

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION ON

"THE JOINT FEDERAL- STATE ENFORCEMENT MODEL
ESTABLISHED BY THE TELEMARKETING

specific provisions of the TSR not the broad prohibition in Section 5 against unfair deceptive practices.⁽¹⁸⁾ Courts might take a range of positions as to whether a given practice fits the legal criteria for deception or unfairness. The possible range is much narrower, however, with respect to whether a defendant has engaged in specific misrepresentations prohibited by the TSR, or has failed to make specific material disclosures required by the TSR.

III. Practical Application of the Joint Federal-State Enforcement Scheme

In accordance with the intent of Congress, as embodied in the Telemarketing Act, the FTC has pursued a joint strategy with the state attorneys general to enforce the TIA. An important tool in implementing this strategy is Consumer Sentinel, a searchable consumer complaint database and law enforcement investigative tool⁽¹⁹⁾ for collecting and analyzing consumer complaint data.

A. Consumer Sentinel

Consumer Sentinel grew out of a joint project of the FTC and the National Association of Attorneys General begun some years ago to develop a nationwide database of telemarketing fraud complaints. Today the FTC's Consumer Sentinel is a global database that receives complaints about many types of transactions, not just telemarketing. Complaints are entered into Consumer Sentinel from the FTC's Consumer Response Center ("CRC"), which processes about 12,000 telephone and mail inquiries and complaints a week.⁽²⁰⁾ They cover everything from complaints about get-rich-quick telemarketing scams and online auction fraud, to questions about consumer rights, various credit statutes and requests for educational materials. Counselors record complaint data, answer inquiries, and provide information to consumers in resolving their complaints. Consumer Sentinel also receives data from other public and private consumer organizations, including 64 local offices of the Better Business Bureau across the nation, the National Consumers League's National Information Center, and Project Phonebusters in Canada.

Commissioner.

2. The FTC also shares ju

11. 16 C.F.R. §10.3(a)(2).

12. The Rule prohibits telemarketers from calling before 8:00 a.m. or after 8:00 p.m. (in the time zone where the consumer is located), and from calling consumers who have said they do not want to be called by or on behalf of a particular seller. 16 C.F.R. §§ 310.4(c), and 310.4(b)(1)(ii).

13. For example, the Rule requires telemarketers to obtain consumers' express verifiable authorization before debiting their checking accounts, 16 C.F.R. §310.3(a)(3), bans telemarketers who offer to arrange loans, provide credit repair services, or recover money lost by a consumer in a prior telemarketing scam from seeking payment before rendering the promised services, 16 C.F.R. §§ 310.3(a)(2)(4), and prohibits credit card laundering and other forms of "assisting and facilitating" deceptive telemarketers. 16 C.F.R. §§ 310.3(b) and (c).

14. Before passage of the Telemarketing Act, the Commission could obtain traditional equitable remedies: preliminary and permanent injunctions, asset freezes, appointment of receivers, accountings, restitution to consumer victims, and disgorgement pursuant to 15 U.S.C. § 53(a)(2)(A).

99-6941-Civ-Jordan (S. D. Fla. 1999), state attorneys general joined the FTC as plaintiffs.

24. None of the remaining 17 cases was part of any TSR enforcement sweep.

25. The Commission produced a variety of print and online consumer materials for the effort, including a brochure, a Consumer Alert, a bookmark, a poster, a campaign webpage and a web banner PSA. The FTC staff gave our partners copies of all of the print materials for distribution and together we widely promoted the campaign web page (www.ftc.gov/bcp/online/edcams/advfee/index.html), which includes links to the materials. The Commission staff also developed and distributed classified advertisements alerting consumers about advance