

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION
on

I. INTRODUCTION

Chairman Thune, Ranking Member Nelson, and members of the Committee, the Federal Trade Commission (“FTC” or “Commission”) is pleased to appear before you today to testify about the FTC’s work to protect consumers and promote competition.¹

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. The agency enforces laws that prohibit business practices that are unfair or deceptive to consumers, or anticompetitive, and seeks to do so without impeding legitimate business activity.² The FTC also educates consumers and businesses to encourage informed consumer choices, compliance with the law, and public understanding of the competitive process. Through its research, advocacy, education, and policy work, the FTC promotes consumer protection and competitive markets in the United States.

The impact of the FTC’s work is significant. During the last fiscal year alone, the agency estimates that it saved consumers over \$3.4 billion through its competition enforcement efforts and over \$717 million through its consumer protection law enforcement actions.³

The FTC is committed to addressing the impact of technology and globalization as part of our law enforcement, rulemaking, and policy work. But even as commerce and technology continue to evolve, many of the fundamental problems we see in the marketplace remain the

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money selling diet, nutritional supplements, and personal care products.⁵

In recent years, the FTC’s consumer protection initiatives have focused primarily on addressing trends we see in the marketplace: protecting consumers on all platforms, protecting consumer privacy and data security, prosecuting false or deceptive health claims, safeguarding children in the marketplace, and stopping fraud in every community. Many of our cases have involved more than one of these trends. Each initiative is discussed in more detail below.

1. Protecting Consumers on All Platforms

In recent years, we have 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 other benefits and conveniences. But the growth of technology provides new mechanisms for engaging in unfair or deceptive practices – for example, unauthorized payments, false advertising, and basic fraud. Protecting consumers as they use and benefit from new technologies and platforms has been a chief FTC priority in recent years.

For example, the FTC has taken action against numerous companies – including T-Mobile⁶ and AT&T⁷ (with all 50 states and the Federal Communications Commission) – for allegedly “cramming” unauthorized third-party charges on consumers’ mobile phone bills. In addition, the Commission has settled charges against TracFone,⁸ which was accused of making

⁵ FTC v. Herbalife of Am., Inc., No. 2:16-cv-05217 (C.D. Cal. filed July 25, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3037/herbalife-international-america-inc-et-al>.

⁶ 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>.

⁷ 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>.

⁸ FTC v. TracFone Wireless, Inc., No. 3:15-cv-00392 (N.D. Cal. filed Jan. 28, 2015), available at

misleading claims about “unlimited data” internet service to subscribers.⁹ Thus far, the agency has obtained hundreds of millions of dollars for consumers from these cases.

The Commission has also brought several actions challenging fraud on new platforms. For example, the FTC challenged the alleged deceptive tactics

against the marketers of a line of weight-

plague consumers.¹⁷ And the FTC has developed numerous educational materials to deliver the key message to consumers: if you answer a call and hear an unwanted recorded sales message – hang up.¹⁸

2. Protecting

children's information.²⁵

The FTC's current privacy enforcement priorities include health privacy, the Internet of Things, big data, and data security. Over the past few years, the Commission has brought several cases to stop illegal practices that compromise health information.²⁶ For example, the FTC alleged that PaymentsMD and its former CEO misled thousands of consumers who signed up for an online billing portal.²⁷ According to the complaint, the defendants used the registration process for the billing portal as a way to deceptively seek consumers' consent to obtain highly-detailed medical information about the consumers from pharmacies, medical labs, and insurance companies to facilitate the launch of a separate online medical records service. The Commission also alleged that Practice Fusion, a company that provides management services to physicians, deceived hundreds of thousands of consumers by soliciting reviews about their doctors without adequately disclosing that the reviews would be posted publicly on the internet.²⁸ As detailed in our complaint, many of the posted reviews included consumers' full names, medications, health conditions, and treatments received.

