



Federal Trade Commission

Working Together to Protect Consumers

Jessica Rich¹

Director, Bureau of Consumer Protection, FTC

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I. INTRODUCTION

Good morning. I am delighted to be here. And I am grateful to NAAG for giving me this opportunity to discuss the FTC's work with the States and our common goals to protect consumers.

Like all of you in this room, the FTC's mission to protect and empower consumers. As you well know, this is no easy task. That's why the FTC targets its enforcement and education efforts to maximize impact and works closely with state, federal, international, and other partners to leverage resources and amplify our messages.

One reason that I was so eager to be on today's program is that I'd like to ramp up our work with the States even more. We have an enormous number of joint initiatives,

¹ The views expressed here are my own and do not necessarily represent the views of the Federal Trade Commission or any Commissioner. Special thanks to Molly Crawford for assisting in the preparation of these remarks.

some of which I will discuss in a moment. But I am looking for opportunities to increase our joint work, and raise its visibility, because I think we can often achieve more by working together.

My plan this morning is to discuss some of our recent joint initiatives because they illustrate what we can do together. Next, I'll outline some of my priorities for my tenure as Bureau Director – priorities that reflect some of the unique challenges consumers face in today's marketplace. Finally, I'll conclude by asking for your input about how we can work together as effectively as possible.

Now, before I do all of that, let me just take a moment to give you some background on the structure of the FTC's Bureau of Consumer Protection. Many of you know this, but some of you may not.

BCP, as we call it, consists of seven subject-matter divisions located in Washington D.C. and seven or eight regional offices, depending on how you count. The Regional offices are located in Cleveland, Chicago, New York, Seattle, Atlanta, Dallas, Los Angeles, and San Francisco. In light of their locations around the country, our regional offices often lead our joint efforts with the state AGs and serve as the primary point of contact for many of our state partners.

I'm also delighted to have with me today two people from my office who I've asked to spearhead our state coordination efforts. First is Katie Fallow, one of my deputies in BCP. Second is Mike Atleson, currently my Assistant Director of Regional Operations, but also a former assistant Attorney General ("AG") from Massachusetts and state securities regulator in Maine. Katie, Mike, please stand up. In addition to reaching out to me, feel free to contact Katie or Mike with anything that comes up.

II. OUR WORK TOGETHER

So now let me brag a bit – for all of us – about some of the work the FTC has done with state partners, many of whom are represented in this room. Together, we've managed to tackle a significant number of consumer protection issues across the country.

As you know, the FTC's "bread and butter" mission falls primarily into three categories – fighting fraud, stopping deceptive advertising, and protecting consumer privacy. That probably describes your missions pretty closely too. We've worked with the States in all of these areas, through (1) joint investigations and enforcement, (2) education and outreach, (3) sharing consumer complaints, and (4) holding Common Ground events and working together through task forces and working groups.

Working together has enabled us to share resources and expertise, bring complementary tools and laws to bear on problems, communicate with our different audiences, and generally increase deterrence.

Joint Investigations and Enforcement. Investigation and enforcement is probably the most important of these areas. Over the last two years, the FTC has collaborated with the States on dozens of investigations and numerous joint enforcement actions.

These matters have run the gamut of topics – for example, robocalls, timeshare resale fraud, weight loss scams, mortgage rescue scams, and business opportunity schemes. And often, we've been able to announce our initiatives jointly in press releases and press conferences. For example:

Fortune Hi-Tech: Just this month, a federal district judge in Kentucky approved a settlement between the FTC and the Illinois, Kentucky, and North Carolina AGs, and Fortune Hi-Tech Marketing, an allegedly illegal pyramid scheme. The operation affected more than 100,000 consumers in the US and Canada. The settlement divests the defendants of much of their wealth and provides for almost \$8 million in redress to the scheme's victims.

LeanSpa: In December 2011, the FTC and the Connecticut AG shut down LeanSpa, charging it with using fake news websites to promote acai berry and “colon cleanse” weight-loss products, making deceptive weight-loss claims, and falsely claiming that consumers could receive free trials of the products. We recently reached a joint settlement requiring some of the defendants to surrender assets of approximately \$7 million. Litigation continues against the other defendants.

Senior Safe Alert: Earlier this year, the FTC and the Florida AG halted and froze the assets of an Orlando-based operation that used robocalls to pitch purportedly “free” medical alert devices to seniors by falsely representing that the devices had been purchased for them by a relative or friend. Many of the consumers who received the defendants’ calls were elderly, lived alone, and had limited or fixed incomes.

