

**PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION
CURBING COVID CONS: WARNING CONSUMERS ABOUT PANDEMIC FRAUDS,
SCAMS, AND SWINDLES**

**Before the
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND DATA
SECURITY
UNITED STATES SENATE**

WASHINGTON, D.C.

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I. INTRODUCTION

Chairman Blumenthal, Ranking Member Blackburn, and Members of the Subcommittee, I am Daniel Kaufman, Acting Director of the Bureau of Consumer Protection at the Federal Trade Commission (Commission or FTC).¹ I am pleased to appear before you today. Despite the unprecedented challenges of the past year, the Commission has endeavored to protect consumers and competition. A key part of this work has been combatting COVID-related harms. The Commission staff recently released a report describing the major challenges consumers face from the pandemic and the Commission's efforts to help: using reports from consumers to identify and respond to emerging unlawful practices in real time; filing more than a dozen law enforcement cases; directing the removal of deceptive claims related to COVID-19 made by more than 350 companies; and educating consumers and businesses through more than 100 alerts on COVID-related topics.

The civil penalty authority in the newly-enacted COVID-19 Consumer Protection Act² and additional funding the Commission recently received from the American Rescue Plan will enable us to intensify our efforts to protect consumers from unscrupulous actors that seek to exploit the pandemic and its economic fallout. The Commission just brought its first action seeking monetary penalties under its new authority, targeting deceptive COVID-19 marketing of vitamin D and zinc products.³

In this testimony, I provide a high-level summary of the Commission's efforts.

¹ This written statement presents the views of the Federal Trade Commission. The oral statements and responses to questions reflect my own views and do not necessarily reflect the views of the Commission or any Commissioner.

² Pub. L. No. 116-260, 134 Stat. 1182, Division FF, Title XIV, § 1401(b)(1).

³ FTC Press Release, *In First Action Under COVID-19 Consumer Protection Act, FTC Seeks Monetary Penalties for Deceptive Marketing of Purported Coronavirus Treatments*, <https://www.ftc.gov/news-events/press-releases/2021/04/first-action-under-covid-19-consumer-protection-act-ftc-seeks> (Apr. 15, 2021).

II. COVID-19 CONSUMER PROTECTION EFFORTS

The Commission has worked diligently to identify and address the effects of the COVID-19 pandemic on American consumers and businesses. The Commission's response to COVID-19 has included law enforcement, consumer education and outreach, and data collection, each of which is discussed in more detail below.

a. Law Enforcement

Most recently, the FTC deployed its new authority under the COVID-19 Consumer Protection Act to charge that a chiropractor and his company deceptively marketed products containing vitamin D and zinc as scientifically proven to treat or prevent COVID-19.⁴ The federal court complaint seeks civil penalties authorized by the new statute and an order barring baseless health claims.

This action is merely the latest in a long line of enforcement efforts that began early in the pandemic. The FTC issued its first warnings to consumers about COVID-19 related scams in February 2020, even before the declaration of a national emergency.⁵ As schemes proliferated in response to demand for scarce goods, to peddle treatments and cures, and to exploit consumers' and small businesses' financial distress, the FTC moved quickly to challenge deceptive claims.

The agency filed its first court action⁶ just one month after the national emergency declaration.⁷ In that case, the FTC alleged that a company falsely claimed to be an approved lender to induce struggling small businesses to submit applications for the Paycheck Protection

⁴ See *supra* n. 3.

⁵ *Coronavirus: Scammers follow the headlines*, <https://www.consumer.ftc.gov/blog/2020/02/coronavirus-scammers-follow-headlines> (Feb. 10, 2020).

⁶ Complaint, *FTC v. Ponte Investments, LLC*, Case No. 1:20-cv-00177 (D.R.I.), available at <https://www.ftc.gov/system/files/documents/cases/sbacomplaint.pdf>.

⁷ Proclamation 9994 of March 13, 2020, available at <https://www.govinfo.gov/content/pkg/FR-2020-03-18/pdf/2020-05794.pdf>.

