PREPARED STATEMENT OF THE

FEDERAL TRADE COMMISSION:

OVERSIGHT OF THE FEDERAL TRADE COMMISSION

Before the

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

WASHINGTON, DC

AUGUST 5, 2020

I. INTRODUCTION

Chairman Wicker, Ranking Member Cantwell, and Members of the Committee, we are pleased to appear before you today (if remotely).[1] Despite the challenges that the Federal Trade Commission, like everyone these days, is facing, the agency continues to protect vigorously consumers and competition.

For the Subcommittee hearing two weeks ago, we described the many actions the Commission has taken since March to address COVID-related fraud. In this testimony, we take a step back and first provide an overview of Commission resources and operations during the pandemic. Next, we highlight the pressing need, in light of legal challenges, for Congress to affirm the FTC's authority to get money back to consumers using Section 13(b) of the FTC Act. We also call on Congress to reauthorize RetTc 0 Tw [(c)j ( )TS eT to-1 (-hor)3 ko-1 (-(i)-2 (t)-2 h.)]TJ 1-5.23

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including privacy and a new division in the Bureau of Competition dedicated to enforcing the antitrust laws in the technology industry.

Continued budget support over the years has allowed us to invest in the technologies that enabled us to transition smoothly during this pandemic from nearly 100% office-based work to nearly 100% telework.

FTC employees have risen to meet the challenges posed by the pandemic. Since early March, a cross-agency working group has convened daily to consider and manage the immediate operational impacts of the pandemic, along with the longer-term impacts on the agency and its employees. As for operational details, during the pandemic, the FTC has maintained essential services on site (e.g., mail, security, building maintenance) and ensured that all facilities are operating within CDC and GSA building and cleaning guidelines. We have developed virtual processes for a range of activities that used to be done in person, including acceptance of filings, depositions, court appearances, training, and hiring.

III. LEGISLATION IS NEEDED TO ENSURE EQUITABLE MONETARY RELIEF AND ALLOW FOR CROSS-BORDER ENFORCEMENT

A. Section 13(b)

The FTC appreciates your support of our mission. An essential part of that mission is getting back to consumers money wrongly taken from them. Over the past four fiscal years, the FTC has returned more than $975 million directly to consumers and won judgments under which consumers received nearly $10 billion more through defendant-administered redress programs. We are immensely proud of this work, which as the numbers show, provides a massive public benefit. Unfortunately, however, our ability to keep getting such results for consumers has been threatened or curtailed by recent judicial decisions. We therefore respectfully request that Congress clarify the agency's statutory authority to obtain complete equitable monetary relief

practices, and educating consumers and businesses about their rights and responsibilities. The FTC's enforcement and education efforts include working closely with federal, state, international, and private sector partners on joint initiatives.

The FTC has brought all of these tools to bear to fight scams involving the pandemic, including law enforcement actions, warning letters, consumer and business education, and national and local outreach. Simultaneously, we also are continuing the important day-to-day work of protecting privacy and data security, addressing fraud across most sectors of the economy, preventing unfair, deceptive, or discriminatory financing transactions, helping ensure that advertising claims to consumers are truthful and not misleading, and combating illegal robocalls. With Amend 2bocal1 (a)-100000000000<d (to)Tj 01 dTJ 0 cooinancissomu i7sp1fwises2h.

In total, we have brought about 80 general privacy cases, more than 70 data security cases, more than 100 spam cases (with more than $100 million ordered in monetary relief), 30 cases enforcing the Children's Online Privacy Protection Act ("COPPA") (with more than $180 million in civil penalties), more than 100 cases enforcing the FCRA (with more than $40 million in civil penalties), 147 cases alleging violations of Do Not Call (with orders totaling $1.7 billion in civil penalties, redress, or disgorgement, and actual collections exceeding $160 million), and 106 cases enforcing the Fair Debt Collection Practices Act (with more than $700 million ordered in monetary relief). In addition to our enforcement work, in the privacy and security area, we have hosted about 75 workshops and issued approximately 50 reports.

Most notably, in April 2020, the Commission obtained court approval of its settlement with Facebook, Inc. and modified its 2012 administrative order.[12] This settlement resolved a six-count complaint that the company violated the 2012 order by deceiving users about their ability to control the privacy of their personal information, among other things, and also violated the FTC Act.[13] In addition to a $5 billion penalty for violating the order, the modified order places additional restrictions and obligations on Facebook's business operations as they relate to privacy.[14]

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[12] FTC Press Release, *FTC Gives Final Approval to Modify FTC's 2012 Privacy Order with Facebook with Provisions from 2019 Settlement* (Apr. 28, 2020), https://www.ftc.gov/news-events/press-releases/2020/04/ftc-gives-final-approval-modify-ftcs-2012-privacy-order-facebook.

