



Office of Commissioner  
Rebecca Kelly Slaughter

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

**DISSENTING STATEMENT OF  
COMMISSIONER REBECCA KELLY SLAUGHTER**

*Regarding Ascension Data & Analytics, LLC*

Commission File No. 1923126

December 22, 2021

The Commission is finalizing an order resolving Ascension Data & Analytics, LLC’s alleged violations of the Commission’s Standards for Safeguarding Customer Information Rule (“Safeguards Rule”). Ascension is an analytics company that provides data, analytics, and system-based technology services and products to other companies in its corporate family in connection with mortgages. The FTC’s complaint alleges that Ascension failed to oversee its vendors or adequately assess risk to ensure that customer data was secure. One of Ascension’s vendors had a major security failure that exposed the personal data of tens of thousands of individuals for many months.<sup>1</sup>

According to the FTC’s complaint, Ascension did not even fulfill the basic due diligence and oversight steps required by its own risk management policies.<sup>2</sup> Such fundamental failings and lack of care for sensitive personal data is not just a violation of the Safeguards Rule, it is also an unfair practice under Section 5 of the FTC Act.<sup>3</sup> Yet, the proposed complaint alleges *only* a rule violation and does not charge an unfairness violation of Section 5.

I have consistently argued that when the FTC fails to plead all relevant law violations—particularly unfairness—we miss important opportunities to establish the scope of behavior that is covered by the general statutes we enforce.<sup>4</sup> Especially to the extent that our enforcement program is driven by negotiated consents rather than litigated orders or duly promulgated rules, our consents are extremely important for market participants to understand how particular conduct violates the law. In other words, every time the Commission files a complaint we send a signal to industry about what constitutes a law violation.

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<sup>1</sup> See Compl. ¶¶ 3, 9-10, 14-21, *In the Matter of Ascension Data & Analytics, LLC* (Dec. 15, 2020), <https://www.ftc.gov/system/files/documents/cases/1923126ascensioncomplaint.pdf>.

<sup>2</sup> Compl. ¶¶ 7-8, 15-16, 20-21.

<sup>3</sup> Pleading unfairness in data security cases where a company fails to take steps to ensure that its contractors safeguard personal data is not novel. In 2014, the Commission alleged that GMR Transcription Services’ failure to require and verify that its independent service providers implemented reasonable security measures was an unfair practice in violation of Section 5. See, Compl., *In the Matter of GMR Transcription Services, Inc.*, (Aug. 21, 2014), <https://www.ftc.gov/system/files/documents/cases/140821gmrcmpt.pdf>.

<sup>4</sup> See, e.g., [FTC Data Privacy Enforcement: A Time of Change](#); [Dissenting Statement of Commissioner Rebecca Kelly Slaughter Regarding FTC v. Progressive Leasing](#); [Concurring Statement of Commissioner Rebecca Kelly Slaughter Regarding Vvera Pharmaceuticals](#).

Failure to adequately vet and oversee vendors entrusted with sensitive personal information is unlawful not just for financial institutions covered by the Safeguards Rule, but for all companies governed by the FTC Act. I believe the facts here support a count of unfairness under Section 5, as well as Safeguards Rule violations. Because this action fails to fully plead the violations supported by the facts and the law in this case, I respectfully dissent.