Plan loan program, administered by the Small Business Administration (SBA).⁸ In response, a federal court order has barred the defendants from misrepresenting affiliation with the SBA or that they are authorized to issue SBA loans.⁹

In a second action against a government impostor, the FTC sued a company that allegedly deceived consumers with mailers that featured a Great Seal of the United States and a mock stimulus check and promised to get them federal COVID-19 stimulus benefits.¹⁰ As alleged in the complaint, rather than assisting consumers obtain stimulus benefits, the mailers sought to lure consumers to a car dealership.

Companies also have been quick to capitalize on consumers' concerns about their health and safety. The FTC has sued entities for allegedly breaking promises to quickly ship much needed goods, including personal protective equipment (PPE) and cleaning products.¹¹ In one such action, the FTC sued a website operator that misrepresented that critical PPE, such as masks and hand sanitizer, were in stock and would ship the next day. In reality, the Commission alleged, the defendant failed to ship the PPE for weeks without seeking consent for the delay or offering consumers refunds.¹²

⁸ See *supra* n. 6.

⁹ Stipulated Final Order, *FTC v. Ponte Investments, LLC*, Case No. 1:20-cv-00177 (D.R.I.), available at https://www.ftc.gov/system/files/documents/cases/x200042_ponte_inv_-_stipulated_final_order.pdf.

¹⁰ Complaint, *In re Traffic Jam Events, LLC*, Docket No. 9395 (FTC), available at https://www.ftc.gov/system/files/documents/cases/d9395_traffic_jam_complaint_final.pdf.

¹¹ Complaint, *FTC v. SuperGoodDeals.com, Inc.*, Case No. 20-cv-3027 (E.D.N.Y.), available at https://www.ftc.gov/system/files/documents/cases/202_3135_supergooddeals_-_complaint.pdf; Complaint, *FTC v. QYK Brands LLC*, Case No. 8:20-cv-01431-JLS-KES (C.D. Cal.), available at https://www.ftc.gov/system/files/documents/cases/202_3147_qyk_brands_-_complaint.pdf; Complaint, *FTC v. Am. Screening, LLC*, Case No. 4:20-cv-1021 (E.D. Mo.), available at https://www.ftc.gov/system/files/documents/cases/202_3158_american_screening_-_complaint.pdf; Complaint, *FTC v. Zaappaaz LLC*, Case No. 4:20-cv-02717 (S.D. Tex.), available at https://www.ftc.gov/system/files/documents/cases/202_3136_zaappaaz_-_complaint.pdf.

¹² Complaint, *FTC v. SuperGoodDeals.com, Inc.*, Case No. 20-cv-3027 (E.D.N.Y.), available at https://www.ftc.gov/system/files/documents/cases/202_3135_supergooddeals_-_complaint.pdf.

The FTC also has taken action against the operator of counterfeit websites that tricked consumers into paying for sanitizing products that were never delivered.¹³ The Commission obtained a federal court order that, while litigation proceeds, prohibits the defendants from making deceptive claims, suspends their deceptive websites, and bars them from using their websites to collect money from consumers.¹⁴

The Commission also has used its enforcement efforts to attack dangerous, false claims of COVID-19 treatments and cures. For example, the Commission sued a company that, even after receiving a warning from the FTC, deceptively advertised a \$23,000 treatment plan as a scientifically-proven way to treat COVID-19.¹⁵ During litigation, the court ordered the defendants to stop making deceptive health claims.¹⁶

Similarly, the Commission sued a marketer for making baseless claims that his dietary supplement could treat or prevent COVID-19,¹⁷ and issued an administrative order prohibiting

¹³ Complaint, *FTC v. One or More Unknown Parties Deceiving Consumers Into Making Purchases Through: www.cleanyos.com et al.*, Case No. 5:20-cv-02494 (N.D. Ohio), available at https://www.ftc.gov/system/files/documents/cases/complaint_w-a_filed.pdf.

¹⁴ Preliminary Injunction, *FTC v. One or More Unknown Parties Deceiving Consumers Into Making Purchases Through: www.cleanyos.com et al.*, Case No. 5:20-cv-02494 (N.D. Ohio), available at https://www.ftc.gov/system/files/documents/cases/ftc_v_unknown_preliminary_injunction_with_att_a.pdf.

