



Office of Commissioner
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
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Statement of Commissioner Rebecca Kelly Slaughter
Regarding the Presentation on the Telemarketing Sales Rule Amendments
As Prepared for Delivery

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Thank you, Ben, for that presentation on the TSR amendments – and to you and Patty Hsue for all your work that’s gone into this update. Abusive telephone calls, telemarketing scams, and robocalls are a scourge on the American public. Literally everyone hates them – it’s the one thing it seems like all Americans can agree on. These calls are an intrusion by scammers, sometimes to a degree that they render the cellphones on which we rely useless. They waste our time, money, and degrade the utility of our phone networks – locking us in a technological arms race against scammers just to be able to catch the few phone calls we actually want to hear. The new record-keeping requirements of these rules and coverage of business-to-business telemarketing calls will help us enforce the law against scammers and bring more small businesses under the protection of the rule.

The TSR demonstrates the power of explicit and flexible rulemaking authority for the FTC. These updates give further clarity to businesses about their legal obligations and reduces the Commission’s enforcement burden by setting out, with specificity, which practices are abusive and imposes a penalty for those violations of law.

This presentation is timely, and I’d like to celebrate not just staff’s work in updating and strengthening the rule, but the incredible work the team has been doing in enforcing the law. For years, the Commission has pursued parties who make illegal robocalls. But it has been clear that we will not be able to do our Congressionally mandated duty to combat abusive telemarketing practices—to stop these calls—by exclusively going after law-breaking callers.

At the scale of millions or billions of calls we will never make a dent against these scams by only going after individual scammers or lawbreakers. It’s a frustrating game of whac-a-mole, and moreover many of the most troublesome calls are not made by legitimate businesses but by criminals perpetrating outright fraud from overseas. If we’re to have any hope of relieving Americans from the burden of robocalls or telemarketing scams we have to take action against the companies that get rich while knowingly or recklessly allowing unlawful activity to flourish on their networks. So, the Commission pivoted to pursue those service providers who are profiting from the onslaught of calls, specifically Voice-Over-IP, or VoIP, providers.

In settlements like *X-Labs* and *VOIP-Terminator* the Commission resolved allegations over the abusive practices of VOIP services. These services knowingly, or consciously avoided knowing, that they were facilitating unlawful calls to the Do Not Call Registry. The volume of

calls in these cases is staggering. In *X-Cast* the number of unlawful calls to consumers was in the billions.

I'm proud of the work the FTC staff have done to try and stamp out these scams and put companies on notice.

That's why I'm extremely troubled by a ruling out of the Southern District of California this month throwing out our case against *Stratics Networks* – another VoIP provider that facilitated millions of robocalls and telemarketing calls to numbers on the Do Not Call Registry. In a first-of-its-kind ruling the court dismissed our case against *Stratics*, holding that the VoIP provider, as the carrier of unlawful third-party content, is immune from civil liability under Section 230. I won't unpack all the deficiencies in the court's application of 230's liability shield right now but I'm confident the court got it wrong here. When companies actively facilitate—and profit from—lawbreaking, we have to be able to hold them to account and at the very least we should have the opportunity to prove our case in court.

Overbroad interpretations of 230's liability shield undermine our ability to conduct civil law enforcement in general and could strike a serious blow to Congress's goal of ending unlawful robocalls and abusive telemarketing in particular.

I understand that the Section 230 debate raises a lot of passions on all sides, but I hope there's common ground in ensuring the Federal government has the tools and authority to go after unlawful robocallers. Just as 230 exempts Federal criminal law enforcement from its shield it shouldn't stand in the way of our civil law enforcement mission to protect Americans from fraud when online services can and do facilitate and supercharge the reach of those scams.

I look forward to engaging with my fellow Commissioners, Members of Congress, and civil society to address these concerns and ensure that the FTC can do its job.

Finally, I'd like to echo the Chair in acknowledging everyone bureau wide that worked on these TSR updates. Thank you for all your work.