





## **I. Mobile and New Technology**

New technologies benefit consumers in countless ways. In recent years, we've seen remarkable growth in the use of smartphones and connected devices, which enable consumers – from any location – to find information, contact friends, shop and pay for goods and services, update their social networks, monitor their health and fitness, and access devices in their cars and homes remotely, among many benefits and conveniences.

Clearly, the marketplace has moved to the mobile arena, and consumer protections need to move with it. Mobile technologies also raise special consumer protection challenges because they are always with you and always on; they can track your location and connect to each other; and they have a small screen, or increasingly no traditional screen, making disclosures to consumers ever more challenging.

Protecting consumers as they use and benefit from new technologies has been a chief priority of my tenure. The main goal, again, is to make clear that basic consumer protections apply to these new technologies and platforms.

Much of our work in this area deals with consumer privacy, which I'll discuss shortly. But the growth of technology raises many other important consumer issues – for example, unauthorized payments, false advertising, and basic fraud. During the past two years, the FTC has brought much-needed attention to these issues.

Notably, last year, we announced cases against Apple,<sup>2</sup> Amazon,<sup>3</sup> and Google<sup>4</sup> for allegedly failing to obtain parents' permission before letting kids run up charges in mobile gaming apps. We also took action against numerous companies – including (with all 50 states and the Federal Communications Commission) T-Mobile<sup>5</sup> and AT&T<sup>6</sup> – for allegedly “cramming” unauthorized third-party charges on consumers' mobile phone bills.<sup>7</sup> These cases

highlight the ease with which consumers can incur unauthorized, often fraudulent charges through the mobile platform, and the need for basic safeguards to prevent them.<sup>8</sup> In addition, we charged AT&T<sup>9</sup> and TracFone<sup>10</sup> with making misleading claims that they provided “unlimited data” to subscribers to their internet service.<sup>11</sup> Thus far, we’ve obtained hundreds of millions of dollars in consumer refunds from these cases collectively.

We’re also tackling unsubstantiated health claims on the mobile platform. For example, the FTC recently charged two app developers with deceptively claiming that their mobile apps – Mole Detective and MelApp – could detect symptoms of melanoma, even in the early stages.<sup>12</sup> In fact, we alleged, the companies lacked evidence to show that their apps could detect melanoma, early or at all.

Even debt collectors are getting in on the mobile act. In the past two years, we’ve taken action against a number of collectors that sent unwanted texts to deceive and threaten consumers.<sup>13</sup>

In addition, we’re putting a stop to fraud involving mobile texts, new payment platforms, and virtual currencies. For example, last year, we settled a series of cases cracking down on affiliate marketers that we alleged bombarded consumers with hundreds of millions of unwanted spam text messages in an effort to steer them towards deceptive websites falsely promising “free” gift cards.<sup>14</sup>

More recently, we took action against the makers of *Prized*, a mobile gaming app that supposedly earned con Tm [(m36(dl)-12(y)2 23.65 2 Tw [(s)1(((/6( d)-4e)-2(ons3(i-6(a)4(e)4(ds)-1 m)-6(o804







Health data is another important FTC concern because it's sensitive and often regarded as private and because, contrary to popular belief, much of it falls outside of HIPAA. Indeed, HIPAA doesn't cover most health apps and consumer generated health data, but the FTC Act does. In December, we charged



unanimous Commission also supports a law to give us civil penalty and breach notification authority in this important area.

This year, we are emphasizing our data security educational tools and taking our message on the road, gearing up for a campaign called *Start with Security*, in which we will host events around on the country on security topics and best practices.<sup>41</sup> We also continue to put out new and current business guidance, including our latest piece on lessons learned from FTC cases.<sup>42</sup>

Additionally, we are vigorously enforcing the laws protecting the privacy and accuracy of sensitive consumer report data<sup>43</sup> and kids' privacy,<sup>44</sup> as well as the U.S.-EU Safe Harbor Framework.<sup>45</sup>

One theme I am stressing in our privacy program is the connection between the sale of sensitive data and fraud. In fact, we often discover in our fraud cases that the scammers used highly sensitive data bought from another company – including Social Security and bank account numbers – to trick or steal from consumers.<sup>46</sup> This data goes well beyond the usual lead lists we've been seeing for years.

