
consumers in the financial services marketplace is a critical part of the FTC's consumer protection mission. Last year, I reorganized the Bureau of Consumer Protection to create the "new" Division of Financial Practices, with the goal of reinvigorating the Commission's work in the area of core financial services, such as lending and debt collection. Today, I am announcing our agenda on these issues. This year, we will focus on the "ABCs" of financial practices: ~~A~~ Alternative mortgages, Bon's wor

² See FTC Press Release, *FTC: Mortgage Broker's Deceptive Claims Tricked Consumers Looking for a Good Rate* (June 2, 2004), available at <http://www.ftc.gov/opa/2004/06/chasefinancial.htm>.

arrest if they do not immediately pay their debts.⁵ f -2.36.

repair schemes. Of course, legitimate credit counseling organizations offer valuable services to help consumers solve their financial problems. However, we have taken enforcement actions against those offering debt reduction services that charge hidden fees, make false promises to lower consumers' debts and even misrepresent that they will eliminate accurate negative information from consumers' credit reports.⁶

Just a few weeks ago, the Commission filed a complaint against Express Consolidation, Inc., a nationwide debt consolidation business, in which we alleged that the company operated as a sham nonprofit, misrepresented the fees involved in their debt management programs, and violated the National Do Not Call Registry.⁷ The company also allegedly misrepresented that enrolling in their program would improve consumers' credit rating. We are seeking consumer redress in federal district court, a fre

While working hard to co-lead the Task Force, we are still focused on doing our own part at the FTC. Deterrence of identity theft begins with data security – keeping sensitive information out of the hands of wrongdoers. Over the past two years, the FTC has brought 14 enforcement actions against businesses that have failed to provide reasonable data security: ChoicePoint, DSW, CardSystems Solutions, and Petco to name just a few. Among the 14 are cases against companies that threw files containing consumer home loan applications into an unsecured dumpster; stored sensitive information in multiple files when there was no longer a business need to keep the information; failed to implement simple, low-cost, and readily available defenses to well known Web-based hacker attacks; stored sensitive consumer information in unsecured

statements, and credit reports; and

! They should DEFEND against ID theft as soon as they suspect it. Quick action is essential.

The Deter, Detect, Defend campaign has been very popular – we have distributed more than 1.5 million brochures and 30,000 kits.¹² And we have formed many partnerships to help us broaden our reach. For example, the National Association of Realtors, which has 1.2 million members, partnered with the FTC to educate homebuyers. And the U.S. Postal Inspection Service just started a large-scale outreach campaign that is placing the FTC’s educational materials on subway cars in Washington D.C., New York, Chicago, and San Francisco and that is also placing paid advertising in college newspapers and on campuses around the country.

IV. New Technology

The FTC acts quickly to respond to marketplace changes and their consumer challenges, and the digital age provides no shortage of consumer benefits or challenges. In the past two years, the FTC has brought nine spyware enforcement actions that challenged a variety of unlawful practices – from nuisance adware to malicious malware that wreaked havoc on consumers’ hard drives. Recent FTC spyware actions include a strong settlement with Zango, Inc., formerly known as 180solutions, and a pending litigation against ERG Ventures.¹³ In the

¹² One component of the campaign is a consumer education kit, which is aimed at helping organizations educate their employees, their customers, and their communities about how to minimize their risk. The kit includes a victim recovery guide, a training booklet, a guide to talking about identity theft, presentation slides, an easy-to-read brochure, and a 10-minute video.

¹³ See FTC Press Release, *Zango, Inc. Settles FTC Charges* (Nov. 3, 2006), available at <http://www.ftc.gov/opa/2006/11/zango.htm>; FTC Press Release, *Court Shuts Down*

OnGuardOnline.¹⁵ OnGuardOnline.gov provides general information on online safety, interactive educational games that teach consumers

of its CDs were bundled with a media player that sent information back to Sony over the Internet about the artists or albums that consumers listen to on their computers and returned targeted advertising.

To resolve these allegations, Sony BMG entered into a consent agreement with the Commission that, among other things, prohibits it from installing content protection software without obtaining consumers' authorization, and requires it to clearly and prominently disclose to consumers what the technology will do, any restrictions on the devices on which its music CDs can be played, and any limits on the number of copies that can be made. In addition, the company is required to reimburse consumers up to \$150 to repair damage that resulted directly from consumers' attempts to remove the software installed without their consent.

