



Office of Commissioner  
Melissa Holyoak

UNITED STATES OF AMERICA  
**Federal Trade Commission**  
WASHINGTON, D.C. 20580

**Concurring Statement of Commissioner Melissa Holyoak**

*Final Rule Amending the Telemarketing Sales Rule*, FTC Matter No. R411001

November 27, 2024

Older American adults are squarely in the crosshairs of fraudsters that use technical support scams.<sup>1</sup> So are our veterans.<sup>2</sup> Unfortunately, these “older adults [are] disproportionately impacted by [technical support] scams and are five times more likely than younger adults to report losing money to them.”<sup>3</sup> And financial losses due to such scams have been increasing in recent years.<sup>4</sup> I believe the Commission is at its best when it works to address such fraud—the central focus of our consumer protection mission, which will continue to be one of my key priorities while I serve at the Commission. And the Telemarketing Sales Rule (TSR), as amended today, is an extension of the Commission’s focus on fraud and will ensure that we can protect some of America’s most vulnerable consumers through more robust enforcement. Because today’s amendment is sound and will help protect some of America’s most vulnerable consumers, I concur.<sup>5</sup>

Elections have consequences. But it is hardly novel policy to lawfully amend the long-standing, bipartisan TSR—which *Congress*, not the current Chair, decided the Commission should promulgate and enforce—to cover an ongoing and increasing threat to some of the most vulnerable in America. And even if this amendment were somehow novel policy, it is entirely consistent with President-elect Trump’s past aggressive anti-fraud policies, along with his “relentless commitment to keep America’s seniors safe.”<sup>6</sup>

Since joining the Commission, I have not hesitated to dissent when the Majority has gone beyond what Congress has authorized or otherwise acted wrongly,<sup>7</sup> including when I have stood

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<sup>1</sup> See Report, Fed. Trade Comm’n, PROTECTING OLDER CONSUMERS 2023-2024, at 12-13, 15, 21 (2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/federal-trade-commission-protecting-older-adults-report\\_102024.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/federal-trade-commission-protecting-older-adults-report_102024.pdf).

<sup>2</sup> See *id.* at 15; see also Oral Remarks of Commissioner Melissa Holyoak, Open Commission Meeting, at 1 (Nov. 14, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/holyoak-ocm111424remarks.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/holyoak-ocm111424remarks.pdf).

<sup>3</sup> Report, *supra* note 1, at 12.

<sup>4</sup> *Id.*

<sup>5</sup> I thank the Commission’s Division of Marketing Practices for their efforts.

<sup>6</sup> Cf., e.g., Remarks by President Trump in Roundtable Discussion on Fighting for America’s Seniors, The White House (June 15, 2020) (describing then-President Trump’s “ironclad commitment to protecting and caring for America’s seniors” and work to protect them from fraud), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-roundtable-discussion-fighting-americas-seniors/>. To my knowledge, no other Commissioner believes this amendment is poor policy or inconsistent with our legal authorities, or would do anything but help older Americans—including those that played a pivotal role in President-elect Trump’s recent victory. See, e.g., Susan Milligan, *How Older Voters Powered Trump’s Election Engine*, AARP (Nov. 7, 2024), <https://www.aarp.org/politics-society/government-elections/info-2024/election-analysis-older-voters.html>.

<sup>7</sup> See, e.g., Dissenting Statement of Commissioner Melissa Holyoak, Joined by Commissioner Andrew N. Ferguson, *In re the Non-Compete Clause Rule*, Matter No. P201200 (June 28, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2024-6-28-commissioner-holyoak-nc.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2024-6-28-commissioner-holyoak-nc.pdf).

alone in articulating such concerns.<sup>8</sup> While it is true that the current Majority has prioritized controversial and unlawful rulemakings over the last four years, as we turn the page I believe the Commission should redirect its efforts and resources toward enforcement against fraud and, *only* where appropriate, rulemakings that ensure the Commission can robustly prosecute fraud and provide consumers redress. Today's amendment is consistent with this new direction I believe the Commission should chart. And it is sound policy that fits squarely within the Commission's storied past and its mission to protect the American people from fraudsters and scammers.

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<sup>8</sup> See, e.g., Dissenting Statement of Commissioner Melissa Holyoak, *Negative Option Rule*, FTC Matter No. P064202 (Oct. 16, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/holyoak-dissenting-statement-re-negative-option-rule.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/holyoak-dissenting-statement-re-negative-option-rule.pdf); Dissenting Statement of Commissioner Melissa Holyoak, *In re Pharmacy Benefit Managers Report*, Matter No. P221200 (July 9, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Holyoak-Statement-Pharmacy-Benefit-Managers-Report.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Holyoak-Statement-Pharmacy-Benefit-Managers-Report.pdf).