

FCC-FTC Consumer Protection Memorandum of Understanding

Whereas the Federal Communications Commission (FCC) implements and enforces the Communications Act of 1934, as amended, which, among other things, requires all common carrier charges, practices, classifications, and regulations for and in connection with communication service by wire or radio to be just and reasonable; requires cable operators, satellite carriers, telecommunications carriers, and providers of interconnected Voice over Internet Protocol (VoIP) services to protect their subscribers' privacy; and creates and empowers the Commission to create other protections for consumers of broadband, broadcasting, cable, information, satellite, and wireless and wireline telecommunications services;

Whereas Congress has directed the Federal Trade Commission (FTC) to, among other things, prevent unfair or deceptive acts or practices in commerce and has charged the FTC with enforcing a number of other specific consumer protection rules and statutes;

Whereas, the FCC recognizes the importance of the FTC's expertise and leadership on matters of consumer protection and the FTC recognizes the importance of the FCC's expertise and leadership with regard to consumer protection as applied to telecommunications services; and

Whereas the FCC and FTC wish to continue working together to protect consumers and the public interest and, in so doing, avoid duplicative, redundant, or inconsistent oversight in these areas, building upon their long history of cooperation on matters of overlapping authority, including, for example, telemarketing enforcement where the agencies have implemented and followed an effective Memorandum of Understanding since 2003:¹

Therefore, it is hereby agreed that:

The FCC and the FTC will continue to work together to protect consumers from acts and practices that are deceptive, unfair, unjust and/or unreasonable including through:

- Coordination on agency initiatives where one agency's action will have a significant effect on the other agency's authority or programs,
- Consultation on investigations or actions that implicate the jurisdiction of the other agency,
- Regular coordination meetings to review current marketplace practices and each agency's work on matters of common interest that impact consumers,
- Regular meetings at which the agencies will exchange their respective learning about the evolution of communications markets,

¹ The 2003 Memorandum of Understanding (MOU) regarding Telemarketing Enforcement remains in effect and nothing in this Memorandum should be construed as altering, amending, or invalidating that MOU.

- Sharing of relevant investigative techniques and tools, intelligence, technical and legal expertise, and best practices in response to reasonable requests for such assistance, and
- Collaboration on consumer and industry outreach and education efforts, as appropriate.

The agencies express their belief that the scope of the common carrier exemption in the FTC Act does not preclude the FTC from addressing non-common carrier activities engaged in by common carriers.² Further, no exercise of enforcement authority by the FTC should be taken to be a limitation on authority otherwise available to the FCC, including FCC authority over activities engaged in by common carriers and by non-common carriers for and in connection with common carrier services; likewise, no exercise of enforcement authority by the FCC should be taken to be a limitation on authority otherwise available to the FTC. To the extent that existing law permits both the FCC and the FTC to address the same conduct, the agencies agree to follow the processes set out in this Memorandum of Understanding in order to ensure that their activities efficiently protect consumers and serve the public interest.

The agencies will engage in joint enforcement actions, when appropriate and consistent with their respective jurisdiction. With respect to such joint enforcement activities, the agencies will commit to coordinating press statements and other public statements.

The FCC and FTC will share data regarding consumer complaints to the extent feasible. In particular, the FTC will continue to provide qualified FCC staff access to the Consumer Sentinel Network, a secure online database that provides law enforcement members access to millions of consumer complaints submitted directly to the FTC, as well as complaints shared by over 40 other data contributors; and the FCC agrees to work to become a Consumer Sentinel Network data contributor, sharing relevant consumer complaints with the Consumer Sentinel membership.

In order to provide for more effective exchange of information so that both agencies will be able to operate to the maximum effectiveness in the public interest, the persons signing below and their successors shall be deemed Designated Liaison Officers to serve as the primary sources of contact for each agency. Formal liaison meetings between appropriate senior officials of both agencies to exchange views on matters of common interest and responsibility shall be held from time to time, as determined by such liaison officers to be necessary.

² Further, the common carrier exception in the FTC Act does not preclude the FTC from enforcing certain other statutes and rules that expressly provide the FTC with jurisdiction over common carrier services, such as the Fair Credit Reporting Act and the Telephone Disclosure and Dispute Resolution Act of 1992.

The Memorandum of Understanding shall take effect upon execution by both parties and may be modified by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice.

For the Federal Trade Commission:

Jessica L. Rich
Director, Bureau of Consumer Protection

Date: _____

For the Federal Communications Commission:

Travis LeBlanc
Chief, Enforcement Bureau

Date: _____

Alison Kutler
Acting Chief, Consumer & Governmental Affairs Bureau

Date: _____