

PREPARED STATEMENT OF  
THE FEDERAL TRADE COMMISSION

on

“Staying A Step Ahead: Fighting Back Against Scams Used to Defraud Americans”

Before the

UNITED STATES SENATE COMMITTEE ON COMMERCE,

SCIENCE, AND TRANSPORTATION

SUBCOMMITTEE ON CONSUMER PROTECTION,

PRODUCT SAFETY, AND DATA SECURITY

WASHINGTON, D.C.

March 21, 2017

## I. INTRODUCTION

Chairman Moran, Ranking Member Blumenthal, and members of the Subcommittee, we are pleased to appear before you to testify on behalf of the Federal Trade Commission (“FTC” or “Commission”) and discuss the agency’s work to combat consumer fraud. The impact of the FTC’s consumer protection work is significant. In the past year, the agency obtained judgments totaling over \$ 11.9 billion for consumers affected by deceptive and unfair practices.<sup>2</sup> We detail some of our accomplishments in the attached Appendix.

The FTC is a highly productive, bipartisan independent agency with a broad mission. It is the only federal agency with jurisdiction to both protect consumers and maintain competition in most sectors of the economy.<sup>3</sup> In fulfilling its consumer protection mission, the agency enforces laws that prohibit business practices that are unfair or deceptive to consumers, being mindful not to impede legitimate business activity. The FTC also educates consumers and businesses to encourage informed consumer choices and compliance with the law. Through its research, reports, and policy work, the FTC further promotes an honest and competitive marketplace.

Government enforcement of the rule of law is also essential for an honest and competitive marketplace to flourish. Thus, fighting fraud is at the core of the FTC’s consumer protection mission. Our anti-fraud program tracks down and stops some of the most pernicious frauds that

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<sup>1</sup> The views expressed in this statement represent the views of the Commission. Our oral presentations and responses to questions are our own and do not necessarily reflect the views of the Commission.

<sup>2</sup> As discussed below, this figure includes a \$10.03 billion settlement order with Volkswagen Group of America, Inc. related to its alleged misrepresentation of fuel efficiency ratings. *FTC v. Volkswagen Group of Am., Inc.*, No. 3:15-md-02672-CRB (N.D. Cal. Oct. 25, 2016), available at <https://www.ftc.gov/enforcement/cases/proceedings/162006/volkswagen-group-america-inc>.

<sup>3</sup> The FTC has broad law enforcement responsibilities under the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, and enforces a wide variety of other laws ranging from the Clayton Act to the Fair Credit Reporting Act. In total, the Commission has enforcement or administrative responsibilities under more than 70 laws. See <http://www.ftc.gov/ogc/stats.shtm>

prey on U.S. consumers, often on those who can least afford to lose money.

The FTC's commitment to fighting fraud is as strong as ever, and I am pleased to share with you some of the highlights of the FTC Bureau of Consumer Protection's work

## I. CIVIL LAW ENFORCEMENT ACTIONS TO STOP FRAUD

Aggressive law enforcement is the key component in the FTC's efforts to fight fraud. When we identify unfair or deceptive acts or practices that harm consumers, we sue the fraudsters in federal district court, seeking injunctive relief to stop illegal business practices and monetary relief in the form of redress for consumers or disgorgement of ill-gotten gains. Below are just a few examples of the variety of frauds the Commission pursues, and the ways that we leverage our limited resources to do this effectively

### Imposter Scams – When I'm Not Who I Am

Reports about imposter scams have been on the rise for the past few years. Scammers falsely claiming to be government agencies, well-known businesses, family members, or others, contact consumers and ask them to send money via cash-like payment methods. Many of these scams are conducted over the phone and originate in call centers outside the United States where fraudsters use technology and payment services that enable them to hide their identities

month, the FTC brought an action against *PHLG Enterprises* ~~alleging~~ that the company and its owner collected more than \$1.5 million from about 3,000 consumers in a variety of schemes that included IRS tax scams, government grant scams, and advance fee scams.<sup>5</sup> The FTC alleged that telemarketers at Indian call centers conned consumers into sending payments via wire transfers, and the defendants paid “runners” to collect the money at retail stores that offer money transfer services throughout the United States. The defendants and their runners kept a portion of the money and delivered the rest to the ~~Indian~~ scammers.