¹⁵ Complaint, *FTC v. Golden Sunrise Nutraceutical, Inc.*, Case No. 1:20-cv-00540-DAD-SKO (E.D. Cal.), available at https://www.ftc.gov/system/files/documents/cases/202_3146_golden_sunrise_-_complaint.pdf.

¹⁶ Stipulation to Preliminary Injunction as to Defendants Golden Sunrise Nutraceutical, Inc, Golden Pharmaceutical, Inc., and Huu Tieu, *FTC v. Golden Sunrise Nutraceutical, Inc.*, Case No. 1:20-cv-00540-DAD-SKO (E.D. Cal.), available at https://www.ftc.gov/system/files/documents/cases/030_-_gs_order_re_stipulation_pi_to_defs_golden_sunrise_nutraceutical_inc._golden_pharmaceutical_inc._and_tieu.pdf; Stipulation to Preliminary Injunction as to Defendant Stephen Meis, *FTC v. Golden Sunrise Nutraceutical, Inc.*, Case No. 1:20-cv-00540-DAD-SKO (E.D. Cal.), available at https://www.ftc.gov/system/files/documents/cases/029_-_gs_order_re_stipulation_pi_to_def_meis.pdf.

¹⁷ Complaint, *FTC v. Ching*, Case No. 2:20-cv-03775 (C.D. Cal.), available at https://www.ftc.gov/system/files/documents/cases/whole_leaf_complaint.pdf; Complaint, *In re Ching*, Docket No. 9394 (FTC), available at https://www.ftc.gov/system/files/documents/cases/d09394_administrative_part_iii_complaint.pdf.

those claims in the future and requiring the defendant to notify consumers and retailers that the supplement will not treat, prevent, or reduce the risk of COVID-19.¹⁸

In addition, to protect consumers attempting to replace or supplement income during the pandemic, the Commission—along with 19 federal, state, and local partners—led a nationwide crackdown against scams making false promises of income and financial independence.¹⁹

Starting in March 2020, the FTC also launched a campaign to challenge companies’ deceptive COVID-19 claims—directing the companies to cure violations and pursuing enforcement actions if problematic claims were not quickly removed. To date, the FTC has issued more than 350 warning letters, many in conjunction with the Food and Drug Administration (FDA), to sellers and marketers that claimed that their products could treat or prevent COVID-19.²⁰ The Commission also issued warning letters with the SBA regarding small business relief²¹ and joint letters with the Federal Communications Commission (FCC) to Voice Over Internet Protocol service providers and others “assisting and facilitating” illegal telemarketing calls, including calls to market products such as fraudulent home test kits.²²

¹⁸ Decision and Order, *In re Ching*, Docket No. 9394 (FTC), available at https://www.ftc.gov/system/files/documents/cases/d09394_whole_leaf_decision_and_order.pdf. The federal case is still pending.

¹⁹ FTC Press Release, *As Scammers Leverage Pandemic Fears, FTC and Law Enforcement Partners Crack Down on Deceptive Income Schemes Nationwide*, <https://www.ftc.gov/news-events/press-releases/2020/12/scammers-leverage-pandemic-fears-ftc-law-enforcement-partners> (Dec. 14, 2020).

²⁰ Copies of all of the FTC’s COVID-19 related warning letters are available here: <https://www.ftc.gov/coronavirus/enforcement/warning-letters>.

²¹ FTC Press Release, *FTC and SBA Warn Operator of SBA.com and Lead Generator Lendio to Stop Potentially Misleading Coronavirus Relief Loan Marketing*, <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-sba-warn-operator-sbacom-lead-generator-lendio-stop> (May 18, 2020); Press Release, *FTC and SBA Warn Six Companies to Stop Potentially Misleading Marketing Aimed at Small Businesses Seeking Coronavirus Relief Loans* <https://www.ftc.gov/news-events/press-releases/2020/06/ftc-sba-warn-six-companies-stop-potentially-misleading-marketing> (June 24, 2020).