[13] FTC Press Release, *FTC Imposes $5 Billion Penalty and Sweeping New Privacy Restrictions on Facebook* (July 24, 2019), https://www.ftc.gov/news-events/press-releases/2019/07/ftc-imposes-5-billion-penalty-sweeping-new-privacy-restrictions.

[14] Relatedly, the Commission also issued an opinion against Cambridge Analytica, and approved settlements with a Cambridge Analytica executive and an app developer, relating to the collection, sharing, and/or use of data obtained from Facebook users. *See* FTC Press Release, *FTC Issues Opinion and Order Against Cambridge Analytica For Deceiving Consumers About the Collection of Facebook Data, Compliance with EU-U.S. Privacy Shield* (Dec. 6, 2019), https://www.ftc.gov/news-events/press-releases/2019/12/ftc-issues-opinion-order-against-cambridge-analytica-deceiving; *see also* FTC Press Release, *FTC Grants Final Approval to Settlement with Former Cambridge Analytica CEO, App Developer over Allegations they Deceived Consumers over Collection of Facebook Data* (Dec. 19, 2019), https://www.ftc.gov/news-events/press-releases/2019/12/ftc-grants-final-approval-settlement-former-cambridge-analytica.

requires the company, among other things, to implement a comprehensive information security program and to obtain third-party assessments of that program every two years.

Notably in the data security area, the Commission has sought to improve the effectiveness of its orders. In recent data security cases involving entities as diverse as an auto dealer management service provider,[18] a multi-level marketing company service provider,[19] an internet router manufacturer,[20] and a smartwatch manufacturer,[21] the Commission has required board-level oversight of data security issues where appropriate, set forth more specific requirements (e.g., requirements to encrypt data and segment networks), and improved the accountability of third-party data security assessors.

Section 5, which we use to bring our general privacy and data security cases, is not without its limitations. In fact, Section 5 is a general consumer protection statute enacted in the early 20th century that we use to tackle modern technologies. To better equip the Commission to meet its statutory mission to protect consumers, we urge Congress to enact privacy and data security legislation, enforceable by the FTC, which grants the agency civil penalty authority, authority to issue targeted rules under the Administrative Procedure Act, and jurisdiction over non-profits and common carriers.[22]

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[18] FTC Press Release, *FTC Gives Final Approval to Settlement with Auto Dealer Software Company That Allegedly Failed to Protect Consumers' Data* (Sept. 6, 2019), https://www.ftc.gov/news-events/press-releases/2019/09/ftc-gives-final-approval-settlement-auto-dealer-software-company.

[19] FTC Press Release, *Utah Company Settles FTC Allegations it Failed to Safeguard Consumer Data* (Nov. 12, 2019), https://www.ftc.gov/news-events/press-releases/2019/11/utah-company-settles-ftc-allegations-it-failed-safeguard-consumer.

[20] FTC Press Release, *D-Link Agrees to Make Security Enhancements to Settle FTC Litigation* (July 2, 2019), https://www.ftc.gov/news-events/press-releases/2019/07/d-link-agrees-make-security-enhancements

While the Commission believes new authority could be very beneficial for American consumers, we strive to continue to use every tool currently at our disposal to address consumer harm. Despite the relatively small number of employees dedicated to privacy enforcement, we aim to use our existing resources effectively, and we have brought more cases and obtained larger fines than any other privacy enforcement agency in the world. However, with additional resources, we could better ensure that American consumers' privacy is protected.

We currently have well under the number of FTEs that data protection authorities in other, much smaller, countries have. Our Division of Privacy and Identity Protection includes 40-45 employees and its work is supplemented by the privacy-related work of other units within the FTC's Bureau of Consumer Protection. For example, the Enforcement Division enforces our privacy and data security orders, including against Facebook and Google; the Division of Marketing Practices enforces the Do Not Call Rule and CAN-SPAM; the Division of Financial Practices enforces the Fair Debt Collection Practices Act; the Division of Consumer and Business Education and the Division of Consumer Response and Operations are responsible for our identity theft program, including IdentityTheft.gov; the Division of Litigation Technology and Analysis employs several technologists and other professionals who focus on research and development; and the FTC regional offices bring privacy and security cases. Despite dedicating these resources to privacy, we possess far fewer resources than other countries for addressing privacy issues.