To tackle offshore callers who impersonate the IRS and perpetrate other scams, the FTC has organized four summits, including three in India, to bring together the Indian call center industry, technology companies, as well as U.S. and Indian law enforcers. One product of this collaboration was a four-city training program in India for Indian law enforcement, led in part by FTC staff. The training was designed to enhance the capacity of Indian law enforcement to investigate, arrest, and prosecute people in that country who perpetrate these imposter frauds including against consumers in the U.S. Last fall, Indian police shut down a massive telemarketing fraud ring operating outside Mumbai, arresting 70 people and detaining more than 600 employees.<sup>6</sup> Shortly after that action, the U.S. Department of Justice (“DOJ”) unsealed an indictment charging 61 individuals with involvement in a transnational telemarketing fraud scheme operating out of a network of call centers in India that bilked U.S. consumers out of hundreds of millions of dollars through IRS and other government imposter schemes.<sup>7</sup> Following

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<sup>5</sup> *FTC v. PHLG Enterprises LLC*, No.

these law enforcement actions, the number of IRS imposter scams reported to the FTC plummeted<sup>8</sup> Unfortunately, IRS imposter complaints appear to be on the rise once again, demonstrating that aggressive and persistent law enforcement action is needed to combat fraud.

#### “We’ve Detected a Problem with Your Computer

Technical support scams are another form of impersonation scams that have proliferated in recent years. The con artists typically impersonate legitimate technical support companies or claim affiliation with large computer or software manufacturers. For example, last June, the FTC and the State of Florida obtained a court order temporarily shutting down an operation that allegedly used Internet ads to imitate alerts on consumers’ computer displays. The complaint alleged that the phony alerts mimicked legitimate messages from Apple or Microsoft, misleading consumers (many of whom were senior citizens) into believing their computers had serious problems and directing them to call a toll-free number. Once on the phone, the operation’s telemarketers allegedly “diagnosed” the computer, claimed to find issues requiring immediate repair by a technician, and charged consumers hundreds of dollars for repairs they likely did not need. The case remains in litigation. Technical support scams like this one have caused consumers hundreds of millions of dollars in injury. The FTC continues to target such scams consulting and cooperating with state and federal partners as well as researchers and computer

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<sup>8</sup> Nat Wood, *Police raids in India cut down IRS imposter calls*, FTC Consumer Blog (Jan. 5, 2017), available at <https://www.consumer.ftc.gov/blog/police-raids-india-cut-down-irs-impostercalls>

<sup>9</sup> *FTC v. Big Dog Solutions LLC*, No. 16CV-6607 (N.D. Ill. June 24, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/162042x160045/helpdesknational>; see also *FTC v. Global Access Technical Support LLC*, No. 16CV-1556 (E.D. Miss. Oct. 3, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/162095x170001/globalaccesstechnicalsupport> (FTC alleged that the defendants misled consumers with pop-ups that mimicked legitimate alerts warning consumers of computer infections).

<sup>10</sup> See, e.g., *FTC v. Inbound Call Experts, LLC*, No. 9:14-cv-81395-KAM, (Nov. 10, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132135/inboundcall-expertsllc>. (FTC alleged consumer harm of more than \$190 million).

software and manufacturing industry members.

### Imposter Scams Affecting Small Businesses

Although individuals are often the targets of imposter scams, these schemes also prey on small businesses.

domain name registration scams<sup>15</sup> and others.

### “You Are Eligible for a Credit Card Interest Rate Reduction”

Since 2009, the FTC’s Telemarketing Sales Rule has prohibited the vast majority of robocalls selling a good or service.<sup>16</sup> Despite this, unscrupulous actors have taken advantage of technological advancements to blast prerecorded messages, or robocalls, pitching fraudulent goods or services.<sup>17</sup> Last June, the FTC led a multinational crackdown on robocallers, working with domestic and international law enforcement partners to bring nearly 40 cases against operations believed to be responsible for billions of illegal robocalls.<sup>18</sup> As part of that crackdown, the FTC and the Florida Attorney General obtained a court order temporarily shutting down *Life Management Services*, a company that allegedly bombarded consumers with illegal robocalls touting bogus credit card interest rate reduction and debt relief services.<sup>19</sup> The complaint charged that the defendants used fake company names that deceived consumers into thinking that the defendants had a relationship or affiliation with the consumers’ credit card issuers. In some instances, the defendants allegedly tailored their debt elimination pitch to consumers over age 60. The complaint states that this scheme bilked consumers out of more than \$15.6 million since 2013. This matter remains in litigation.

