



Office of the Chair

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Federal Trade Commission
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**Statement of Chair Lina M. Khan
Joined by Commissioner Rebecca Kelly Slaughter and Commissioner Alvaro M. Bedoya
Regarding the FTC Collaboration Act Report
Commission File No. P238400**

April 10, 2024

In 2022 Congress passed the FTC Collaboration Act, which requires the FTC to “conduct a study on facilitating and refining existing efforts with State Attorneys General to prevent, publicize, and penalize frauds and scams being perpetrated on individuals in the United States.”¹ Following these instructions, the FTC today is issuing a report on federal-state collaboration in consumer protection enforcement.

At the FTC, we take pride in our strong partnerships with State Attorneys General—something we do not take for granted. There is an unfortunate history of federal agencies actively impeding state efforts to protect their citizens. In the years leading up to the financial crisis, for example, federal bank regulators overrode state laws that curbed predatory lending—leaving Americans exposed to toxic financial products in ways that ultimately devastated families and wrecked the global economy.² And in the early 1980s, FTC leadership sought to undermine work with states by shutting down regional offices, issuing new legal interpretations that contravened state law, and cutting back on sharing information with state enforcers.³

As this report makes clear, however, the tide has turned. Today, the FTC is squarely focused on deepening collaboration with state partners to ensure our respective efforts serve as force multipliers that maximally protect Americans from lawbreakers. In addition to bringing a litany of enforcement actions with states, the FTC in recent years has shared expertise with and provided assistance to states on legislation addressing junk fees, noncompetes, and right-to-repair. And through appointing its first-ever NAAG liaison, the Commission seeks to make this collaboration routine and systematic.⁴

¹ FTC Collaboration Act of 2021 (“Collaboration Act”), Pub. L. No. 117-187, § 2(a)(1), 136 Stat. 2201 (2022), available at <https://www.congress.gov/117/plaws/publ187/PLAW-117publ187.pdf>.

² JAY B. SYKES, CONG. RESEARCH SERV., R 45081, BANKING LAW: AN OVERVIEW OF FEDERAL PREEMPTION IN THE DUAL BANKING SYSTEM 15 (2018), <https://sgp.fas.org/crs/misc/R45081.pdf> (“And in 2004, in response to a wave of state laws combating subprime and predatory lending, the OCC issued, in the words of one commentator, ‘sweeping’ preemption rules that identified broad categories of state law that the NBA preempted.”).

³ Michael D. Hinds, *F.T.C. Moves to Close Four Regional Offices*, N.Y. TIMES (Apr. 17, 1982) at 24, <https://www.nytimes.com/1982/04/17/us/ftc-moves-to-close-four-regional-offices.html>; MICHAEL PERTSCHUK, FED. TRADE COMM’N, REPORT FOR THE USE OF THE SUBCOMM. ON OVERSIGHT & INVESTIGATIONS OF THE COMM. ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES 204 (1984), <https://babel.hathitrust.org/cgi/pt?id=uc1.31210012734305&seq=214>.

⁴ Fed. Trade Comm’n, Legal Library: Advocacy Filings, <https://www.ftc.gov/legal-library/browse/advocacy-filings> (last visited Apr. 9, 2024).

Congress also directed the FTC in this report to make legislative recommendations to improve collaboration between federal and state partners. The report makes three key recommendations: First, it recommends restoring the FTC’s authority to obtain equitable monetary relief following the Supreme Court’s decision in *AMG Capital Management v. FTC*,⁵ which severely curtailed the FTC’s authority under Section 13(b) of the FTC Act to obtain redress for harmed consumers. Second, it recommends providing the FTC with independent authority to seek civil penalties against wrongdoers, which will multiply the number of enforcers available to bring such cases and reduce delay, duplicated efforts, and uncertainty. Third, it recommends providing the FTC with clear legal authority to pursue action against those who knowingly or recklessly assist and facilitate scammers and others who violate the FTC Act. This would better enable the FTC and its law enforcement partners to challenge sophisticated, multi-party frauds and scams.

We strongly endorse each recommendation in the report. The first recommendation—fully restoring the FTC’s ability to obtain redress and disgorgement for law violations under Section 13(b)—is critical to ensure that lawbreakers do not profit from lawbreaking and that victims of illegal conduct are made whole. While partnering with states can provide relief in some cases, major gaps remain. First, without the FTC’s ability to obtain redress under Section 13(b), some Americans may be unable to receive refunds based solely on where they live, because not all states have the legal authority to provide nationwide redress for nationwide harm, and what is left is a patchwork of state laws. Restoring the FTC’s Section 13(b) authority would restore uniformity and, with it, stronger consumer protections. Second, this reform would enable federal and state enforcers to expand their reach by targeting a greater number of lawbreakers. One can see this in the regular “sweeps” in which federal and state partners bring actions against different targets in areas of emerging and recurring fraud, such as timeshare resale scams, small business fraud, charity fraud, and robocalling. The current situation has the opposite impact: it forces federal and state partners to join together to bring cases against the same target. Third, as the report details, many states lack capacity to issue redress and process claims. By contrast, the FTC has a special redress office designed to handle getting money back in the hands of defrauded consumers.