²² FTC Press Release, *FTC and FCC Send Joint Letters to VoIP Service Providers Warning against ‘Routing and Transmitting’ Illegal Coronavirus-related Robocalls*, <https://www.ftc.gov/news-events/press-releases/2020/04/ftc-fcc-send-joint-letters-voip-service-providers-warning-against> (Apr. 3, 2020); FTC Press Release, *FTC and FCC Send Joint Letters to Additional VoIP Providers Warning against ‘Routing and Transmitting’ Illegal Coronavirus-related Robocalls*, <https://www.ftc.gov/news-events/press-releases/2020/05/ftc-fcc-send-joint-letters-additional-voip-providers-warning> (May 20, 2020).

Warning letters can be issued more quickly than a court complaint, and proved to be overwhelmingly successful in removing potentially dangerous claims from the markets. The Commission has monitored responses to these warning letters closely, and has been pleased to see that in the vast majority of cases, letter recipients removed problematic claims quickly. The Commission is determined to pursue swift enforcement action against noncompliant warning letter recipients.

The FTC also took enforcement actions to protect consumers' privacy and data.²³ Although the conduct in these matters occurred before the COVID-19 outbreak, the relief in these orders seeks to protect consumers from digital harms that have been exacerbated by the pandemic.²⁴

In light of the eviction crisis caused by the pandemic, the Commission has partnered with fellow enforcers at the Consumer Financial Protection Bureau (CFPB) to focus on ensuring renters are not subjected to unlawful practices.²⁵ The Commission also will continue its efforts to

²³ See Complaint, *United States v. HyperBeard, Inc.*, Case No. 3:20-cv-3683 (N.D. Cal.) (enforcement of the COPPA Rule against kids app developer for allegedly collecting personal information from children under age 13 without obtaining parental consent), available at https://www.ftc.gov/system/files/documents/cases/192_3109_hyperbeard_-_complaint.pdf; Complaint, *In re Zoom Video Comms., Inc.*, Docket No. C-4731 (FTC) (administrative action challenging claims that gave consumers a false sense of security about how the company protected their information), available at https://www.ftc.gov/system/files/documents/cases/1923167zoomcomplaint_0.pdf; Complaint, *In re Flo Health, Inc.*, File No. 1923133 (FTC) (charges a developer of a period and fertility-tracking app with allegedly sharing consumer health information with outside data analytics providers after promising that such information would be kept private), available at https://www.ftc.gov/system/files/documents/cases/flo_health_complaint.pdf.

²⁴ For example, the settlement in *HyperBeard* imposed a \$4 million civil penalty requiring the defendants to delete personal information the company illegally collected from children under 13. See Proposed Stipulated Order, *United States v. HyperBeard, Inc.*, Case No. 3:20-cv-3683 (N.D. Cal.) available at https://www.ftc.gov/system/files/documents/cases/192_3109_hyperbeard_-_proposed_stipulated_order.pdf. In addition, as part of the settlement in *Flo Health*, Flo must notify affected users about the disclosure of their personal information and instruct any third party that received users' health information to destroy that data. See Agreement Containing Consent Order, *In re Flo Health, Inc.*, File No. 1923133 (FTC) available at https://www.ftc.gov/system/files/documents/cases/flo_health_order.pdf.

²⁵ Press Release, *FACT SHEET: The Biden-Harris Administration's Multi-Agency Effort to Support Renters and Landlords*, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-the-biden-harris-administrations-multi-agency-effort-to-support-renters-and-landlords/> (Mar. 29, 2021).

ensure that tenant screening companies comply with the Fair Credit Reporting Act, so that consumers who have gone or will go through an eviction are not further stigmatized by incomplete or inaccurate information as they seek new housing.²⁶ The Commission is also monitoring and investigating conduct by multistate landlords that may violate the FTC Act or other laws if they evict tenants in violation of national, state, or local eviction moratoriums, as Acting Chairwoman Slaughter and Acting CFPB Director Uejio recently warned in a joint statement.²⁷

The Commission will remain vigilant in order to protect the public from harms that stem directly and indirectly from the COVID-19 pandemic. The FTC is committed to tackling emerging threats, adjusting our strategies wherever necessary, and working in close coordination with our partners.

b. Consumer Education and Outreach

The Commission has buttressed its law enforcement actions with consumer and business education. Since the beginning of the pandemic, the FTC has worked aggressively to dispel misinformation and confusion about the pandemic and related issues that have fueled COVID-related scams. The Commission's education campaign has several facets: consumer and business alerts; a multi-media campaign; substantive business guidance; and outreach with partners.

