























Pharmaceuticals after the parties **abandoned the deal**. The Commission's investigation focused on the potential loss of competition between TachoSil and Johnson & Johnson's Evarrest — the only two fibrin sealant patches approved in the U.S. to stop bleeding during surgery.

The Commission reviews pharmaceutical mergers to preserve competition in these vital markets. For instance, recently, the Commission announced settlements in mergers involving generic drugs used to treat **hypertension, epileptic seizures, bacterial conjunctivitis, and certain types of dysfunctional uterine bleeding**, as well as drugs used to treat **exocrine pancreatic insufficiency, moderate-to-severe Crohn's disease, and moderate-to-severe ulcerative colitis**.

Also on the merger front, the Commission preserved competition for three animal health products to resolve charges that **Elanco Animal Health, Inc.'s proposed \$7.6 billion acquisition of Bayer Animal Health** would be anticompetitive. In another matter, the Commission required divestitures to preserve competition for various **specialty and emergency veterinary services**.

The Commission also continues to combat anticompetitive conduct by pharmaceutical firms. In January 2020, the Commission filed a complaint against **Vyera Pharmaceuticals, LLC** that alleges Martin Shkreli and Kevin Mulleady orchestrated the company's scheme to purchase the life-saving drug, Daraprim, and raise its price by more than 4,000 percent. The defendants then kept the price high through anticompetitive acts that deterred and prevented other competitors from making a rival generic version. The FTC is joined by the attorneys general from seven states. The case is pending.



In its **first law enforcement crackdown on deceptive claims** in the growing market for cannabidiol (CBD) products, the FTC sued six sellers of CBD-containing products for allegedly making a wide range of scientifically unsupported claims about their ability to treat serious health conditions like, cancer, heart disease, hypertension, and Alzheimer’s disease. Under an administrative settlement, the **marketer behind Whole Leaf Organics** is barred from making baseless claims that his CBD-based product can treat or prevent the risk of COVID-19.

**Teami, LLC**, a marketer of teas and skincare products, paid \$1 million to settle FTC charges that it promoted its products using deceptive health claims and endorsements by well-known social media influencers who did not adequately disclose they were being paid to do so.

Last year the FTC brought a number of cases against the marketers of health-related products, including actions against supposed cures for **joint pain and inflammation**, for **cancer and diabetes**, for **ailments** and **physical damage related to aging**, and for **growing new bone** to alleviate pain, as well as an action against **an app** that didn’t keep users’ health information private.

## **Technology**

Competition in technology sectors is an important driver of innovation and growth in the economy, leading to new or better-quality products and lower prices that benefit consumers. This year more than ever, technology products and services have become central to our lives, allowing us to work and learn remotely, and to stay connected with friends and family.

Accordingly, ensuring that technology markets are competitively robust and consumers are adequately protected is more important than ever. In December, the Commission filed a federal court action against [Facebook](#), alleging that the company is illegally maintaining its personal social networking monopoly through various anticompetitive acts, including its strategic acquisitions of up-and-coming rivals Instagram and WhatsApp and imposition of anticompetitive conditions on software developers. The case is pending.

The FTC also has a pending suit against the consummated merger of two makers of body-worn cameras used by law enforcement. The FTC filed charges in January 2020, alleging Axon's acquisition of Safariland's VieVu body-worn camera division and associated non-compete and non-solicitation agreements harmed competition. [Safariland, LLC](#) agreed to settle the charges, and rescinded the non-compete and non-solicitation provisions. After the Ninth Circuit rejected Axon's federal suit challenging the FTC's administrative proceedings, the case to unwind the acquisition itself remains pending.

In December, CoStar Group, Inc. and its chief competitor for apartment internet listing services, RentPath Holdings, Inc., [abandoned their deal](#) after the Commission challenged it as anticompetitive. CoStar operates a network of websites, including Apartments.com, ApartmentFinder.com, and ForRent.com, which are two-sided platforms that match prospective renters with available apartments. RentPath operates similar websites, including Rent.com and ApartmentGuide.com. The complaint alleged that the acquisition would significantly increase concentration in the already highly concentrated markets for internet

listing services advertising for large apartment complexes in 49 individual metropolitan areas across the U.S.