The Internet of Things is also an expanding part of the Commission's privacy work. For example, the FTC announced a settlement with computer hardware company ASUS for allegedly failing to take reasonable steps to secure the software on its routers.²⁹ According to the

²⁵ 15 U.S.C. §§ 6501-6506; see also 16 C.F.R. Part 312.

²⁶ See, e.g., Henry Schein Practice Solutions, In re No. C-4575 (May 23, 2016), available at

complaint, the company's failures to timely address vulnerabilities or notify consumers about the availability of security updates resulted in critical security flaws in its routers that put the home networks of consumers at risk. The complaint also alleged that the routers' insecure "cloud" services led to the compromise of thousands of consumers' connected storage devices, exposing their sensitive personal data on the internet.³⁰ Last year, the FTC also issued a report addressing how longstanding privacy principles can be adapted to Internet of Things devices and recommending best practices for companies to follow.³¹

Another area of interest is big data, specifically the vast collection of data about consumers and enhanced capabilities to analyze data to make inferences and predictions about consumers. In January the Commission issued a report entitled **Big Data: A Tool for Inclusion or Exclusion?** addressing how the categorization of consumers may be both creating and limiting opportunities for them, with a focus on low-income and underserved consumers.³² A key message in the report is that there are laws— including the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and the FTC Act – that address some of the concerns raised by big data. The report also suggests questions businesses should ask to maximize the benefits of big data and reduce the risk of biases or inaccurate results about certain groups of consumers. The FTC also continues to focus on data brokers³³ and, among other things, the role they may play in

³⁰ See also **TRENDnet, Inc.**, No. C-4426 (Jan. 16, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3090/trendnet-inc-matter>.

³¹ FTC Staff Workshop Report, **The Internet of Things: Privacy and Security in a Connected World** (2015), available at <https://www.ftc.gov/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things>.

³² FTC Report, **Big Data: A Tool for Inclusion or Exclusion? Understanding the Issues** (2016), available at <https://www.ftc.gov/reports/big-data-tool-inclusion-or-exclusion-understanding-issues-ftc-report>.

³³ See, e.g. 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>.

facilitating fraud.

sensitive personal information.⁴⁰ And, the Commission continues to reiterate its longstanding, bipartisan call for federal legislation that would (1) strengthen its existing data security authority and (2) require companies, in appropriate circumstances, to provide notification to consumers when there is a security breach.⁴¹

Additionally, the agency has placed considerable emphasis in this area on education. Last year, for example, the Commission announced its **Start with Security** initiative, which includes a guide for businesses that summarizes the lessons learned from the FTC's 60 data security cases,⁴² as well as videos.⁴³ As part of this initiative, the FTC has organized one-day conferences in Austin, San Francisco, Seattle, and Chicago, bringing business owners and developers together with industry experts to discuss practical tips and strategies for implementing effective data security.⁴⁴ The FTC has also launched an improved version of IdentityTheft.gov⁴⁵ (robodeidentidad.gov in Spanish⁴⁶), a free, one-stop resource consumers can use to report and recover from identity theft. As part of the relaunched site, identity theft victims can use the site to create a personal recovery plan based on the type of identity theft they face, and get pre-hb

Deceptive weight loss claims continue to be an enforcement priority. In 2015, the Commission brought a number of cases against companies touting the slimming effects of various products. For example, the FTC obtained an \$11.9 million dollar judgment against affiliate marketing network LeadClick Media for using fake news sites to convince consumers that acai berry and colon cleansing weight loss products were proven effective.⁵¹ The FTC also obtained a federal court order against Lunada Biomedical and its principals settling allegations that they deceptively advertised that their dietary supplement Amberen caused substantial weight loss for women over 40, and that the weight loss was clinically proven.⁵²

4. Safeguarding Children in the Marketplace

The FTC also spends significant resources to safeguard children in the marketplace. For example, the Commission announced cases against Apple,⁵³ Amazon,⁵⁴ and Google⁵⁵ for allegedly billing parents without their consent for items kids bought in mobile apps. We alleged that the companies either failed to require a password for in-app purchases or failed to alert parents that entering a password opened a significant window of time where kids could rack up charges. Apple and Google agreed to change their billing practices and pay at least \$32.5 million and \$19 million, respectively, as redress to consumers. A federal judge granted the FTC's

<https://www.ftc.gov/enforcement/cases-proceedings/132-3212/lumos-labs-inc-lumosity-mobile-online-cognitive-game>.

