Oral Statement of Commissioner Christine S. Wilson, FTC

As Prepared for Delivery

Before the
U.S. Senate Committee on Commerce, Science, and Transportation
Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security

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Introduction

Thank you, Chairman Moran, Ranking Member Blumenthal, and distinguished members of the Subcommittee, for the opportunity to testify. It is an honor to appear before you for the first time since I joined the Commission two months ago.

I would like to highlight today one of the areas I identified as a personal and agency priority during my confirmation process—the healthcare industry. As you know, the healthcare industry impacts every American and takes a significant bite out of each paycheck. Given its importance, it should come as no surprise that the FTC is quite active in this segment of the economy.

I would like to briefly discuss two issues associated with healthcare, one related to consumer protection and the other related to competition.

Consumer Protection

On the consumer protection side, the marketing of unproven or ineffective treatments for serious health conditions is unfortunately all too common, and rightly remains a top priority for FTC enforcement.

One important area for the FTC is the marketing of products that claim to address opioid addiction. The CDC estimates that a staggering 115 Americans die every day – ***every day*** – from an opioid overdose.[1] People seeking lifesaving help for opioid addiction or withdrawal must get the right kind of help as soon as they are ready to receive it. Products that promise miracle cures or fast results can cost precious time and money, and can contribute to relapse or even death. It is illegal to advertise that a product or service can cure a condition without competent and reliable scientific evidence to back up those health claims.

The Commission has sued two companies that marketed bogus withdrawal and addiction treatment products.[2] The FTC also is conducting a number of non-public investigations in this

[1] *Opioid Overdose, Understanding the Basics*, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/drugoverdose/epidemic/index.html (last visited Nov. 27, 2018).
[2] Compl., FTC v. Catlin Enterprises, Inc., No. 1:17-cv-403 (W.D. Tex. filed May 3, 2017), https://www.ftc.gov/system/files/documents/cases/withdrawal_ease_-_complaint_w_exhibit.pdf; Amended Compl.,

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manufacturers.[6] Alternatively, if a competing firm applies for FDA approval of a generic, biosimilar, or interchangeable product, the branded manufacturer may improperly deny that competitor access to a single, shared REMS system, leaving the FDA unable to approve the competitor's application and labeling.[7]

Regardless of the precise method employed, concerns arise when branded pharmaceutical manufacturers subvert laws and regulations designed to protect the health and safety of consumers and instead use those frameworks to protect themselves from competition. By excluding competitors from the market, branded drug companies can price their products higher than they otherwise could. As a result, consumers – including both your constituents and government entities – risk paying more for these medicines.

Recognizing that REMS abuse is a competition problem, the FTC has used its existing powers to investigate potential antitrust violations. The FTC has also engaged in advocacy, including *amicus curiae* briefs filed in private litigation.[8]

We are grateful that members of the Subcommittee share our concerns and have proposed legislation that would more directly address this problem. To that end, FTC staff have been providing technical assistance on various bills, and we will continue to support legislative efforts.

Conclusion

In closing, the Commission recognizes the importance of healthcare in the daily lives of American consumers. Our targets include both longstanding challenges, such as the use of bogus claims to market unproven health treatments to consumers, and relatively new ones, such as
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