Early in the pandemic, the Commission began issuing alerts warning consumers and the business community of COVID-related frauds. To date, the FTC has issued more than 100

²⁶ An example of the FTC's efforts to protect tenants even before the pandemic is our case against AppFolio, in which the defendant agreed to settle charges that it failed to follow reasonable procedures to ensure the accuracy of criminal and eviction records in tenant screening reports and reported obsolete information. See Complaint, *United States v. AppFolio, Inc.*, Case No. 1:20-cv-03563 (D.D.C. Dec. 8, 2020), available at https://www.ftc.gov/system/files/documents/cases/ecf_1_-_us_v_appfolio_complaint.pdf.

²⁷ Joint Statement by FTC Acting Chairwoman Rebecca Kelly Slaughter and CFPB Acting Director Dave Uejio (Mar. 29, 2021), <https://www.ftc.gov/news-events/press-releases/2021/03/joint-statement-ftc-acting-chairwoman-rebecca-kelly-slaughter>.

consumer and business alerts on a wide range of COVID-related topics, including economic impact payments, health claims, online shopping, privacy in a virtual environment, contact tracing, government imposter scams, job scams, and misinformation.²⁸ The FTC sends its alerts to more than 367,000 email subscribers, which include consumers, businesses, partners, and the media. In turn, many of these subscribers share the information with their communities, greatly expanding the reach of the agency’s message. The FTC has developed a multimedia campaign with a dedicated website (ftc.gov/coronavirus) that contains a library of materials for consumers and businesses in several different languages.

As the pandemic required many work, school, recreational, and social activities to transition from in-person to online and virtual platforms, the shift to digital life presented new opportunities for bad actors to exploit. The Commission worked to prevent this exploitation from occurring in the first instance. Accordingly, in April 2020, the Commission published guidance for education technology companies and schools regarding their duties to protect children’s privacy and personal data—including warnings of the parental consent requirements for data collection imposed by the Children’s Online Privacy Protection Act (COPPA).²⁹

Finally, FTC staff has engaged in national and local outreach with partners to reach a variety of audiences, including older consumers, ethnic and community media, housing organizations, re-entry groups, library patrons, and the military community. The staff has used webinars, tele-town halls, Twitter chats, Facebook Live events, and interviews with local and national media, to reach its audiences. During the pandemic, FTC staff has participated in hundreds of virtual webinars, presentations, and interviews—in English, Spanish, and Mandarin.

²⁸ All of the FTC’s business and consumer alerts are available at <https://www.ftc.gov/coronavirus>.

²⁹ *COPPA Guidance for Ed Tech Companies and Schools during the Coronavirus*, <https://www.ftc.gov/news-events/blogs/business-blog/2020/04/coppa-guidance-ed-tech-companies-schools-during-coronavirus> (Apr. 9, 2020).

The FTC also has used new methods to reach people in economically and geographically diverse communities who are targeted by COVID-19 scam artists. For example, the FTC conducted a national radio media tour, mailed post cards to communities with low broadband access, and delivered letters to community health professionals in 5,000 rural and urban health clinics to help people avoid COVID-related fraud.