For example, in December, we brought action against data broker LeapLab.<sup>47</sup> We alleged that LeapLab bought the payday loan applications of financially strapped consumers – which included names, addresses, phone numbers, employers, SSNs, and bank account numbers – and then sold it to marketers whom it knew had no legitimate need for it. These marketers included scam artists that used the data to withdraw millions of dollars from consumers' accounts. These types of cases are hard to investigate and prove but we have more in the pipeline. They reveal a very troubling trend and help to answer the question we so often hear in privacy – “where's the harm?”

But we also know that many lead generators and data brokers don't engage in these

### **III. Deception in New Media**



dive into forms of promotion that were relatively new when we did our last update – for example, Twitter, affiliate marketing, “like” buttons, employee endorsements, solicited endorsements, and uploaded videos. Last year, we also launched a project to highlight the importance of prominent disclosures as a means to prevent claims – including endorsements – from being misleading.<sup>68</sup> Also, in November 2013, we held a workshop on “native advertising” to explore the blending of advertising with news, entertainment, and editorial content in digital media.<sup>69</sup> We’ll be issuing guidance on that topic by the end of the year.

#### **IV. Protecting Every Community**

Last but not least, I want to highlight our work to protect every community from fraud. Stopping fraud is the FTC’s largest consumer protection program, and for good reason: fraud causes enormous harm to consumers. Our work in the last two years has targeted many different forms of fraud – sham charities,<sup>70</sup> illegal robocalling,<sup>71</sup> phony business opportunities,<sup>72</sup> investment schemes,<sup>73</sup> and imposter scams,<sup>74</sup> just to name a few. In doing so, we’ve significantly ramped up our efforts to reach and protect the many communities that are affected by fraud.

We’ve always tried to reach and protect different populations so this isn’t exactly new. But the U.S. population is changing. As a country, we are getting older and more diverse, and the FTC wants to be sure we meet the needs of a changing population.

Over the last two years, through the agency’s *Every Community Initiative*, we’ve done outreach and education, developed partnerships with trusted community advocates, and brought cases. For starters, we’ve hosted over a dozen major conferences to learn more about consumer protection issues in a wide range of communities. We’ve hosted workshops on how fraud affects every community;<sup>75</sup> how using Big Data can help or harm consumers;<sup>76</sup> how debt collection



that we've stopped involved tech support to fix nonexistent computer problems,<sup>89</sup> recovery scams purporting to recoup losses from other frauds,<sup>90</sup> and fraudulent health and safety schemes.<sup>91</sup>

## V. Conclusion

As you can see, the last two years have been incredibly busy – keeping pace with the rapid changes in the marketplace and taking action to promote compliance and deter the growth of harmful trends. Thank you for having me here today.

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<sup>1</sup> The views expressed here are my own and do not necessarily represent the views of the Federal Trade Commission or any Commissioner.

<sup>2</sup> *Apple, Inc.*, No. C-4444 (Mar. 25, 2014), *available at*

<https://www.ftc.gov/enforcement/cases-proceedings/112-3108/apple-inc>.

<sup>3</sup> *FTC v. Amazon.com*, No. 2:14-cv-01038 (W.D. Wash. filed July 10, 2014), *available at*

<https://www.ftc.gov/enforcement/cases-proceedings/122-3238/amazoncom-inc>.

<sup>4</sup> *Google, Inc.*, No. C-4499 (Dec. 2, 2014) (F.T.C. consent), *available at*

<https://www.ftc.gov/enforcement/cases-proceedings/122-3237/google-inc>.