⁵¹ See *FTC & Connecticut v. Leanspa, LLC*, No. 311-cv-01715 (D. Conn. Apr. 6, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/1123135/leanspa-llc-et-al> (Commissioner Ohlhausen dissenting in part and concurring in part).

⁵² *FTC v. Lunada Biomedical, Inc.*, No. 2:15-cv-03380-MWF (PLAx) (C.D. Cal. filed May 12, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3067/lunada-biomedical-inc>.

⁵³ *Apple, Inc.*, No. C4444 (Mar. 25, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3108/apple-inc>.

⁵⁴ *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>.

⁵⁵ *Google, Inc.*, No. C-4499 (Dec. 2, 2014), available at

request for summary judgment in the case against Amazon.⁵⁶

The Commission has also focused its resources on deceptive health claims involving children. The FTC's case against NourishLife challenged allegedly unsubstantiated claims for a supplement purporting to treat childhood speech and behavioral disorders, including those associated with autism.⁵⁷ Similarly, the Commission took action against the makers of the **Jungle Rangers** computer game for making false and unsubstantiated claims that the game permanently improves children's focus, memory, behavior, and school performance – including for kids with ADHD.⁵⁸

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created a number of apps directed to children that allowed third-party advertisers to collect personal information from children in the form of persistent identifiers without obtaining parental consent. Most recently, mobile advertising company InMobi agreed to pay \$950,000 in civil penalties to settle FTC allegations that it deceptively tracked the locations of hundreds of millions of consumers – including children – without their knowledge or consent to serve them geo-targeted advertising.⁶¹

5. Stopping Fraud in Every Community

Stopping fraud is the FTC's largest consumer protection program, and for good reason: fraud causes enormous harm to consumers. The Commission's work has targeted many different forms of fraud – including sham charities,⁶² illegal robocalling,⁶³ phony business opportunities,⁶⁴ investment schemes,⁶⁵ bogus business coaching and mentoring,⁶⁶ and imposter scams.⁶⁷

⁶¹ U.S. v. InMobi Pte Ltd., No. 3:16-cv-03474 (N.D. Cal. filed June 22, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3203/inmobi-pte-ltd>.

⁶² 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>.

⁶³ See, e.g. FTC v. Lifewatch Inc., 1:15-cv-05781 (N.D. IL. Jul. 14, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3123/lifewatch-inc>; FTC v. Life Management Services, Inc., 6:16-cv-982 (MD. Fla. Jun. 14, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3216/life-management>; 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>.

⁶⁴ See, e.g. FTC v. Money Now Funding, LLC, No. CV-13-01583 (D. Ariz., June 3, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3216-x130063/money-now-funding-llc>; 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>.

⁶⁵ 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>.

⁶⁶ FTC v. Apply Knowledge, LLC, 0:14-cv-00088 (D. UT., Mar. 2, 2016) (final orders), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3121-x140018/apply-knowledge-llc>; FTC v. Top Shelf Marketing Corp., 1:16-cv-00206 (S.D.N.Y. Jan. 12, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3228/top-shelf-marketing-corp>.

⁶⁷ See, e.g. FTC v. Centro N49743(49743(497 0 Tc 0ti BT /C8 15.683)-1-1.04(C)4c -0.002 ,.)1.6n.tc, 2.995 02T

encourage more attention to consumer protection issues in diverse communities, the FTC began a new project to reach ethnic media outlets by hosting roundtables with them in cities across the country. These ethnic media events highlight scams, frauds, and illegal practices affecting the relevant communities. The Bureau of Consumer Protection and its Regional Offices have participated in over 170 outreach events, including webinars, trainings, presentations, exhibits, and Twitter chats.