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<sup>15</sup> See, e.g., *FTC v. Data Business Solutions Inc.*, No. 08-CV-2783 (N.D. Ill. May 14, 2008), available at <https://www.ftc.gov/enforcement/cases-proceedings/072038/data-business-solutions-inc-also-dba-internet-listing-service> (defendants allegedly posed as domain name registrars and convinced thousands of U.S. consumers, small businesses and nonprofit organizations to pay bogus bills by leading them to believe they would lose their site addresses unless they paid).

<sup>16</sup> See 16 C.F.R. § 310.4(b)(1)(v).

<sup>17</sup> New technologies have led to an immense source of consumer frustration: the blasting of prerecorded messages that primarily rely on Voice over Internet Protocol technology. In 2016, the FTC received an average of more than 290,000 robocall complaints per month.

<sup>18</sup> See Press Release, FTC, Florida Attorney General Take Action Against Illegal Robocall Operation (June 14, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/06/florida-attorney-general-take-action-against-illegal-robocall-operation> (the FTC and Florida Attorney General obtained a court order temporarily shutting down Life Management Services, a company that allegedly bombarded consumers with illegal robocalls touting bogus credit card interest rate reduction and debt relief services. The complaint charged that the defendants used fake company names that deceived consumers into thinking that the defendants had a relationship or affiliation with the consumers’ credit card issuers. In some instances, the defendants allegedly tailored their debt elimination pitch to consumers over age 60. The complaint states that this scheme bilked consumers out of more than \$15.6 million since 2013. This matter remains in litigation).





For example, this month the FTC brought a case against *World Patent Marketing*.<sup>23</sup> The Commission alleged that the defendants defrauded individual inventors who hoped to market their inventions and obtain commercial success. The defendants promised inventors that, in exchange for thousands of dollars in up-front fees, they would obtain patents for the inventions and promote the inventions to industry. In fact, the defendants did little if anything for the inventors, who rarely, if ever, received patents and virtually none of them made money from their inventions.

The FTC has also brought cases against multi-marketing companies that mislead consumers. For example, the Commission obtained an order requiring multi-marketing company Herbalife to fully restructure its U.S. business operations and pay \$200 million in consumer redress to settle allegations, among others, that the company deceived consumers into believing they could earn substantial money selling dietary and nutritional supplements.

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### “Try It For Free!”

The Restore Online Shoppers' Confidence Act (“ROSCA”<sup>25</sup>) which strengthens consumer protections related to negative option sales, was signed into law in 2010.<sup>26</sup> Enforcement of this law has helped the FTC address consumer fraud.

In September 2016, the FTC and the states of Illinois and Ohio returned almost \$20 million to more than 145,000 consumers who were charged by a group of defendants, which included *One Technologies, LLC*, in a deceptive negative option billing scheme.<sup>27</sup> We alleged that the defendants lured online consumers with “free” access to their credit scores and then billed them a recurring \$29.95 monthly fee for credit monitoring they never ordered. The defendants marketed their credit monitoring programs through at least 50 websites.<sup>28</sup>

### “We Will Lower Your Payments!”

The FTC continues to fight scams targeting consumers who are struggling to pay their mortgages and other debts.<sup>29</sup> In *FTC v. Good Ebusiness LLC*, the FTC charged a debt relief operation with falsely representing to financially distressed homeowners and student loan borrowers that it would help modify their mortgage or student loan debt.<sup>30</sup> The FTC alleged that

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<sup>25</sup> 15 U.S.C. §§ 8401 *et seq*

<sup>26</sup> *Id.* § 8403.

<sup>27</sup> *FTC v. One Technologies, LP*, No. 3:14cv-05066 (N.D. Cal. Nov. 17, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132->



obtained in this case imposed a judgment of more than \$4.4 million.

“Fun to Drive and Good for the Environment!”

Deceptive and fraudulent schemes can also affect car purchases and refinancing. In June, the FTC reached an historic \$10

In October, the seller of the liquid supplement Supple agreed to settle FTC charges that they falsely advertised that their product provided complete relief from chronic and severe joint pain caused by arthritis and fibromyalgia.<sup>36</sup> The company agreed to a court order requiring scientific evidence to support any future claims and imposing a \$150 million judgment, most of which was suspended based on the defendants' inability to pay.