The second recommendation—giving the FTC independent litigating authority to bring civil penalty actions—is also a common-sense solution that promotes efficiency and removes unnecessary bureaucratic red tape. The existing requirement that the FTC refer to DOJ any complaint that seeks civil penalties provides no clear benefits to the public. Yet it taxes the resources of both agencies, delays cases, and has the potential to disrupt coordinated investigations between the FTC and State Attorneys General.⁶ As the Commission has activated more statutory authorities in recent years, we are now pursuing civil penalties more routinely—making these procedural hurdles more costly. Equipping the FTC to levy civil penalties directly would free up resources and promote greater deterrence.

The third recommendation—fully empowering the Commission to go after those who knowingly or recklessly assist or facilitate frauds and scams—is vital for cutting off frauds and

⁵ 593 U.S. 67 (2021).

⁶ For a more detailed explanation of these pain points, see Statement of Commissioner Rebecca Kelly Slaughter Regarding the FTC Collaboration Act Report (Apr. 10, 2024), [link](#).

scams at the source. Targeting upstream actors that enable lawbreaking is more efficient and effective than playing whack-a-mole against fly-by-night scammers. We have used existing authorities to reach upstream actors that enable and profit from illegal conduct, including payment processors, money transfer services, Voice over Internet Protocol (VoIP) services, data brokers, and tech platforms.⁷ But fully equipping the FTC to target upstream actors that assist and facilitate lawbreaking will be key, especially as AI becomes a major vector of fraud.

In fulfilling Congress's request for this report, we benefited enormously from the State Attorneys General and other interested parties that filed comments on how the FTC can continue to strengthen its partnership with state enforcers. We are particularly grateful to our Western Region Los Angeles staff for drafting this important report. Our regional offices are our key ambassadors to state enforcers, and the progress we have made in strengthening these relationships would not have been possible without their hard work and leadership.

⁷ Our actions against payment processors who enable and assist fraudsters such as recent cases First American Payment Systems and Chargebacks911 have been instrumental in cutting off those who enable and assist fraudsters. Press Release, Fed. Trade Comm'n, FTC Takes Action to Stop Payment Processor First American from Trapping Small Businesses with Surprise Exit Fees and Zombie Charges (July 29, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/07/ftc-takes-action-stop-payment-processor-first-american-trapping-small-businesses-surprise-exit-fees>; Press Release, Fed. Trade Comm'n, FTC, Florida Attorney General Sue Chargebacks911 for Thwarting Consumers Who Were Trying to Reverse Disputed Credit Card Charges (Apr. 12, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-florida-attorney-general-sue-chargebacks911-thwarting-consumers-who-were-trying-reverse-disputed>. Similarly, our actions against Western Union, Moneygram, and our ongoing litigation against Walmart seek to stop money transfer services from turning a blind eye to fraudsters using their services to extract money from fraud victims. Press Release, Fed. Trade Comm'n, Western Union Admits Anti-Money Laundering Violations and Settles Consumer Fraud Charges, Forfeits \$586 Million in Settlement with FTC and Justice Department (Jan. 19, 2017), <https://www.ftc.gov/news-events/news/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles-consumer-fraud-charges-forfeits-586>; Press Release, Fed. Trade Comm'n, MoneyGram to Pay \$18 Million to Settle FTC Charges That it Allowed its Money Transfer System To Be Used for Fraud (Oct. 20, 2009), <https://www.ftc.gov/news-events/news/press-releases/2009/10/moneygram-pay-18-million-settle-ftc-charges-it-allowed-its-money-transfer-system-be-used-fraud>; Press Release, Fed. Trade Comm'n, FTC Sues Walmart for Facilitating Money Transfer Fraud That Fleeced Customers Out of Hundreds of Millions (June 28, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-walmart-facilitating-money-transfer-fraud-fleeced-customers-out-hundreds-millions>. In the area of abusive robocalling, our actions against VOIP platforms such as XCast Labs challenge platforms that enable fraudsters to blanket the country with fraudulent pitches. Press Release, Fed. Trade Comm'n, FTC to VoIP Providers: Turn over Information for Robocall Investigations or Prepare to be Sued in Federal Court (Feb. 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/ftc-voip-providers-turn-over-information-robocall-investigations-or-prepare-be-sued-federal-court>. And, finally, with respect to consumers' privacy, we have gone after data brokers in X-Mode Social and InMarket and, with respect to kids' privacy, tech platforms such as Epic Games. Press Release, Fed. Trade Comm'n, FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data (Jan. 9, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-prohibits-data-broker-x-mode-social-outlogic-selling-sensitive-location-data>; Press Release, Fed. Trade Comm'n, FTC Order Will Ban InMarket from Selling Precise Consumer Location Data (Jan. 18, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-will-ban-inmarket-selling-precise-consumer-location-data>; Press Release, Fed. Trade Comm'n, Fortnite Video Game Maker Epic Games to Pay More Than Half a Billion Dollars over FTC Allegations of Privacy Violations and Unwanted Charges (Dec. 19, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/12/fortnite-video-game-maker-epic-games-pay-more-half-billion-dollars-over-ftc-allegations>.