

PREPARED STATEMENT OF THE
FEDERAL TRADE COMMISSION:
OVERSIGHT OF THE FEDERAL TRADE COMMISSION

Before the
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON MANUFACTURING, TRADE, AND
CONSUMER PROTECTION
UNITED STATES SENATE

WASHINGTON, DC

JULY 21, 2020

To date, the FTC has received </Attac(. /TT0 1 TfSpan0.002 Tc 310.002 Tw6.96(3)Tj 6.96(527.4 688e /0.94

summer. A decision last year from the Third Circuit held that the FTC could bring cases under Section 13(b) only if the illegal acts were ongoing or impending, limiting our ability to pursue past illegality.²⁶ And the Supreme Court's recent *Liu* decision may place limitations on the amount of money we can obtain from wrongdoers and ultimately return to consumers.²⁷ In short, our ability to get full redress for consumers is in peril. Congress should act now to preserve the FTC's ability to restore to consumers money they lose to scammers and fraudsters.

In addition, the

into overdrive. Although some of these supposed “treatments” seem facially preposterous, it is not uncommon for consumers in distress to be willing to try (and spend) anything in the hopes that it will protect them or their families from sickness or death.

To date, the FTC has sent 12 warning letters to MLMs regarding prevention or treatment claims, earning claims, or both, made by the MLMs themselves,³⁸ or by business opportunity representatives or participants on their behalf.³⁹ Telling a consumer that by joining an MLM business venture they can earn a certain amount of money in a month, or obtain “financial freedom,” when it is unlikely they can do so, is unlawful. The need to address such claims is pressing because consumers are facing extreme economic and employment uncertainty due to the COVID-

The FTC also recognizes that the financial hardships caused by the pandemic are not just limited to consumers. Small businesses have sought out relief and loans through the Paycheck Protection Program (PPP) or other programs authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act.⁴⁰ To date, the FTC and the Small Business Administration (“SBA”) have issued 8 warning letters to companies making claims that could lead consumers and small businesses to believe these companies are somehow affiliated with the SBA, that consumers and small businesses could get PPP loans by applying on their website, or otherwise misleading small business about federal loans or other temporary small business relief.⁴¹ As with deceptive health claims, the FTC believes that the fastest way to take down these false claims is by issuing warning letters. However, as always, in some cases, the FTC will pursue law enforcement. For example, on April 17, 2020, the FTC filed a complaint against one such company that was posing as an approved PPP lender.⁴² The FTC will continue to monitor the marketplace and will take action where appropriate to combat such frauds.

V. ONLINE SHOPPING FRAUD

authorities who executed a search warrant at the same time⁴⁴—and are seeking additional actions where it would be appropriate to combat such frauds in conjunction with criminal authorities. Working together with criminal authorities, we can get effective injunctive relief and compliance monitoring quickly.

VI. COVID-19 SPOOFING/IMPOSTER SCAMS

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FTC's efforts to combat coronavirus-related scams and educate consumers. More than 365,000 businesses and consumers receive FTC alerts.⁵³ All resources on the FTC's website are free for consumers and organizations—including any member of Congress—to access, use, and share. In addition to our own social media activity, we encourage consumers to share the materials through social media and organizations to co-brand our materials and share them with their audiences.⁵⁴

The FTC also has provided outreach specifically on privacy during the coronavirus pandemic, a concern of many businesses and consumers as the pandemic has shifted the workplace from traditional office spaces to consumers' homes. For example, the FTC has provided privacy and online security tips to consumers and businesses who have transitioned from working at an office to working from home.⁵⁵ The FTC also has provided information on contact tracing so that consumers do not divulge their sensitive personal information (such as financial information) to fake contact tracers, while emphasizing the importance of cooperating with legitimate contact tracers.⁵⁶ The pandemic has led to an increased reliance on technology to stay connected, and the Commission is staying abreast of privacy or data security issues that may arise so that consumers and businesses

VIII. CONCLUSION

The Commission appreciates Congress's confidence in the FTC's ability to protect consumers, especially with the unique challenges presented by the current COVID-19 pandemic. Through our enforcement, education, and policy efforts, we will continue to ensure that your confidence is well placed. We look forward to continuing to work with the Subcommittee and Congress.