### Money Systems Used in Fraud

The FTC has aggressively pursued the money transfer services commonly used in many scams. When sending money via a wire transfer, a consumer is effectively sending cash, and she is unable to retrieve the money once she discovers she has been deceived. Last month, the FTC and the DOJ each announced settlements with the money transfer company Western Union that will return \$586 million to harmed consumers. The FTC alleged that for many years, fraudsters around the world have used Western Union's system to obtain payments from consumers. Our complaint charged that the company has long been aware of the problem that some of its representatives were complicit in fraud.<sup>37</sup> According to the complaint, Western Union's database has numerous complaints about the use of its system by perpetrators of a wide variety of common and pernicious scams, including internet purchase scams; lottery or prize scams; "emergency" or grandparent scams,<sup>38</sup> advance-fee loan scams; and online dating or romance

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<sup>36</sup> *FTC v. Supple LLC*, No. 1:16-cv-1325 (E.D. Wis. Oct. 4, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142231/supplellc>.

<sup>37</sup> *FTC v. The Western Union Company*, No. 1:17-cv-00110-CCC (M.D. Penn. Jan. 19, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/122208/westernunion-company>

<sup>38</sup> A grandparent scam involves an imposter claiming to be a grandchild in need of immediate financial help, such as money to get out of jail or to cover hospital costs. See, e.g., Press Release, FBI, *Alleged Operator of "Grandparent Scam" Indicted* (Oct. 26, 2012), available at <http://www.fbi.gov/losangeles/press-releases/2012/alleged-operator-of-grandparent-scam>



perpetrated via spoofed email.<sup>42</sup> OTEch's work provides insights and guidance for businesses addressing this problem.

## II. LEVERAGING RESOURCES

The ubiquity of consumer scams and the limited resources of the FTC demand that the Commission target fraud strategically and that we cooperate with other law enforcement agencies to broaden our reach and improve our effectiveness. The FTC coordinates with federal, state, and international law enforcement agencies, including those with criminal authority, to leverage resources to track down fraudsters and build actions to stop them.

To effectively combat fraud, the FTC collects and analyzes consumer complaint information through its Consumer Sentinel Network ("CSN"). CSN is an online complaints database that provides federal, state, and local law enforcement agencies with secure access to consumer complaints on a wide variety of fraud-related topics. Law enforcement agencies and private organizations contribute consumer complaints to the database, which is searchable by such criteria as the name, address, and telephone number of an entity, and the type<sup>43</sup> of fraud. The CSN serves as a cornerstone of the FTC's ability to act quickly and effectively against fraud. It contains more than 13 million complaints dating from calendar year 2012 through calendar year 2016.<sup>44</sup>

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<sup>42</sup> FTC Staff Perspective, *Businesses Can Help Stop Phishing and Protect their Brands Using Email Authentication*, March 2017 available at [https://www.ftc.gov/system/files/attachments/presses/online-businesses-could-do-more-protect-their-reputations-prevent-consumer-phishing-schemes/email\\_authentication\\_staff\\_perspective\\_0.pdf](https://www.ftc.gov/system/files/attachments/presses/online-businesses-could-do-more-protect-their-reputations-prevent-consumer-phishing-schemes/email_authentication_staff_perspective_0.pdf)

<sup>43</sup> The Consumer Financial Protection Bureau, the Council of Better Business Bureaus, 21 state law enforcement agencies, and some private entities such as MoneyGram and Western Union, are among the entities that contribute data to CSN.

<sup>44</sup> FTC Sentinel Data Book at 3

Almost 1.3 million complaints filed last year were fraud-related.<sup>45</sup> Consumers reported paying over \$744 million in those fraud complaints; the median amount paid was \$450. Fifty one percent of the consumers who reported a fraud related complaint also reported an amount paid. Fifty-five percent of all fraud-related complaints reported the method of initial contact. Of those complaints, 77% said they were contacted by telephone and 8% by mail. Only 3% of those consumers reported mail as the initial point of contact.<sup>46</sup> Notably, the FTC and its law enforcement partners mine the CSN database to identify trends and targets, as well as to develop cases against existing targets.