<sup>5</sup> *FTC v. T-Mobile USA, Inc.*, No. 2:14-cv-0097-JLR (W.D. Wash. filed Dec. 19, 2014),

*available at* <https://www.ftc.gov/enforcement/cases-proceedings/132-3231/t-mobile-usa-inc>.

<sup>6</sup> *FTC v. AT&T Mobility, Inc.*, No. 1:14-cv-3227-HLM (N.D. Ga. filed Oct. 8, 2014),

*available at* <https://www.ftc.gov/enforcement/cases-proceedings/132-3248/att-mobility-llc>.

<sup>7</sup> *See* al2(t)012 94.08 391.8 Tm ( )Tj /TT3 1 Tf -6hC ET /Link <</417.48 363.28 26 >>BDC B-3(T)



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- <sup>11</sup> See also *FTC v. DirecTV*, No. 3:15-cv-01129 (N.D. Cal. filed Mar. 11, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/102-3141/directv> (alleging company misrepresented costs of its cable service).
- <sup>12</sup> *Health Discovery Corp.*, No. C-4516 (Mar. 13, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3211/health-discovery-corporation-melapp-matter>; *FTC v. New Consumer Solutions LLC et al.*, No. 15-C-1614 (N.D. Ill. filed Feb. 23, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3210/new-consumer-solutions-llc-mole-detective>.
- <sup>13</sup> See, e.g., *FTC v. Primary Group Inc.*, No. 1:15-CV-1645 (N.D. Ga. filed May 21, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/1423158/primary-group>; *FTC v. Unified Global Group, LLC*, No. 1:15-cv-00422-EAW (W.D.N.Y. filed May 21, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/1423140/unified-global-group>; *FTC v. Premier Debt Acquisitions LLC*, No. 1:15-cv-00421-FPG (W.D.N.Y. filed May 21, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/1423157/premier-debt-acquisitions>; *U.S. v. National Attorney Collection Services, Inc.*, No. 2:13-cv-06212-ODW-VBK (C.D. Cal. filed Aug. 23, 2013), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3032/national-attorney-collection-services-inc>.
- <sup>14</sup> See *FTC v. Advert Marketing Inc.*, No. 413-cv-00590 (S.D. Tex. stipulated order filed June 9, 2014), available at [https://www.ftc.gov/enforcement/cases-proceedings/132-3019-x130037/advert-marketing-inc-pdff322\(oTdl.33](https://www.ftc.gov/enforcement/cases-proceedings/132-3019-x130037/advert-marketing-inc-pdff322(oTdl.33) 95 523711TaqEr)T36C1 EMC

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- <sup>16</sup> *FTC v. Erik Chevalier, Co.*, No. 3:15-cv-1029-AC (D. Ore. filed June 11, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3061/erik-chevalier-forking-path>.
- <sup>17</sup> *Dot Com Disclosures: How to Make Effective Disclosures in Digital Advertising* (Mar. 2013), available at <https://www.ftc.gov/tips-advice/business-center/guidance/com-disclosures-how-make-effective-disclosures-digital>.
- <sup>18</sup> See <https://www.consumer.ftc.gov/articles/pdf-0001-netcetera.pdf>.
- <sup>19</sup> See generally <https://www.ftc.gov/news-events/media-resources/mobile-technology>.
- <sup>20</sup> See, e.g., Jessica Rich, *BCP's Office of Technology Research and Investigation: The Next Generation in Consumer Protection*, FTC Business Blog, Mar. 23, 2015, at

