrust laws protect the democratic ideal of fair participation in a free society. I strongly support legislation that will facilitate protecting not only consumers but all market participants—workers, entrepreneurs, and small businesses, especially those in marginalized communities—from monopolistic practices and exclusionary conduct.

I look forward to working with this Committee and others in Congress to consider the best balance of an enforcement and regulatory framework to promote competition and I welcome your questions.