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Given the cross-border nature of many scams, the Commission also partners with multiple foreign agencies to combat fraud. For example, the Commission is a member of the Centre of Operations Linked to Telemarketing Fraud (“Project COLT”), a joint operation involving U.S. and Canadian agencies to combat cross-border offenses. Through this mechanism, the FTC coordinates law enforcement efforts and exchanges intelligence with Canadian authorities.<sup>49</sup>

Our work with our state partners is equally important. Over the last two years, we have collaborated with the states on dozens of investigations and numerous joint enforcement actions.

scheme, were convicted of providing multiple false statements to a bank. These two defendants, who have settled with the FTC, are now serving lengthy prison terms and the FTC is preparing to provide redress to tens of thousands of customers.<sup>54</sup>

### III. FRAUD PREVENTION EDUCATION AND OUTREACH INITIATIVES

Consumer and business outreach and education complement the FTC's law enforcement work. These programs reach tens of millions of people and businesses each year through our websites, the media, and partner organizations that disseminate consumer information on the agency's behalf.<sup>55</sup>

The FTC educates the public on a wide range of consumer protection topics, both in English and in Spanish, and we convey our messages in print and online materials, consumer and business blog posts, and speeches and presentations. In response to input from legal services providers about consumers' needs, the FTC created *Consumer.gov* and its Spanish language version *Consumidor.gov*. These websites provide consumer protection basics, helping users access important information about money management, credit and debt, protecting personal information, and identifying scams. The websites make this content accessible through straightforward design and audio read-along of text, video explanations of key issues, and easy conversion to a larger font.

The lessons of *Consumer.gov* were further developed in *Pass It On*, the agency's campaign to get older adults to talk about frauds. *Pass It On* seeks to arm older people with

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<sup>54</sup> *United States v. Jeremy Johnson et al.*, No. 2:11er-00501 (D. UT verdict filed Mar. 25, 2016).

<sup>55</sup> In 2016, there were more than 58 million views of the FTC's online consumer education and business guidance pages. In addition, over 14,000 community groups and individuals ordered more than 15.5 million consumer and business publications to use and share.

information that they can “pass on” to family and friends who might need it. The materials and videos available at <http://www.ftc.gov/PassItOn> are direct and to the point, with a friendly and respectful tone informed by research about the target community’s preferences. The materials cover topics such as imposter and health care scams, charity fraud, and identity theft. The distribution of 6.2 million *Pass It On* materials since the campaign’s launch indicates that these resources have resonated with the target audience.

A further example of the FTC’s work is the *IdentityTheft.gov* website, which helps consumers report identity theft, get personalized recovery plans, and push them into action. When a consumer creates an account, the website walks the consumer through each recovery step, updates the personalized plan as needed, tracks progress, and gives pre-filled forms and letters for the consumer to use. *IdentityTheft.gov* has allowed the agency to give consumers not only actionable advice, but an interactive, personalized experience that consumers say make real difference.



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The FTC also offers materials to help small businesses avoid becoming

engage in both common carrier and non-common carrier activities are still subject to FTC jurisdiction for those products or services they provide that are not common carriage.

Because no other agency has the FTC's economy-wide authority, the Ninth Circuit's decision creates significant gaps in consumer protection. The FCC, for example, has authority over only matters "for and in connection with" common carrier services.<sup>59</sup> Thus, under the Ninth Circuit ruling, when a company offers both common carrier services and other non-common carriage products or services, such as the sale of electronic devices, home security, or entertainment content, neither the FCC nor the FTC would be able to protect consumers in matters relating to those non-common carriage products or services. Elimination of the common carrier exception will close this gap and allow the FTC to use more effectively its extensive consumer protection experience and law enforcement tools to protect consumers from unfair and deceptive practices in the marketplace.

## V. CONCLUSION

Thank you for the opportunity to provide the Commission's views. We appreciate Congress's confidence in the FTC's ability to protect consumers. Through our enforcement, education, and policy efforts, we will continue to ensure that your confidence is well-placed.

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<sup>59</sup> See 47 U.S. Code § 01.

## **Appendix**

### **Snapshot of BCP's Law Enforcement, Consumer Complaints, and Education and Outreach**

#### **Enforcement Actions (since FY 2014)**

- Federal Complaints
  - 179 complaints filed in Federal Court
- Consumer Redress
  - 377 orders entered in Federal Court granting \$14 billion in consumer redress
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## **Education and Outreach**

- Outreach events
  - The Bureau of Consumer Protection and the FTC's Regional Offices participated in over 275 outreach events in 2016, including conferences, workshops, webinars, trainings, presentations, exhibits, and Twitter chats.
  
- Website Views
  - In calendar year 2016, the FTC had more than 58 million views of its online consumer education and business guidance pages. Of that, 2.9 million page views