As the pandemic has deepened, some new consumer financial issues have arisen and others have been exacerbated. To ensure we are responding appropriately to the issues consumers are facing, the FTC coordinated a series of virtual listen-and-learn sessions across the country. Participants have included representatives from legal services, social services, elder justice centers, departments of aging, housing counselors, religious organizations, the Better Business Bureau, and the offices of State Attorneys General. Based on input from stakeholders, the FTC is enhancing and expanding its COVID-19 financial recovery and resiliency campaign, the centerpiece of which will be a web-based toolkit available in multiple languages.

c. Data Collection

The FTC's Consumer Sentinel Network collects millions of reports from the public about fraud, identity theft, and other consumer problems, and makes them available to thousands of law enforcement users across the country. In the weeks following the first known cases of COVID-19 in the U.S., the FTC developed systems to track and alert the public to shifts in Sentinel reporting. On ftc.gov/exploredata, the FTC launched public dashboards showing aggregate Sentinel data on reports associated with COVID-19 by age, type of fraud, and geographic location, with figures that are updated daily. Since January 2020 and as of April 7,

2021, the FTC has received more than 436,000 such reports, reflecting \$399 million in fraud losses.³⁰

The FTC's monitoring and analyses of Sentinel data reveal increased fraud activity in 2020. Specifically, the number of fraud, identity theft, and other reports to Sentinel (excluding Do Not Call) increased more than 45% over 2019 numbers, and reported losses from fraud grew from more than \$1.8 billion in 2019 to \$3.3 billion in 2020.³¹ Being able to use Sentinel data to spot trends has helped the FTC respond to emerging scams in real time—from bringing cases to halt fraudulent activity, to targeting alerts warning of the newest fraud, to addressing specific threats, such as the proliferation of identity theft related to unemployment insurance benefits.³²

Ensuring that the experiences of all consumers are represented in Sentinel is critically important to the agency's work. To expand accessibility, the FTC launched a new modernized reporting website, ReportFraud.ftc.gov, in October 2020. The updated site includes a COVID-19 banner, providing an easy way for consumers to report COVID-related issues. And, this month, the FTC launched the Community Advocate Center, which is part of the agency's ongoing work to collaborate with legal services organizations to learn about consumer protection needs and

³⁰ The figures reflect reports in Sentinel that specifically mention words related to the pandemic, such as COVID, stimulus, N95 and related terms. To provide the most relevant results, some subcategories are excluded. For more information, visit <https://public.tableau.com/profile/federal.trade.commission#!/vizhome/COVID-19andStimulusReports/Map>.

³¹ Some of the increase in complaints for 2020 is due to a new large data contributor, namely the FBI's Internet Crime Complaint Center, which added about 200,000 complaints in 2020. In addition, the FTC launched a re-designed website to capture consumer reports more easily at the end of October 2020. Nevertheless, the rise in reports is highly significant. From FTC's websites and call center alone, the surge in reports was about 970,000 in 2020, and many Sentinel data contributors also experienced an increase in complaint volume in 2020.

³² Identity thieves targeted unemployment insurance benefits in record numbers in 2020. Of the identity theft reports received in 2020, over 400,000 came from people who said their information was misused to apply for a government benefit, and the overwhelming majority of these related to unemployment insurance. This represents a staggering increase of nearly 3000% from 2019. These reports were overwhelmingly about fraudulently obtained unemployment benefits claims, a problem that has proliferated during the pandemic. Working in cooperation with the U.S. Department of Justice Unemployment Insurance Fraud Task Force, the FTC launched www.IdentityTheft.gov/unemploymentinsurance to provide information to the public on where to report and how consumers can protect their credit.

problems affecting the lower-income communities they serve. The Center provides a new way for organizations that provide free and low-cost legal services to report fraud and other illegal business practices directly to the FTC on behalf of their clients.

III. CONCLUSION

Throughout the past year, the Commission has worked tirelessly to stop bad actors from exploiting the pandemic at the public's expense. But the Commission's work is far from over. COVID-related scams are likely to persist as the country continues to grapple with this pandemic. Combatting these scams will remain a top priority for the Commission, and we will continue to use every tool we have to stop this predatory behavior, including seeking civil penalties under the newly enacted COVID-19 Consumer Protection Act, where appropriate.³³

We look forward to continuing to work with the Subcommittee and Congress, and I am happy to answer your questions.

³³ Pub. L. No. 116-260, 134 Stat. 1182, Division FF, Title XIV, § 1401(b)(1).