



Office of Commissioner
Rebecca Kelly Slaughter

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

**CONCURRING STATEMENT OF COMMISSIONER
REBECCA KELLY SLAUGHTER**

In the Matter of Midwest Recovery Systems
Commission File No. 1923042
November 25, 2020

The Commission's action in *Midwest Recovery Systems* is the first law enforcement action targeting the pernicious practice of "debt parking," making it plain that such tactics are unfair, unconscionable, and a violation of the Fair Debt Collection Practices Act (FDCPA).¹ The proposed order against the company and its leaders bans this practice, requires defendants to make sure that all debts they reported to consumer reporting agencies are removed, and imposes a judgment of \$24 million—the full amount of estimated revenue Midwest Recovery collected in connection with its unlawful practices as alleged in the complaint. This settlement represents meaningful accountability for an abhorrent practice and provides clarity that such actions are illegal. For these reasons, I support the outcome.

I write separately because I agree with a number of the suggestions Commissioner Chopra makes about how the Commission should approach cases like this, and I hope the Commission will do so in the future. For example, I too would prefer a settlement that bans the defendants from debt-collection. As Commissioner Chopra effectively notes in his statement, too often, defendants have little money left for consumer redress or for the Commission to achieve deterrence through monetary remedies. An industry ban provides the strongest monetary sanction, the greatest deterrence, and the best protection for would-be future victims, and I expect to see such relief in future cases involving similar conduct.²

In addition, I want to echo the call made by Commissioner Chopra for the Commission to do all it can, including through partnership with our sister agency, the CFPB, to ensure consumers receive redress in these cases. Congress granted the CFPB a tool that the FTC does not enjoy: a Civil Penalty Fund that collects penalties paid for violations of consumer financial protection laws and can be used to redress injured consumers. The FTC should prioritize working

¹ Collectors and reporters who engage in debt parking add debts to consumers' credit reports without notifying consumers about the debts. Many consumers first learn about these "parked" debts when their credit report is pulled in connection with a housing or job opportunity. Not surprisingly, this tactic gives companies like *Midwest Recovery* huge leverage and many consumers simply pay up, even on questionable debts, to move on with their lives.

² I also strongly support the call for a systemic fix to the problem of debt parking centered around increased accountability for the credit reporting agencies who are in the best position to identify and cut off illegal parking.

closely with the CFPB wherever possible to provide meaningful redress to consumers through the Civil Penalty Fund. I am hopeful that the FTC and CFPB under President-elect Biden will find more opportunities for partnership to improve victim access to redress funds.

I also want to call on Congress to consider a more direct approach: Grant the FTC the same authority the CFPB has to provide redress to consumers. The FTC has proved to be a trusted and reliable champion for returning unlawful proceeds to consumer victims, and I urge consumer protection-minded lawmakers to preserve and expand the Commission's ability to fulfill such a core part of its mission.

Settlements are, by their definition, compromises. I have written extensively about how I analyze each particular compromise and decide whether I believe it is worth supporting, mindful of the resources that have already been spent negotiating.³ When a particular settlement does not effectuate deterrence,⁴ or when it leaves such gaping holes that it incentivizes the wrong behavior,⁵ I vote no because I believe it would be more valuable for the Commission to invest the resources in reaching a different outcome through a preferable settlement or through litigation. But where a negotiated settlement moves the law forward in an important way, even if it does not do everything I would hope, or does not do so in exactly the way I would hope, I will support the resolution and articulate the approach I would like staff to take in the future. This is one such case.

³ See *Dissenting Statement of Commissioner Rebecca Kelly Slaughter Regarding the Matter of FTC vs. Facebook*, Fed. Trade Comm'n (July 24, 2019), https://www.ftc.gov/system/files/documents/public_statements/1536918/182_3109_slaughter_statement_on_facebook_k_7-24-19.pdf.

⁴ *Id.*; see also *Dissenting Statement of Commissioner Rebecca Kelly Slaughter Regarding the Matter of Zoom Video Communications Inc.*, Fed. Trade Comm'n (Nov. 9, 2020), https://www.ftc.gov/system/files/documents/public_statements/1582918/1923167zoomslaughterstatement.pdf; *Dissenting Statement of Commissioner Rebecca Kelly Slaughter Regarding the Matter of Progressive Leasing*, Fed. Trade Comm'n (Apr. 20, 2020), https://www.ftc.gov/system/files/documents/public_statements/1571915/182_3127_prog_leasing_-_dissenting_statement_of_commissioner_rebecca_kelly_slaughter_0.pdf.

⁵ See *Dissenting Statement of Commissioner Rebecca Kelly Slaughter in the Matter of Google LLC and YouTube, LLC*, Fed. Trade Comm'n (Sept. 4, 2019), https://www.ftc.gov/system/files/documents/public_statements/1542971/slaughter_google_youtube_statement.pdf.