



# Federal Trade Commission

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## **OECD Workshop on Dispute Resolution and Consumer Redress**

### **Keynote Address of Deborah Platt Majoras**

#### **Chairman, Federal Trade Commission**

**April 19, 2005<sup>1</sup>**

Thank you, Director Tanaka and Chairman Sims. I am pleased that the OECD has chosen to convene this important workshop on Consumer Dispute Resolution and Redress in the Global Marketplace here at the FTC.

It is a special pleasure for me to welcome Commissioner Kyprianou of the European Commission's Directorate General for Health and Consumer Protection, and, indeed, all our distinguished speakers and panelists who have traveled to Washington. We look forward to hearing your insights and experience.

I also would like to thank the Department of Commerce for its significant contributions to the workshop.

At its heart, this workshop is about problem solving. And solving consumer problems within a market-oriented framework is at the center of the FTC's consumer protection mission.

On one level, we provide consumers with the information they need to resolve complaints about products or services directly with merchants. We also serve as a resource for consumers when they cannot resolve problems directly, referring consumers to other federal and

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<sup>1</sup>The views expressed in these remarks are my own. They do not necessarily represent the views of the Federal Trade Commission or any other individual Commissioner.

state law enforcement agencies, Better Business Bureaus, small claims courts, payment card chargeback mechanisms, and alternative dispute resolution programs. Additionally, the FTC and its international partners recently unveiled a directory of online alternative dispute resolution providers on the econsumer.gov website. This innovation provides consumers with information about ADR providers that can mediate their cross-border disputes with businesses.

On another level, the FTC has focused on a private redress mechanism, the consumer class action. Though not a party to such actions, through its Class Action Fairness Project, the FTC has sought to advocate for the interests of the consumer by working to ensure that when consumers have meritorious claims, they get meaningful relief. As part of the Project, the FTC has submitted comments on proposed changes to class action rules, reports to Congress, and amicus briefs to courts. We also held a workshop on the subject last year. And, as you may know, the U.S. Congress recently enacted bankruptcy legislation that would limit the use of coupon settlements in class actions, which has been the subject of many of the Commission's advocacy filings in this area.

On yet another level, we solve problems by using law enforcement authority to obtain monetary redress for consumers, particularly in cases involving pervasive consumer fraud. The issue of government-facilitated redress has been a focus of attention at the OECD for years, starting with the drafting of the 1999 Guidelines for Consumer Protection in the Context of Electronic Commerce and continuing with the 2003 Guidelines on Protecting Consumers from Fraudulent and Deceptive Commercial Practices.

The FTC routinely uses its authority to obtain redress on behalf of consumers, in areas such as false and misleading health claims, bogus business opportunities, and Internet fraud.

With the help of third-party contractors and, in some cases, responsible defendants, the FTC distributes millions of dollars in redress funds to wronged consumers. From April 2004 through March 2005, the FTC filed 86 actions in U.S. federal district courts and obtained 81 judgments ordering the return of more than \$480 million in redress to consumers. A portion of redress funds are distributed to consumers outside the U.S. – in fact, to date, we have provided funds to consumers in more than 100 countries.

We think governmental redress authority is a critical part of an effective redress system for consumers who have been defrauded. While injunctive relief is critical to protecting the public from future harm, redress remedies the injury already inflicted and deprives a defendant of his or her ill-gotten gains. Critically important, redress can help rebuild consumer confidence.

Consumers who have been defrauded, or who hear of others who have been, lose faith in the economic system. By returning at least a portion of their out-of-pocket losses, we not only redress that loss, we show them that our society is determined not to allow fraudsters to get away with their deceptions. We recently received a letter from a consumer that underscored this point. She began by writing, “Thank-you for watching out for ‘sucker consumers,’ like me.” She goes on to explain that, at the time she was defrauded by a business opportunity scam, she was “unemployed and grasping for anything that might provide an honest income.” She thanked us for refunding a portion of the money she lost and for prosecuting the company for its “dishonesty and greed.” Letters like this remind us who we work for and why.

The ability of governments to obtain redress for victims of cross-border fraud is becoming increasingly important to maintain and increase consumer trust in the global

marketplace. While we recognize that different jurisdictions have different consumer protection systems and legal tools, we nonetheless believe that national consumer protection agencies have a unique role to play in obtaining compensation for consumers who have been the victims of fraud. As a government law enforcer, a national consumer protection agency typically has the incentive, resources, and expertise to bring complex lawsuits against fraud operators who have harmed large numbers of consumers, particularly in the cross-border context. By contrast, individual consumers may not have an incentive to attempt to seek redress for themselves if their amount of loss due to fraud is small. Small monetary losses experienced by thousands of consumers, however, can be redressed through government enforcement.

Unfortunately, having the authority to obtain monetary redress does not always guarantee that the proceeds of fraud will be recovered, especially in cross-border cases. For example, some defendants' assets might be located in foreign countries; other defendants might transfer their assets abroad in an attempt to put them beyond our reach.

Working with the U.S. Department of Justice and court-appointed receivers, the FTC has had some success in repatriating assets to the United States. But our cross-border redress actions, and government redress actions in general, will be even more effective as we all make further progress in implementing the OECD's 2003 Cross-Border Fraud Guidelines. For example, we often lack information about foreign assets that may be available for consumer redress. Lifting restrictions on the sharing of such information with foreign consumer protection agencies, as recommended by the Guidelines, would go a long way toward alleviating this problem. Improving the recognition and enforcement of appropriate resitutionary judgments obtained by consumer protection agencies against cross-border fraud would also make

government redress actions more effective.

As many of you know, the FTC is working toward implementation of many of the provisions of the 2003 Cross-Border Fraud Guidelines by supporting the International Consumer Protection Act (“ICPA”), which our Senate passed last year. ICPA would implement the OECD recommendations on information sharing and investigative cooperation, which would greatly assist our efforts to locate and recover assets for eventual return to consumers. Congress adjourned last year before ICPA could be passed, but we are urging that it be introduced again this session and will continue to work for its passage.

Once again, I would like to thank the OECD Committee on Consumer Policy and its chair, Tony Sims, for holding this workshop. We all look forward to the discussion unfolding over the next two days and to continuing to develop additional cross-border solutions to consumer problems. Thank you.