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- <sup>34</sup> *foru Int'l Corp.*, No. C-4457 (May 8, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3095/forutm-international-corporation-matter>.
- <sup>35</sup> *GMR Transcription Servs., Inc.*, No. C-4482 (Aug. 14, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3095/gmr-transcription-services-inc-matter>.
- <sup>36</sup> *FTC v. Bayview Solutions LLC*, No. 1:14-cv-01830-RC (D.D.C. filed Oct. 31, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3226-x140062/bayview-solutions-llc>.
- <sup>37</sup> *FTC v. Cornerstone & Co.*, No. 1:14-cv-01479-RC (D.D.C. filed Aug. 27, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3211-x150005/cornerstone-company-llc>.
- <sup>38</sup> *FTC v. Wyndham Worldwide Corp.*, Civil No. 13-1887 (ES) (D.N.J. Apr. 7, 2014) (opinion denying defendant's motion to dismiss), available at <http://www.ftc.gov/enforcement/cases-proceedings/1023142/wyndham-worldwide-corporation>. An appeal of the district court's decision in this matter is pending in the Third Circuit. *FTC v. Wyndham Hotels & Resorts, LLC*, No. 14-3514.
- <sup>39</sup> *LabMD Inc.*, Docket No. 9357 (filed Aug. 28, 2013), available at <https://www.ftc.gov/enforcement/cases-proceedings/102-3099/labmd-inc-matter>.
- <sup>40</sup> *FTC v. Lifelock Inc.*, No. 2:10-cv-00530-MHM (D. Az. filed July 21, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/072-3069-x100023/lifelock-inc-corporation>.
- <sup>41</sup> See FTC Press Release, *FTC Kicks Off "Start with Security" Business Education Initiative*, June 30, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/06/ftc-kicks-start-security-business-education-initiative>.
- <sup>42</sup> *Start with Security: A Guide for Business* (June 2015), available at <https://www.ftc.gov/tips-advice/business-center/guidance/start-security-guide-business>.
- <sup>43</sup> *U.S. v. Instant Checkmate, Inc.*, No. 3:14-cv-00675-H-JMA (S.D. Cal. Apr. 1, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3221/instant-checkmate-inc>; *U.S. v. In4*

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matter; *Atlanta Falcons Football Club, LLC*, No. C-4462 (June 19, 2014), available at [https://www.ftc.gov/ftc/aa/4a/Falons4462%20Final%20Order%20\(1\).pdf](https://www.ftc.gov/ftc/aa/4a/Falons4462%20Final%20Order%20(1).pdf) [(b) (6) (D)].

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- <sup>50</sup> FTC Seminar, *Spring Privacy Series: Alternative Scoring Products* (Mar. 19, 2014), available at <https://www.ftc.gov/news-events/events-calendar/2014/03/spring-privacy-series-alternative-scoring-products>.
- <sup>51</sup> FTC Seminar, *Spring Privacy Series: Consumer Generated and Controlled Health Data* (May 7, 2014), available at <https://www.ftc.gov/news-events/events-calendar/2014/05/spring-privacy-series-consumer-generated-controlled-health-data>.
- <sup>52</sup> FTC Report, *Data Brokers: A Call For Transparency and Accountability* (May 2014), available at <https://www.ftc.gov/reports/data-brokers-call-transparency-accountability-report-federal-trade-commission-may-2014>.
- <sup>53</sup> FTC Workshop, *Big Data: A Tool for Inclusion or Exclusion?* (Sept. 15, 2014), available at <https://www.ftc.gov/news-events/events-calendar/2014/09/big-data-tool-inclusion-or-exclusion>.
- <sup>54</sup> FTC Staff Workshop Report, *The Internet of Things: Privacy and Security in a Connected World* (Jan. 2015), available at <https://www.ftc.gov/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things>.
- <sup>55</sup> FTC Workshop, *Cross Device Tracking* (Nov. 16, 2015), available at <https://www.ftc.gov/news-events/events-calendar/2015/11/cross-device-tracking>.
- <sup>56</sup> See, e.g., *POM Wonderful, LLC v. FTC*, No. 13-1060 (D.C. Cir. Jan. 30, 2015) , available at <https://www.ftc.gov/enforcement/cases-proceedings/pom-wonderful-llc-et-al>; *FTC v. TriVita, Inc.*, No. 2:14-cv-01557-DLR (D. Az. July 11, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3185/trivita-inc>; *FTC v. Gerber Products Co.*, No. 2:33-av-00001 (D.N.J. Oct. 30, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3009/gerber-products-co-doing-business-nestle-nutrition-et-al>; *Genelink, Inc.*, No. C-4456 (May 8, 2014), available at [https://www.ftc.gov/enforcement/cases-proceedings/112-3095/gen\(e\)4-12\(g\)n /TT1nt/60.004 Tc 0.004](https://www.ftc.gov/enforcement/cases-proceedings/112-3095/gen(e)4-12(g)n /TT1nt/60.004 Tc 0.004)

