

**Joint Concurring Statement of Commissioner Ramirez and Commissioner Brill**  
***FTC v. Diamond Phone Card, Inc.***

We write to call attention to deceptive practices in the prepaid calling card industry and to join our fellow Commissioners in urging Congress to give the Federal Trade Commission more powerful tools to combat fraud in this arena. The settlement the FTC announces today in *FTC v. Diamond Phone Card, Inc.*<sup>1</sup> is the third enforcement action against distributors of prepaid calling cards that the Commission has resolved since 2009.<sup>2</sup> With this settlement, prepaid calling card companies sued by the FTC have collectively paid more than \$4 million in response to allegations that they made false claims about the number of calling minutes their cards deliver and failed to clearly disclose the fees associated with their cards. The FTC settlements prohibit the deceptive marketing of prepaid calling cards and impose rigorous compliance and monitoring requirements. In addition to the FTC's lawsuits, state members of the FTC's joint federal-state task force on prepaid calling card fraud have collectively brought over 20 law enforcement actions to halt deceptive practices by prepaid calling card companies.<sup>3</sup>

For immigrants from Latin America, Africa, Asia and elsewhere around the world, American military families, and other consumers, prepaid calling cards can serve as a critical lifeline to friends and family. Yet reports of widespread fraud in the multi-billion dollar prepaid calling card industry are legion.<sup>4</sup> Such reports are consistent with the FTC's extensive testing of prepaid calling cards in connection with its recent enforcement actions, in which cards delivered

on average only half the advertised calling time.<sup>5</sup> The prepaid calling cards at issue in the FTC's lawsuits also contained a welter of fees that were disclosed, if at all, in language so vague and confusing as to be incomprehensible. The inadequately disclosed fees, moreover, could virtually wipe out the value of the cards. Such practices are seemingly routine in this industry, but neither legal nor acceptable. Indeed, the people cheated by such unscrupulous conduct are often the people who can least afford it — individuals who otherwise lack the means to communicate with family in other countries.

Despite the tenacity of its efforts to combat fraud in the prepaid calling card industry, the FTC has been hamstrung in its ability to protect such vulnerable consumers. Most important, an exemption from the Federal Trade Commission Act for “common carriers” has impeded the FTC's ability to take action against telecommunications service providers involved in unlawful practices.<sup>6</sup> As a consequence, such companies — which may profit handsomely from deceptive conduct — have evaded FTC prosecution. Nor does the FTC have the authority to ask courts to impose civil penalties on companies or individuals that have deceptively marketed prepaid calling cards. Pending prepaid calling card consumer protection legislation would close these significant gaps in FTC authority and allow the agency to enforce the law more effectively.<sup>7</sup> Prior to our arrival at the Commission, the FTC endorsed the goals of such legislation and the new authority it would provide.<sup>8</sup> We agree that the time has come to give the FTC more