V. Marketing of Health Care Products

The FTC has, as you know, a robust enforcement program directed at deceptive advertising. Within this realm, a top priority is prosecuting companies that make bogus health claims to consumers and getting money back to consumers who were scammed. Deceptive health claims can harm consumers even beyond their wallets. In *FTC v. Great American Products*,¹⁷ – a case that challenged claims that defendants' products reduced fat, cholesterol, and blood pressure – we recently resolved a lengthy dispute over the terms of the final order and promptly mailed refund checks totaling more than \$15 million to 130,000 consumers (the average check was for just over \$118). In response, we have received gratifying hand-written

¹⁷ *H.bi*

thank you notes with comments including, “The money came at a great time!” and “there is a God, and through him, there’s an agency, people who really care.”

Too often, consumers fall prey to fraudulent health marketing because they are desperate for help. Fifty million Americans suffer from a chronic pain condition¹⁸ and have found no effective cure or treatment. Seventy million Americans are trying to lose weight. The FTC will continue to prosecute companies that take advantage of these consumers, whether they are fly-by-night or Fortune 500, and whether they are willing to negotiate or insist on litigating to the bitter end. Let me give you examples of two recent cases. The first is an outright fraud perpetrated on hundreds of thousands of consumers suffering from pain. Andrew Park and his companies advertised the Q-Ray bracelet as a

Defendants not have a gold-standard study in their possession, they did not even have a copper-standard study.”²⁰ The court found the defendant companies and Mr. Park guilty of misleading and false advertising, both about the pain relief benefits of the bracelet and about the 30-day satisfaction guarantee promise of a full refund, and ordered them to pay up to \$87 million in refunds to consumers – the entire net sales generated by the deceptive infomercials, a big victory for consumers and a strong deterrent for fraudulent marketers.²¹ We invested significant resources and time to litigate this case to the bitter end, and the outcome for the agency and for consumers was well worth it.

The second case is one of four recent cases in the weight loss area. Just a few weeks ago, the FTC announced settlements with the makers of four significant and high-profile weight-control and weight-loss products, Trimspa, Cortislim, Xenadrine, and One-A-Day WeightSmart.²² In a case against Bayer, we announced a \$3.2 million civil penalty settlement of an order violation case against the company for alleged deceptive marketing of One-A-Day WeightSmart. The product, a multivitamin supplement with a sprinkling of green tea extract added to it, was advertised to enhance metabolism and help consumers control their weight. The \$3.2 million civil penalty is the highest civil penalty ever obtained by the FTC in a health claims case. The Bayer case illustrates that our enforcement efforts against health claims and products are not limited to outright fraud by fringe marketers. The FTC takes action against any company

²⁰ *Id.* at 965.

²¹ *Id.* at 975.

²² *See* FTC Press Release,

that steps across the line and makes exaggerated or unfounded claims for otherwise legitimate products.

VI. Do Not Call

I have one more FTC law enforcement development to announce here today, and this one deals with a topic that is near and dear to millions of consumers, the National Do Not Call Registry. The FTC has successfully resolved litigation against The Broadcast Team, a telemarketer that broadcast prerecorded calls to consumers.²³ In December 2005, the Department of Justice filed a civil penalty action on the FTC's behalf, alleging that defendants violated the Telemarketing Sales Rule by calling numbers on the National Do Not Call Registry and making "abandoned calls" – calls which fail to connect consumers to a live operator within two seconds. Defendants preemptively filed a separate action against the FTC for declaratory and injunctive relief, arguing, among other things, t

protection authorities around the globe in an effort to likewise work beyond borders. Over the past decade, the FTC has brought many successful cases, often in partnership with our foreign colleagues, against fraudulent telemarketers based in other countries, who target U.S. consumers with advance-fee loan schemes, phony foreign lotteries, bogus business directory listings, and other scams.²⁴

There are two FTC developments on the international front that I would like to discuss with you. First, is the passage of the US SAFE WEB Act in the last minutes of the 109th Congress.²⁵

provided to the FTC by a foreign government agency, and this will allow us to obtain information that we it would not otherwise receive from foreign entities. Finally, SAFE WEB contains several provisions that will strengthen the FTC's enforcement relationships, both bilaterally and within multilateral organizations, such as allowing the FTC to participate in meaningful staff exchanges with foreign counterparts (both antitrust and consumer protection) – exchanges that have been in great demand but that we have not been authorized to implement.

We feel a great sense of accomplishment and appreciation now that this law has passed, and the Commission will take advantage of our new tools consistent with our policy goals and resources. We are looking forward to working with our partners – both domestic and internati

VIII. Conclusion

Staying ahead of new threats to consumers and the marketplace calls for the best efforts of government, industry, and consumer organizations, both individually and cooperatively. I appreciate CFA's efforts on behalf of American consumers, and I look forward to continuing our work together. Thank you.

I would be happy to take any questions.