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**OPENING STATEMENT OF
ACTING CHAIRWOMAN REBECCA KELLY SLAUGHTER**

*Before the United States Senate
Committee on Commerce, Science, and Transportation
Hearing on Strengthening the FTC's Authority to Protect Consumers
April 20, 2021*

Chair Cantwell, Ranking Member Wicker, and Members of the Committee, thank you for inviting us here today. I am grateful for your continued support of the Federal Trade Commission and for the opportunity to testify about strengthening our authority to protect consumers. I know our staff, who have been working diligently throughout the pandemic, share my appreciation for your interest in the work we are doing and the challenges we face.

Americans are struggling. Yesterday the Commission issued a report identifying the major challenges consumers have faced and continue to face as a result of the pandemic: health and safety concerns, economic distress, and increased susceptibility to digital harms.¹ While all Americans have confronted these challenges, we know that Americans from communities of color and lower income communities have been hardest hit.²

I will focus my remarks today on how the FTC is applying the resources and authority Congress has given us to address these concerns and highlight the areas where I believe strengthening our authority is most critical.

¹ Press Release, Fed. Trade Comm'n, *One Year into COVID-19 Pandemic, New FTC Staff Report Highlights Agency's Ongoing Efforts to Protect Consumers* (Apr. 19, 2021), <https://www.ftc.gov/news-events/press-releases/2021/04/one-year-covid-19-pandemic-new-ftc-staff-report-highlights>.

² See, e.g., Ryan Zamarripa and Lorena Roque, *Latinos Face Disproportionate Health and Economic Impacts From COVID-19*, Center for American Progress (Mar. 5, 2021), <https://www.americanprogress.org/issues/economy/reports/2021/03/05/496733/latinos-face-disproportionate-health-economic-impacts-covid-19/>; Poll: *61% of U.S. households with children report facing serious financial problems during the coronavirus outbreak*, Harvard T.H. Chan School of Public Health (Sept. 30, 2020), <https://www.hsph.harvard.edu/news/press-releases/poll-61-of-u-s-households-with-children-report-facing-serious-financial-problems-during-the-coronavirus-outbreak/> (“Many of these problems are concentrated among Black and Latino households with children, households with children that have annual incomes below \$100,000, and households with children that have experienced job or wage losses since the start of the outbreak.”); Margery Austin Turner and Monique King-Viehlend, *Economic Hardships from COVID-19 Are Hitting Black and Latinx People Hardest. Here Are Five Actions Local Leaders Can Take*, Urban Institute (Aug. 12, 2020), <https://www.urban.org/urban-wire/economic-hardships-covid-19-are-hitting-black-and-latinx-people-hardest-here-are-five-actions-local-leaders-can-take>.

Using our Current Tools to Take on Today's Challenges

The Commission is profoundly grateful for the funding boost we received in our annual appropriation and particularly in the American Rescue Plan. Even before the pandemic, the growing problems in both consumer protection and competition requiring enforcement attention were stretching our resources to the breaking point. That situation was dramatically exacerbated in the last year. We are working quickly to use the new money to hire staff and strategically fund our data collection and outreach efforts, with a specific focus on ensuring that we are reaching our hardest hit communities.

When Congress gives us new authority, we will take it seriously and put it to use responsibly. We welcomed the COVID-19 Consumer Protection Act, which provided us with new civil penalty authority regarding certain COVID-19 deceptive acts or practices. Just last week—only four months after the law was passed—we announced our first action seeking penalties under this new authority, targeting deceptive COVID-19 marketing of vitamin D and zinc products.

I want to emphasize that when it comes to our current efforts and authorities I am a strong proponent of a growth mindset: I challenge myself and the Commission at every turn to look at all the tools we have and find ways to deploy them with greater effect.

Strengthening FTC Authority

I recognize, however, that there are limits to the growth mindset: the FTC faces significant obstacles when it comes to our authority and resources. Among the most urgent challenges we face is a judicial attack on our ability to provide monetary relief to consumers under Section 13(b) of the FTC Act. We use 13(b) in a broad range of cases including telemarketing fraud, anticompetitive pharmaceutical practices, data security and privacy, scams that target seniors and veterans, and most recently, COVID-related scams. Section 13(b) enforcement cases have returned billions of dollars to consumers, including \$11.2 billion in refunds to consumers during just the past five years.

Returning money to consumers who have been harmed is among the most important things we do, but the courts are dramatically curtailing our ability to deliver that relief. And right behind the cases challenging our redress authority under 13(b) is a line of cases challenging our ability to get injunctive relief. Enforcement actions will slow and redress for consumers will dry up if Congress does not act quickly to affirm our full authority under Section 13(b).

Along with 13(b), our other most pressing challenge remains resources. As I noted, we are incredibly grateful for the additional funding provided to the Commission, but we still remain significantly under-resourced and over-leveraged. Even before the recent merger wave, we were averaging twice as many annual merger filings as we had been ten years ago, while our employee count remained flat. In fact, we had 50% more employees at the beginning of the Reagan

administration as we do today. And our filing rates keep going up.³ On the consumer protection side, there is similar growth in both breadth and depth of problems in the markets, especially digital markets, that require enforcement. But our ability to keep up with this volume of work against large, sophisticated companies without substantial increases in resources will be limited.

In addition to restoring 13(b) and augmenting resources, I want to note additional ways that I believe Congress could strengthen our ability to deter illegal conduct and return more funds to consumers. Specifically, I would welcome broader civil penalty authority, establishment of a consumer redress fund, and independent litigating authority for our civil penalty cases.

Conclusion

In closing, I want to thank you for the opportunity to discuss our work, and reiterate my commitment to you: when Congress chooses to vest the FTC with resources and authority, we will use it responsibly and effectively to protect the American people.

I look forward to answering your questions.

³ To increase transparency regarding its merger review workload, the FTC publishes the number of monthly HSR filings on its website. See Fed. Trade Comm'n, *Premerger Notification Program*, <https://www.ftc.gov/enforcement/premerger-notification-program>. These numbers are preliminary and subject to a year-end audit, and final numbers are published in the FTC/DOJ Annual HSR reports.