Timeshare Sweep: In one of our most successful sweeps to date, last year we jointly announced 191 actions to stop fraudulent operations hawking bogus timeshare property resale services and travel prizes, including 83 actions brought by 28 states, and 25 actions brought by law enforcement from 10 other countries. And – as a good example of what we can do jointly that we can’t do alone – a number of criminal authorities joined us in this sweep, so that the scam artists faced both civil and criminal prosecution.

Consumer and business education. Another significant area of joint work is consumer and business education. FTC staff are engaged nationwide in consumer outreach and business education on a daily basis, and many of these efforts include co-sponsorship of events and participation with states and localities.

National Consumer Protection Week: One key example is *National Consumer Protection Week*. Our Division of Consumer and Business Education spearheads this effort to raise awareness about consumer protection issues, and we typically have participation from at least half of the state AG offices.

Military Consumer Protection Day: This year, we also worked with at least nine state AG offices, the Department of Defense, the Consumer Protection Financial Bureau, and other organizations to plan *Military Consumer Protection Day*. And, as part of our work to help service members, we recently published two new consumer ed pieces – one on scammers trying to poach veterans’ pensions, and one on for-profit colleges. We plan to do more such work for service members and would very much welcome collaboration in this area.

Co-branding: One key feature of our education program is that we encourage our partners to take our materials and make them their own – it’s what we call co-branding. With limited budgets, why reinvent the wheel? And, we also know that consumers are most likely to listen to messages from sources they know and trust – their local consumer protection office, community service organization, or state AG office. Please contact our Division of Consumer and Business Education to learn about co-branding. We also allow links to our website by other enforcement agencies and can send you certain materials in hard copy – for free. For example, the Nebraska AG office recently ordered 10,000 copies of *Net Cetera*, our booklet about protecting kids and teens online.

Sharing Consumer Complaints. Another hugely important area of collaboration is sharing consumer complaints so that we can learn about those scams doing the most harm, respond to emerging frauds before they become an even bigger problem, and develop evidence for law enforcement. As you know, virtually all of the state AG offices have access to our Consumer Sentinel database. Sentinel membership allows your staffs to access the more than 9 million consumer complaints from the past five years in the database, plus more than 13 million Do Not Call complaints and over 320 million spam messages from the past three years.

Sentinel includes complaints from many public and private partners. Having data from all of these sources increases the value of the database for everyone. Eighteen states contribute data, and we have commitments from at least four other states to do so in the near future. But that's still less than half, so I really encourage all of you that aren't participating to think about whether and how you might do so.

I should also mention that our Sentinel staff is available to provide training sessions for interested members or potential members, including state-specific sessions. During the past two years, we provided state-specific training sessions to the state AG offices in Massachusetts, New Hampshire, Texas, and Illinois.

Common Ground events. Finally, another important way we collaborate and plan joint work is to hold *Common Ground* events around the country, which we have been doing steadily since 2010. These events enable law enforcers and community organizations to discuss common priorities, share different perspectives, and plan joint work. Having these events is a huge priority for me, and I've been to several in just the last couple of months.

To date, we've held 26 conferences in about 20 different states – including recent conferences in Nevada and Missouri. Our next *Common Ground* conference will be held this Friday in Albuquerque, and we also have upcoming events planned in Detroit, Atlanta, and Seattle. Please come to these whenever they are in your region – they are extremely worthwhile and also, frankly, a huge shot in the arm for those of us working on consumer protection.

III. CURRENT BCP PRIORITIES

So that's a brief overview and sampling of our work together. We have a wonderful record of collaboration and I very much want to continue and expand those efforts.

Let me turn now to a related topic – some specific priorities of mine as BCP's Bureau Director. I want to highlight these areas because I think they're important to consumer protection today and they might open up some additional areas for collaboration.

These priorities track recent developments in the marketplace, and reflect some of the pressing challenges facing consumers and enforcement agencies today. They are (1) targeting fraud and deception on mobile and connected devices, (2) addressing consumer protection issues raised by "Big Data," (3) protecting vulnerable and targeted consumer groups, and (4) targeting the gatekeepers and facilitators that enable fraud and deception to occur.

