

Statement of Commissioner Rebecca Kelly Slaughter
In the Matter of Uber Technologies, Inc.
October 26, 2018

I support the action announced today to give final approval to an administrative consent order with Uber Technologies, Inc., resolving charges that the company deceived consumers regarding its privacy and data security practices. Notably, the consent order imposes additional obligations on Uber in light of the fact that the company failed to inform the FTC that it had suffered a significant data breach during the course of the agency's investigation of a similar prior breach.

While I believe that the injunctive provisions in the order will provide strong protections for consumers and their personal information, I also believe that the FTC should have additional authority and remedies to address deceptive or unfair conduct relating to privacy and data security. Namely, we do not have the ability to issue rules under the Administrative Procedures Act that would provide additional guidance for how companies must treat data, nor do we have the ability to assess civil penalties against companies that violate the FTC Act in connection with their data practices. The threat of civil penalties would provide a greater incentive to firms to follow through on the promises they make to consumers and to make appropriate investments to implement reasonable data security safeguards.

In a high-profile case such as this, which has been the subject of significant public attention and press reports, many stakeholders understandably are interested in Uber's future conduct and its compliance with this order. The FTC's Division of Enforcement is responsible for monitoring compliance under all federal and administrative court orders that are still in effect pertaining to consumer protection matters. The agency's compliance monitoring efforts include not just the review of formal reports and assessments that are required under orders, but in many instances also include a continuous open channel of communication between attorneys in the Division of Enforcement and representatives of the companies under order regarding both past and future business practices. These ongoing compliance efforts are non-public.

Two public comments submitted on the proposed consent order requested that the Commission proactively release copies of the third-party privacy assessments Uber is required to provide to the Commission under the order. While these assessments are available to any requester in response to a FOIA request, I would have preferred to see the proactive release of the assessments in this specific case due to the objectively high level of public interest in this matter, including in the assessments in particular. However, I want to emphasize that any privacy or data security assessment that is released to the public – through FOIA or any other means – will not provide a complete picture of a company's compliance under an FTC order, or the FTC's efforts in monitoring that company's compliance. This is not simply because such reports must be redacted to protect proprietary information, but because the FTC's compliance monitoring efforts in many cases extend far beyond what can be gleaned from an isolated assessment.