On the consumer protection front, as the pandemic took hold, millions of users flocked to video communications platforms. [Zoom Video Communications, Inc.](#) agreed to settle FTC charges that the company misrepresented the level of encryption it offered and the time it took to store meetings in Zoom's secure cloud storage in an encrypted format, and installed software on certain users' computers that circumvented a privacy and security safeguards for certain users offered by their browser. The settlement prohibits Zoom from making a wide variety of privacy- and security-related misrepresentations, requires Zoom to implement an information security program (including a security review for all new software before release and restrictions on circumventing third-party security safeguards), and independent program assessments by a qualified third party.

The FTC also took action to halt the use of technology to promote deception and fraud related to COVID-19. The Commission sent [warning letters](#) to Voice over Internet Protocol (VoIP) Coronavirus-related telemarketing calls. And, last year, the Commission also brought its first consumer protection case against a VoIP provider, [Globex Telecom, Inc.](#), which agreed to pay \$1.9 million to settle charges from the FTC and the State of Ohio that they facilitated an illegal bogus credit card interest rate relief scheme. In addition, [Alcazar Networks Inc.](#) settled the FTC's charges that they facilitated tens of millions of illegal telemarketing phone calls.































The FTC responded to the [Centers for Medicare and Medicaid Services](#)' (CMS) request for comments on its Interim Final Rule with Comment Period (IFC). The comment supports the IFC's provisions that reduce or eliminate restrictive Medicare payment requirements for telehealth and other communication technology-based services during the COVID-19 public health emergency. Staff also wrote to DHS and the Office of the National Coordinator for Health Information Technology to comment on the [21st Century Cures Act](#): Interoperability, Information Blocking, and the ONC Health IT Certification Program Proposed Rule. Finally, FTC staff, together with the staff of the Antitrust Division of the DOJ, submitted a comment to [California](#) raising concerns that California Assembly Bill 1541 would harm competition along the chain of beer distribution in California, to the detriment of California's consumers.

The Commission continued to oppose the issuance of certificates of public advantage (COPAs), which immunize mergers from antitrust scrutiny. One such advocacy was filed in Texas, relating to the [Hendrick](#) Health System and Shannon Health System. Staff also filed comments recommending states allow Advanced Practice Registered Nurses and Certified Registered Nurse Anesthetists to work within the scope of their practice. The advocacies were sent to [Ohio](#), [Kansas](#), and [Texas](#).

## **Testimony**

The Chairman and FTC staff testified twice to the U.S. Congress in 2020:

[Oversight of the FTC](#) (Chairman Joseph Simons, August 5, 2020), before the *Senate Committee on Commerce, Science, and Transportation* ([Statement of Commissioner Rebecca Kelly Slaughter](#); [Statement of Commissioner Noah Joshua Phillips](#); [Statement of Commissioner Rohit Chopra](#); [Statement of Commissioner Christine Wilson](#)); and [Consumer Protection Issues Arising from the Coronavirus Pandemic](#) (Andrew Smith, July 21, 2020), before the *Senate Committee on Commerce, Science, and Transportation, Subcommittee on Manufacturing, Trade, and Consumer Protection*.

## **Reports and Guidelines**

During 2020, the FTC published reports and issued working papers addressing competition issues. The FTC and the DOJ Antitrust Division issued new [Vertical Merger Guidelines](#) that outline how the federal antitrust agencies have evaluated the likely competitive impact of vertical mergers and whether those mergers comply with U.S. antitrust law. These new Vertical Merger Guidelines mark the first time the FTC and the DOJ have issued joint guidelines on vertical mergers.

As the spread of COVID-19 took hold of the country, the FTC's Bureau of Competition and the DOJ's Antitrust Division [jointly announced](#) that they would seek to protect workers on the front lines of the pandemic — including doctors, nurses, first responders, and those who work in grocery stores, pharmacies, and warehouses, among other essential service providers — by using various antitrust laws against those who seek to exploit the current circumstances to engage in anticompetitive conduct in the labor market.







business alerts, law enforcement actions, consumer report data, and other details about the FTC's efforts to educate consumers and combat scams related to COVID-19.