Mobile and Connected devices. The first of these areas is mobile technologies and connected devices. Businesses are on these platforms. Consumers are on these platforms. We need to understand them; target fraud, deception, and unfairness

occurring on them; and be in a position to capture evidence and develop cases in this space. Here is what we are doing:

Mobile Unit: First, we created a Mobile Technology Unit to coordinate our enforcement, policy, and outreach across BCP. The Unit's purpose is to make sure we have the tools and expertise we need to work effectively in the mobile arena. The Unit has a variety of mobile devices and tools to capture evidence, and regularly trains our attorneys and investigators about how to use them. This is one of the best things we've done in the last few years to ensure we are keeping pace with the changing marketplace.

Mobile Reports & Workshops: Second, we are educating ourselves and the public through workshops and reports about the mobile marketplace. For example, we held workshops over the past year on the Internet of Things, mobile cramming, mobile security, and mobile tracking in stores. We've also issued several reports, including two reports showing the lack of mobile privacy disclosures in kids' apps; a report making recommendations on mobile privacy disclosures; and a report about the consumer protection issues raised by mobile payments.

Mobile enforcement: We also have brought a number of cases challenging law violations occurring in the mobile ecosystem.

- Among the most notable was our case against Apple for, as we allege, allowing kids to rack up millions of dollars of unauthorized charges in mobile app games. Apple agreed to refund all of these charges, and paid a “floor” of \$32.5 million. Mobile payments are a big and growing business – and more is in the pipeline on this topic.

- Last year, we also announced a settlement with Goldenshore Technologies, the maker of Brightest Flashlight, a popular flashlight app. According to the complaint, Goldenshore’s privacy policy said that it would collect information from users’ devices for certain internal housekeeping purposes, but failed to disclose that the app transmitted the device’s precise location and device ID to third parties.
- And just recently, we brought a case against popular app Snapchat. Our complaint included numerous allegations but, most notably, that Snapchat promised its messages would disappear after a certain period of time but, in fact, were subject to fairly easy workarounds that allowed recipients to keep the messages forever.
- Last year, we also announced our first “Internet of Things” case involving a video camera designed to allow consumers to monitor their homes remotely. The complaint alleged that TRENDnet marketed its SecurView cameras for purposes ranging from home security to baby monitoring, and claimed in numerous product descriptions that they were “secure.” In fact, the cameras had faulty software that left them open to online viewing by anyone with the cameras’ Internet address.
- And the FTC has also done a significant amount of work targeting mobile cramming, bringing three cases over the past year against Wise Media, Jesta, Bullroarer. Look for more work in this space.

Big Data. Another priority is addressing the effects of “Big Data” on consumers. The term “Big Data” describes the vast capabilities of companies to gather data from numerous sources and combine it in ways to make inferences about people. Big Data can drive valuable innovation – for example, it can be used to determine what

medical treatments are most effective across a large population. However, the pooling of vast stores of data raises obvious risks: virtually unlimited data collection without consumer knowledge or consent; data breaches involving this treasure trove of information; and the concern that companies will make inferences about consumers that simply aren't true. We have a number of initiatives addressing Big Data. For example:

Spring Privacy Series: We hosted a three-part "Spring Seminar Series" to discuss several trends in Big Data and their impact on consumer privacy. The series focused on mobile device tracking in retail stores; the use of predictive scoring to help companies predict consumer behavior and shape how they market to particular consumers; and health apps and devices that consumers increasingly use to manage and analyze their health data.

Workshop on Effects of Big Data on Low Income and Underserved Consumers: In September, we are hosting a public workshop entitled "Big Data: A Tool for Inclusion or Exclusion?" to further explore the use of Big Data and its impact on American consumers, including low income and underserved consumers. We are accepting public comments and encourage you to participate.

Data Brokers: We will shortly release a report on data brokers. Data brokers collect and sell a wealth of information about consumers, but consumers generally don't know anything about them because they operate behind the scenes. Our report will analyze information we obtained from nine data brokers and make recommendations.

FCRA enforcement: The FTC is also aggressively enforcing the Fair Credit Reporting Act, which sets forth procedures governing some of the most important uses of Big Data – determining whether to give consumers credit, a job, or insurance. In recent months, for example, the Commission has announced a series of cases against companies that provided consumer reports to prospective employers, landlords, and merchants

without taking reasonable steps to make sure that the reports were accurate. The companies – TeleCheck, Certegy, Instant Checkmate, and InfoTrack – have collectively, paid about \$9 million in civil penalties.

Data Security: And the Commission is continuing a steady drumbeat of cases challenging the failure by companies to secure the data they collect from consumers. We are now up to 53 data security settlements and, with continuing breaches and identity theft plaguing consumers, this continues to be an area of priority. The Commission also supports enactment of a federal data security and breach notification law to strengthen our existing authority in this area – most notably by giving us the authority to obtain civil penalties for data security failures.