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<https://www.ftc.gov/enforcement/cases-proceedings/132-3173/abernathy-motor-company-et-al>. See also FTC Press Release, *FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing*, Mar. 26, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown> (announcing “Operation Ruse Control,” which included six FTC cases with more than \$2.6 million in monetary judgments); FTC Press Release, *FTC Announces Sweep* 2(e)(1)-2(or)3(e)(1)-2(ha) 4erathfs101 Tw [(F

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- <sup>70</sup> See, e.g., *FTC v. Cancer Fund of America, Inc. et al.*, No. CV15-884 PHX NVW (D. Az. filed May 18, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3005/cancer-fund-america-inc>.
- <sup>71</sup> See, e.g., *FTC v. Caribbean Cruise Line, Inc. et al.*, No. 0:15-cv-60423 (S.D. Fla. Mar. 4, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3196/caribbean-cruise-line-inc>; *FTC v. Worldwide Info Servs., Inc.*, No. 6:14-cv-8-ORL-28DAB (M.D. Fla. Nov. 13, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3175/worldwide-info-services-inc>; *FTC v. All Us Marketing LLC*, No. 6:15CV1016-ORL-28GJK (M.D. Fla. June 29, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3256/all-us-marketing-llc-formerly-known-payless-solutions-llc>; *FTC v. Lifewatch, Inc.*, No. 1:15-cv-05781 (N.D. Ill. June 30, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3123/lifewatch-inc>.
- <sup>72</sup> See, e.g., *FTC v. The Online Entrepreneur, Inc.*, No. 812-cv-2500-T-27MAP (M.D. Fla. July 30, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3186/online-entrepreneur-inc-et-al>; *U.S. v. Business Recovery Services, LLC*, No. 2:11-cv-00390-JAT (D. Az. Sept. 30, 2013), available at <https://www.ftc.gov/enforcement/cases-proceedings/1123009/business-recovery-services-llc-et-al>; *U.S. v. The Zaken Corp.*, No. CV12-09631 (C.D. Cal. Oct. 21, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3293/zaken-group-also-dba-zaken-corporation-quicksell-quiksell>.
- <sup>73</sup> See, e.g., *FTC v. Consumer Collection Advocates, Corp.*, No. 0:14-cv-62491-BB (S.D. Fla. Nov. 3, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3082/consumer-collection-advocates-corp>.
- <sup>74</sup> See, e.g., *FTC v. First Time Credit Solution, Corp.*, No. CV15-01921-DDP-PJW (C.D. Cal. filed Mar. 16, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3114/first-time-credit-solution-corp-ftc-credit-solutions>.
- <sup>75</sup> See, e.g., FTC Workshop, *Fraud Affects Every Community*, Oct. 29, 2014, available at <https://www.ftc.gov/news-events/events>

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Attorney General's Office); *Sharing a Common Ground: A Common Ground Conference in St. Louis*, May 1, 2014, available at <https://www.ftc.gov/news-events/events-calendar/2014/05/sharing-common-ground-common-ground-conference-st-louis> (joint



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<sup>92</sup> *FTC v. Professional Career Development Institute, LLC*, No. 1:15-cv-01872-