

Prepared Remarks of
Commissioner Pamela Jones Harbour

Before the
United States Senate
Committee on Commerce, Science, and Transportation

Hearing on Reauthorization

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10:00 a.m.

Chairman Dorgan, Vice Chairman Stevens, and Members of the Commerce Committee: I am Pamela Jones Harbour, a Commissioner of the Federal Trade Commission. I am pleased to appear before you today to testify about the proposed bill to reauthorize the Federal Trade Commission.

My colleague, Chairman Kovacic, shared his thoughts about the agency's growth and our continued efforts to pursue vigorous and effective law enforcement in the rapidly changing marketplace. In particular, I would like to highlight recent efforts and accomplishments of the Commission in both the competition and consumer protection areas.

Merger investigations are always a high priority at the Commission. This past January, the Commission enjoyed a resounding "win" on the merger front, when the U.S. Court of Appeals for the Fifth Circuit upheld a Commission order in the *Chicago Bridge & Iron* matter. In 2005, the Commission had ruled that CB&I's acquisition of assets from a competitor was likely to substantially lessen competition, or tend to create a monopoly, in markets for cryogenic storage tanks used in a variety of industrial applications. The Commission had ordered divestitures to undo the deal and restore competition. The Fifth Circuit's recent opinion fully endorsed the Commission's findings. The court agreed with the Commission's analytical approach to the merger

as well as the ordered relief.

Pharmaceutical markets have long been a critical focus area for the Commission, and we

typically allege multiple and systemic security vulnerabilities that were easily and inexpensively avoidable. This suggests that companies must do more to protect sensitive customer information. Security is an ongoing process, not a static exercise.

The Commission will continue to educate consumers and businesses about protecting personal information, and we will continue to hold companies accountable for their information security practices. As you will hear from my colleague, Commissioner Leibowitz, additional civil penalty authority in areas including data security will reinforce the deterrent effect of the cases the agency brings.

We are tremendously gratified that Congress expanded the Commission's ability to cooperate with our foreign counterparts through the U.S. SAFE WEB Act. The law added new information sharing tools into the Commission's law enforcement arsenal. This allows us to pursue a wider range of cross-border enforcement matters involving spam, spyware, telemarketing fraud, misleading health and safety claims, and privacy and security breaches – all challenges we face in an increasingly global marketplace.

The Commission continues to expand its international enforcement cooperation efforts using the tools provided by the SAFE WEB Act. Cross-border enforcement cooperation is one of the most important issues in consumer protection and consumer privacy, and its importance is only going to grow further. Harmful practices affecting consumers no longer confine themselves within national borders. Just as a strong domestic enforcement program is important to reap the benefits of good privacy laws, strong cross-border enforcement capabilities are equally essential in a global economy.

In the past year, the Commission focused on implementing the SAFE WEB Act. We published new (and amended) rules to facilitate international information sharing. Since the rules went into effect in May 2007, the FTC has shared information 17 times with foreign agencies in

cross-border consumer protection matters involving fraudulent telemarketing scams, deceptive mail schemes, and spam cases. For example, when investigating a Canadian-based bogus lottery and

of doing so.

In conjunction with these cases, the Commission launched a related consumer education effort: a fact sheet on how to avoid foreclosure rescue scams; a series of radio PSAs, in English and Spanish; and warnings about foreclosure rescue schemes, which we will place in the classified ad sections of English- and Spanish-language community newspapers.

The Commission likewise has been active in its efforts to protect consumers of non-mortgage financial services. The agency also announced in February consent agreements with three Internet payday lenders who advertised the cost of their loans without disclosing their annual percentage rate in violation of the Truth in Lending Act. The violation makes it far more difficult for consumers to comparison shop between payday loans as well as between payday loans and other short term forms of credit.

I appreciate the opportunity to present remarks on these important issues, and I welcome your questions on these and other topics. Thank you.