



Office of Commissioner
Andrew N. Ferguson

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

Concurring Statement of Commissioner Andrew N. Ferguson
Joined by Commissioner Melissa Holyoak
In the Matter of H&R Block
Matter Number 2023027

January 8, 2025

Today, the Commission votes to approve the issuance of the final Decision and Order in *In re H&R Block Inc., HRB Digital LLC, and HRB Tax Group, Inc* (collectively, “H&R Block”). The Commission alleges that H&R Block, a tax preparation and filing service, engaged in unfair and deceptive business practices. Counts I and II relate to its customer-service-contact requirements and data-wiping practices.¹ The complaint also alleges that H&R Block misleadingly marketed a free version of its online tax preparation product while knowing that very few consumers were eligible to use the free version.²

I continue to have serious reservations about the merits of Count III—the deceptive marketing of H&R Block’s free version of its online tax preparation products.³ I previously voted to submit this Decision and Order for public comment with the hope that the public would weigh in on the merits of Count III or the U.S. Court of Appeals for the Fifth Circuit would provide guidance in a different case involving a very similar claim.⁴ Unfortunately, none of the three comments submitted during the public comment period addressed the issue⁵ and the U.S. Court of Appeals for the Fifth Circuit has yet to issue its decision.⁶

I concur in today’s final Decision and Order notwithstanding my doubts about the merits of Count III because the law and evidence support the remaining counts in the complaint. The Order will impose important protections for consumers relating to Counts I and II in the upcoming tax season, and my reservations about Count III are insufficient to merit voting against those important protections.⁷ If, however, the Fifth Circuit confirms my suspicion that the allegations of the complaint do not support the claim set forth in Count III, the Commission should modify the final Order’s requirements relating to Count III.⁸

¹ *In re H&R Block Inc.*, No. 9427, Complaint at ¶¶ 56–62.

² *Id.* at ¶¶ 60–61.

³ See Concurring Statement of Comm’r Andrew N. Ferguson, *In the Matter of H&R Block*, Matter No. 2033027, at 1 (Nov. 8, 2024).

⁴ *Ibid.*

⁵ See Sean Ray, Comment on Proposed Consent Agreement In The Matter of H&R Block (Dec. 11, 2024), <https://www.regulations.gov/comment/FTC-2024-0046-0003>; Macey Niedzielski, Comment on Proposed Consent Agreement In The Matter of H&R Block (Dec. 13, 2024), <https://www.regulations.gov/comment/FTC-2024-0046-0003>; Kirsten Jones, Comment on Proposed Consent Agreement In The Matter of H&R Block (Dec. 16, 2024), <https://www.regulations.gov/comment/FTC-2024-0046-0004>.

⁶ Petition for Review, *Intuit v. FTC*, No. 24-60040 (5th Cir. Jan. 24, 2024), ECF No. 1; Br. for Pet’r at 34–54, *Intuit v. FTC*, No. 24-600040 (5th Cir. Apr. 15, 2024), ECF No. 56.

⁷ *In re H&R Block Inc.*, No. 9427, Decision and Order at 4–5 (“Decision and Order”).

⁸ See 16 C.F.R. § 2.51; see also Decision and Order at 2.