In response to the pandemic, FTC staff also has conducted national and local outreach with partners to reach a variety of audiences, including older consumers, ethnic media, housing organizations, re-entry groups, library patrons, and the military community by using webinars, tele-town halls, Twitter chats, Facebook Live events, as well as interviews with local and national media. During the pandemic, FTC staff have participated in hundreds of virtual webinars, presentations, and interviews — in English, Spanish, and Mandarin.

In its other work, the FTC expanded its [Stop Gift Card Scams](#) campaign to give retailers, industry associations, and state and local law enforcement agencies a new toolkit to help them protect people against gift card scams. The toolkit includes materials to alert customers buying gift cards about possible fraud: a carousel or display rack sign, an infographic card for cashiers, a bookmark for customers to take away, and a sticker for retail windows or a checkout counter. These resources are available in English or Spanish. Anyone can download, print, and hand them out. People also can share tips about avoiding these scams in messages sent directly to customers or by posting the tips on social media.

The FTC [created resources](#) in English and Spanish to alert people to the importance of emergency preparedness, particularly during the pandemic. The FTC developed and promoted free resources as the Atlantic hurricane season got underway, including: a mobile-friendly site,







Through the FTC's technical assistance program, staff provided in-person competition law enforcement training to case teams in Bahrain, India, Indonesia, and Peru, as well as a regional program for ASEAN countries. We placed resident advisors in the Antimonopoly Committee of Ukraine, where we also engaged in competition advocacy to and education of ministries and the judiciary. Following pandemic-related travel restrictions, the FTC continued its technical assistance program by conducting virtual training for competition agency staff from Mexico, Nigeria, Peru, and Ukraine, and regional programs for agencies in Africa, the Caribbean, and Eastern Europe.

### **Consumer Protection and Privacy Law**

In the consumer protection area, the FTC engaged in enforcement-related mutual assistance with foreign agencies or multilateral organizations in 41 consumer protection and privacy matters. Foreign authorities assisted the FTC by sharing consumer complaints, obtaining corporate records, and providing other investigative information.

A key tool for the FTC to combat cross-border fraud and other misconduct that harms American consumers is the SAFE WEB Act. The Act confirms the FTC's statutory authority to sue foreign wrongdoers for conduct with a nexus to the U.S. and supports information sharing and investigative assistance with the agency's foreign counterparts. These efforts are even more critical in the current COVID-19 environment. First passed in 2006, and renewed in 2012, the Act was scheduled to sunset in 2020. Throughout the past year, the FTC worked with members





share consumer complaints about international scams. With Brazil's National Secretary of Consumer Protection (SENACON) and Colombia's SIC joining econsumer.gov this year, the econsumer.gov initiative now includes agencies in 41 countries. Econsumer.gov complaints help inform the FTC's enforcement. For example, the agency received hundreds of complaints from consumers located in Canada and more than fifty other countries, in addition to thousands from U.S. consumers, against online retailer **Fashion Nova** for its ecommerce practices. The company agreed to pay \$9.3 million to settle the FTC's allegations that it failed to notify customers about shipping delays and offer them the right to cancel with a full refund.

### **International Policy Initiatives**

The FTC promotes sound approaches to competition, consumer protection, and privacy issues by building relationships with counterpart agencies around the world.

### **Competition**

On the competition front, the FTC continued to work bilaterally and in multilateral bodies such as the International Competition Network (ICN), the Organization for Economic Co-operation and Development (OECD), the UNCTAD, and the Inter-American Competition Alliance on international convergence toward sound enforcement, policy, and procedures.

FTC officials held discussions with senior officials from counterpart agencies, including from Australia, Barbados, Brazil, Canada, Chile, the EU, India, Japan, Mexico, Namibia, New Zealand, South Africa, Ukraine, and the U.K. on competition policy issues including dominance in digital