Protecting vulnerable consumers and targeted groups. For obvious reasons, we're also making it a priority to stop fraudulent and deceptive practices targeted at particular groups of consumers, including Spanish-speakers, seniors, financially-distressed consumers, service members and veterans, and kids. As fraudsters and marketers increasingly target different segments of the market using highly personalized leads and profiles, we need to make sure we are reaching these populations in the most effective way possible. For example:

Debt-related fraud: We continue to target abusive debt collection, as well as fraudulent mortgage and debt relief scams. These scams target consumers already down to their last dollar, so it's imperative that we take action and obtain the strongest remedies possible. In the last year, for example, we obtained a \$3.2 million civil penalty against Expert Global Solutions for debt collection abuses, and a \$3.3 million penalty against Rincon Debt Management, a company specifically targeting Spanish-speaking consumers with deception and threats. And we obtained \$3.6 million in redress from mortgage

relief company Prime Legal Plans, which claimed that it would save consumers' homes from foreclosure but then, we allege, did virtually nothing for consumers.

Oro Marketing: Earlier this year, the Commission shut down Oro Marketing, a telemarketing operation that allegedly targeted Latino consumers with false promises that they could make money by reselling high-end goods such as Gucci and Ralph Lauren, and then charged them between \$400 and \$490 up-front for shoddy, off-brand products. We also alleged that the telemarketers threatened consumers who refused to pay with arrest and phony lawsuits.

For-profit schools: Like many of you, we are ramping up efforts to investigate and bring cases against for-profit schools, which often target the military and veterans with false claims about accreditation, graduation rates, prospects for a job, and loan terms. We are doing this as part of a Task Force led by the Iowa AG's office and other states.

Protecting seniors: Fraud against seniors is rampant, and many of our cases include some sort of senior fraud component. In March, for example, we shut down a massive telemarking operation – First Consumers – that called seniors, tricked them into providing their bank information, and then debited their accounts. *Senior Safe Alert* is another good example of a scam specifically targeting seniors.

Gatekeepers and Facilitators. The fourth and final strategy I want to highlight, which should be familiar to all of you trying to choke off fraud and deception, is to target those entities that facilitate the fraud and deception of others – in other words, the “gatekeepers and facilitators.” I’m talking about the payment processors, lead generators, affiliate marketers, telemarketers, robocallers, billing aggregators, and others who make it easier for the fraudsters to mass market their harm. For example:

Payment processors: For years, we've been targeting payment processors that knowingly facilitate fraud and deception. One recent example is *Process America*, where we alleged that the processor knowingly opened and maintained scores of merchant accounts for the perpetrator of a huge fraudulent work-at-home scheme that took over \$15 million from consumers.

Lead generators. We've also been targeting lead generators that host deceptive websites in order to obtain consumer leads and sell them to fraudsters. For example, we just obtained a \$225,000 penalty against a website that lured consumers in with deceptively low mortgage rates and then sold the leads to mortgage companies.

Robocalls: And we're very concerned about illegal robocalls. In recent years, technological changes have led to an explosion of these calls, which violate consumers' privacy and also provide a cheap vehicle to peddle fraud. The FTC has a three-prong strategy to address this illegal activity. *First* is a steady drumbeat of law enforcement. *Second*, we educate consumers about what they should do if they get unwelcome robocalls – basically, hang up, file a complaint, and get on the Do Not Call list. *Third*, we work with experts to encourage technological advances, such as the new product Nomorobo, a winner of the "FTC Robocall Challenge" launched last fall. We are interested in collaborating with the States on all three of these fronts.

Telemarketing Sales Rule: Perhaps the best example of our gatekeeper/facilitator strategy are proposed amendments to our Telemarketing Sales Rule to prohibit use of certain payment methods typically used for fraud – for example, remotely-created checks and payment orders, and cash-to-cash money transfers. These instruments make it easy for unscrupulous telemarketers to debit bank accounts without permission, or pressure

consumers into providing payments that aren't protected by law. We received numerous comments on these proposed amendments and are still analyzing them.

IV. CONCLUSION

So, with that, I will end my formal remarks so I can open the floor to comments and questions. As you can see, we regularly work together and our collaborative efforts to date have been extremely effective. But I want to hear any questions or suggestions you have about the FTC's work, and how we can collaborate as effectively as possible with all of you. Thank you for having me here today.