And the Commission has used its strongest tool – enforcement – to protect communities that have been specifically targeted by fraudsters. Most cases affect a broad cross-section of people, but scams are increasingly targeting specific groups, aided by the widespread availability of data profiles and leads on consumers. For example, the Commission halted the operations of a company that used false affiliation with the FTC – calling itself “FTC Credit Solutions” – to market bogus credit repair services to Spanish-speaking consumers.⁷³ Scams targeting the Spanish speaking population are pervasive, and the FTC has taken action to address many different kinds – involving pyramids and business opportunities,⁷⁴ unordered merchandise,⁷⁵ fraudulent debt collection,⁷⁶ and bogus health insurance.⁷⁷ The Commission is also stopping

Frauds that Affect the African American Community, May 19, 2015, available at <https://www.ftc.gov/news-events/events-calendar/2015/05/obstacles-economic-opportunity-joint-conference-ftc-naacp>.

⁷³ FTC v. First Time Credit Solution, Corp., No. CV161921-DDP-PJW (C.D. Cal. Aug. 3, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3114/first-time-credit-solution-corp-ftc-credit-solutions>.

⁷⁴ See, e.g. FTC v. Oro Marketing, Inc., No. 2:13-CV-08843 (C.D. Cal. Dec 22, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3047-x140010/oro-marketing-inc-et-al>; FTC v. Fortune Hi-Tech Marketing, Inc., No. 5:13-cv-00123-GFVT-REW (N.D. Ill. May 9, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/112-3069/fortune-hi-tech-marketing-inc-et-al>.

⁷⁵ See, e.g. FTC v. Herbalife of Am., Inc., No. 2:16-cv-05217 (C.D. Cal. July 25, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3037/herbalife-international-america-inc-et-al>; FTC v. Hispanic Global Way Corp., No. 14-22018-CIV-ALTONGA/O’Sullivan (Feb 26, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3113/hispanic-global-way-corporation>.

⁷⁶ See, e.g. FTC v. Centro Natural Corp., No. 14:23879-CIV-ALTONAGA/O’Sullivan (S.D. Fla. June

scams that target older consumers, including two sweepstakes that used personalized letters to seniors to trick them into paying to claim their prizes and took in more than \$28 million in one scam and over \$17 million in another.⁷⁸ Other frauds targeting seniors have involved tech support to fix nonexistent computer problems,⁷⁹ recovery scams purporting to recoup losses from other frauds,⁸⁰ and fraudulent health and safety schemes.⁸¹

The FTC has also brought actions against companies that target military service members. For example, for-profit school Ashworth College recruited service members and their families and accepted their military benefits as payment.⁸² The FTC alleged Ashworth misrepresented that students would get the training and credentials needed to switch careers or get a new job, and that it would transfer credits from other schools.

Defense and other organizations, will release a consumer protection toolkit for servicemembers and their families.

The FTC is also fighting scams that specifically target consumers already facing financial difficulties. The HOPE Services case – just one example – involved a sham operation that allegedly told financially distressed homeowners it would help reduce their mortgages, but instead effectively stole their mortgage payments, leading some to foreclosure and bankruptcy.⁸³ And the Commission has brought several cases involving abusive debt collection that victimized consumers already in debt.⁸⁴

B. Competition

The Commission seeks to promote competition through vigorous law enforcement. The FTC enforces U.S. antitrust law in many sectors that most directly affect consumers and their pocketbooks, such as health care, consumer products and services, technology, manufacturing, and energy.⁸⁵ In addition, the FTC undertakes competition policy research to improve agency decision-making, and engages in competition advocacy and education initiatives to encourage

⁸³ See *FTC v. Sameer Lakhany*, No. 8:12-cv-00337-CJC-JPR (C.D. Cal. Apr. 29, 2015), available at

state, local and foreign jurisdictions to adopt policies that promote competition and consumer welfare.

One of the agency's principal responsibilities is preventing mergers that may substantially lessen competition. Over the past two fiscal years, premerger filings under the Hart-Scott-Rodino Act have increased significantly; they are up approximately 36 percent in FY 2015 as compared to FY 2013 and have more than doubled over the past five years.⁸⁶ The vast majority of reported transactions, approximately 95 percent, do not raise competition concerns, and the Commission clears those transactions expeditiously. However, when the evidence has shown that the merger could be anticompetitive, the Commission has intervened. Since the beginning of fiscal year 2015, the Commission has challenged 44 mergers, including eight cases in which the Commission voted to initiate litigation to block the transactions.⁸⁷ This includes significant trial victories stopping both the Sysco/US Foods⁸⁸ and Staples/Office Depot⁸⁹ mergers. The Commission has been especially vigilant in response to heightened merger activity in the hospital and pharmaceutical sectors. In the last two years alone, the Commission has taken action in 13 pharmaceutical industry mergers, ordering divestitures of more than a hundred branded and generic drugs used to treat a variety of conditions.⁹⁰

⁸⁶ In FY 2015, the Agencies received notice of 1,801 transactions, compared with 1,326 in FY 2013 and 716 in FY 2009.

⁸⁷ Complete data on the FTC's competition workload is available on its website at <https://www.ftc.gov/competition-enforcement-database>.

⁸⁸ *FTC v. Sysco Corp* 13 F. Supp. 3d 1 (D.D.C. 2015).

⁸⁹ *FTC v. Staples, Inc.*, 7 F. Supp. 3d --- (D.D.C. 2016), available at

<https://www.ftc.gov/system/files/documents/cases/051016staplesopinion.pdf>.

⁹⁰ See, e.g. FTC News Release, *FTC Requires Teva to Divest Over 75 Generic Drugs to Settle*

The Commission also maintains a robust program to identify and stop anticompetitive conduct. For nearly 20 years, the Commission has prioritized ending anticompetitive reverse-payment patent settlements in which a brand-name drug firm pays its potential generic rival to delay entering the market with a lower cost, generic product. Following the Supreme Court’s 2013 decision in *FTC v. Actavis, Inc.*⁹¹ the Commission is in a much stronger position to protect consumers. Last June, for example, the FTC obtained a landmark settlement in its litigation against Cephalon, Inc.⁹² when Cephalon’s parent, Teva Pharmaceuticals, agreed to stop using certain types of anticompetitive patent settlements and pay up to \$1.2 billion in ill-gotten gains to reimburse drug wholesalers, pharmacies, insurers, and others who overpaid for the blockbuster sleep disorder drug Provigil.

To complement our enforcement efforts, the FTC pursues a robust policy and research agenda. The FTC promotes competition principles in advocacy comments to state lawmakers and regulators as well as our sister federal agencies. The FTC also organizes public workshops and issues reports on cutting-edge topics, including workshops on solar distributed generation and the so-called “sharing economy.” The Commission’s current competition research projects include a remedy study to evaluate the effectiveness of the Commission’s orders in past merger cases, which builds on a similar effort conducted in the 1990’s that led to important improvements in the Commission’s orders.⁹³ We are also in the final stages of a landmark study of patent assertion entities (PAEs) that will provide unique insights into PAE business models

⁹¹ *FTC v. Actavis, Inc.* 570 U.S. 756 (2013).

⁹² FTC News Release, *FTC Settlement of Cephalon Pay for Delay Case Ensures \$1.2 Billion in Ill-Gotten Gains Relinquished; Refunds Will Go To Purchasers Affected by Anticompetitive Tactics* (May 28, 2015), <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-settlement-cephalon-pay-delay-case-ensures-12-billion-ill>.

⁹³ FTC News Release, *FTC Proposes to Study Merger Remedies*, 9, 2015), <https://www.ftc.gov/news-events/press-releases/2015/01/ftc-proposes-study-merger-remedies>.

and activity.⁹⁴

With the expansion of global trade and the operation of many companies across national borders, the FTC and the Antitrust Division of the Department of Justice increasingly engage with foreign antitrust agencies to ensure close collaboration on cross-border cases and convergence toward sound competition policies and procedures.⁹⁵ The FTC effectively coordinates reviews of multijurisdictional mergers and continues to work with its international counterparts to achieve consistent outcomes in cases of possible unilateral anticompetitive conduct. The U.S. antitrust agencies also facilitate dialogue and promote convergence through multiple channels, including through strong bilateral relations with foreign competition agencies, and an active role in multilateral competition organization projects and initiatives. When appropriate, we also work with other agencies within the U.S. government to advance consistent competition enforcement policies, practices, and procedures in other parts of the world.

III. Challenges Facing the FTC

The FTC has worked to keep pace with the vast changes of the ever-changing marketplace. We recognize the agency must remain nimble to anticipate and respond to future marketplace changes and other challenges. However, two particular challenges are of concern: jurisdictional limitations over common carriers and nonprofits.

A. The FTC Act's Exception for Communications Common Carriers

The FTC Act exempts common carriers subject to the Communications Act from the FTC's enforcement of its prohibitions on unfair or deceptive acts or practices and unfair methods

⁹⁴ FTC News Release, *FTC Seeks to Examine Patent Assertion Entities and Their Impact on Innovation, Competition*(Sept. 26, 2013),

of competition. The FTC has long called for the repeal of the common carrier exception. This carve-out originated in an era when telecommunications services were provided by highly-regulated monopolies. The exception no longer makes sense in today's deregulated environment where the lines between telecommunications and other services are increasingly becoming blurred, such as when telecommunications companies are buying edge providers and consumers increasingly communicate over online social networks instead of landlines.

As the telecommunications and Internet industries continue to converge, the common carrier exception is increasingly likely to frustrate the FTC's ability to stop deceptive and unfair acts and practices and unfair methods of competition with respect to a wide array of activities. That is particularly so if the Ninth Circuit's recent decision in the AT&T case stands.⁹⁶ As a result of that decision, the common carrier exception may disable the FTC from enforcing

This problem is intensified by

how far afield from telecommunications) sold by two different companies, one with common carrier “status” and one without it, will be subject to unequal enforcement.

Removing the exception from the FTC Act would enable the FTC to bring its extensive law enforcement experience to bear in protecting consumers of common carriage services (and non-common-carriage services offered by common carriers) against unfair and deceptive practices in the same way that it can protect against unfair and deceptive practices for other services. For example, we have a long history of privacy and data security enforcement against a wide range of entities under our jurisdiction that operate in the technology and communications industries – companies like Microsoft, Facebook, Google, HTC, and Twitter, app providers like Snapchat, Fandango, and Credit Karma, and cases involving the Internet of Things, mobile payments, retail tracking, crowdsourcing, and lead generators. Removing the exception is the simplest, cleanest way to ensure cont to Googlentnts,50dnd onehecarow(e)-1(c)-1(hno)(i)3(ons)-1J ()Tj EMC

We recommend that our jurisdiction be extended to certain non-profit entities. In healthcare provider markets, where the Commission has particular expertise, the agency's inability to reach conduct by various non-profit entities has prevented the Commission from taking action against potentially anticompetitive behavior of non-

IV. 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 and, through our enforcement, education, and policy efforts, we will ensure that your confidence is well-placed. The FTC remains committed to finding ways to enhance its effectiveness in protecting consumers and promoting competition, to anticipate and respond to changes in the marketplace, and to meet current and future challenges. We look forward to continuing to work with the Committee and Congress, and we would be happy to answer any questions that you and other Members may have about the FTC.