Congress should also give appropriate consideration to the trade-offs involved in new regulation, and, with regard to rulemaking, reserve to itself fundamental value judgments appropriately made by the legislature. Finally, Commissioner Phillips believes data security legislation is a critical step Congress should also take to protect consumer privacy.

In addition to its enforcement efforts in the privacy and data security areas, the Commission seeks to improve agency decision-making through its policy initiatives. The Commission is currently examining whether regulatory changes are needed in the COPPA Rule in light of advancements in technology or other developments.[23] On July 13, 2020, the Commission hosted a workshop examining proposed changes to the Gramm-Leach-Bliley Safeguards Rule.[24] Last month, the FTC also held its fifth PrivacyCon, an annual event that explores evolving privacy and data security research.[25]

The Commission also is empowered to conduct industry studies under Section 6(b) of the FTC Act, including those related to privacy and data security.[26] In 2019, we issued orders to several internet service providers to evaluate their privacy practices.[27] As we have in the past, we will use the information we learn from this study to better inform our policy and enforcement work.

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[23] Federal Register, Request for Public Comment on the Federal Trade Commission's Implementation of the Children's Online Privacy Protection Rule (July 25, 2019), https://www.federalregister.gov/documents/2019/07/25/2019-15754/request-for-public-comment-on-the-federal-trade-commissions-implementation-of-the-childrens-online. *See also* FTC Press Release, *FTC to Host Workshop on October 7 to Examine COPPA Rule* (Oct. 4, 2019), https://www.ftc.gov/news-events/press-releases/2019/10/ftc-host-workshop-october-7-examine-coppa-rule; The Future of the COPPA Rule: An FTC Workshop event page, https://www.ftc.gov/news-events/events-calendar/future-coppa-rule-ftc-workshop.

[24] FTC Press Release, *FTC to Host Workshop Examining Issues Related to Proposed Amendments to the Safeguards Rule* (Mar. 2, 2020), https://www.ftc.gov/news-events/press-releases/2020/03/ftc-host-workshop-examining-issues-related-proposed-amendments; *see also* Information Security and Financial Institutions: FTC Workshop to Examine Safeguards Rule event page, https://www.ftc.gov/news-events/events-calendar/information-security-financial-institutions-ftc-workshop-examine.

[25] FTC Press Release, *FTC Announces PrivacyCon 2020 and Calls for Research Presentations* (Oct. 11, 2019), https://www.ftc.gov/news-events/press-releases/2019/10/ftc-announces-privacycon-2020-calls-research-presentations; *see also* PrivacyCon 2020 event page, https://www.ftc.gov/news-events/events-calendar/privacycon-2020.

[26] 15 U.S.C. § 46(b).

[27] FTC Press Release, *FTC Seeks to Examine the Privacy Practices of Broadband Providers* (Mar. 26, 2019), https://www.ftc.gov/news-events/press-releases/2019/03/ftc-seeks-examine-privacy-practices-broadband-providers; *see also* FTC Press Release, *FTC Revises List of Companies Subject to Broadband Privacy Study* (Aug. 29, 2019), https://www.ftc.gov/news-events/press-releases/2019/08/ftc-revises-list-companies-subject-broadband-privacy-study.

Consumer and business education also is an important part of the Commission's privacy toolkit. To further our privacy and data security mission, the agency has published consumer and business education materials on artificial intelligence,[28] edtech,[29] and cloud computing.[30] 0 (2)0.5 (9)]TJ EM2 /P <</MCID 40 >>BDC 40 Tc 0 Tw 12 -0 0 12 135 626.219.64 515

deceiving consumers into believing that they are affiliated with the SBA.[35] In April 2020, the FTC also took action to stop a company the FTC charged with deceptively claiming to be an approved lender for the federal coronavirus relief lending program for small businesses.[36]

The Commission has a long history of focusing on halting fraud that targets older consumers, and the last year was no different. For example, the Commission recently brought a case against Online Trading Academy, charging that the company targeted older Americans and claimed to teach them how to make substantial income in the financial markets through its training, which often cost as much as $50,000.[37] The Commission also recently completed a month-long trial against the defendants in Sanctuary Belize, a massive land sale scam that allegedly bilked consumers out of nearly $140 million, largely from retirees.[38]

Many of the Commission's law enforcement actions address scams that target those already struggling with debt and credit issues. For example, earlier this year, the Commission obtained settlements in the *Grand Teton Professionals* matter that permanently ban the owners of an alleged bogus credit repair scam from future credit repair activities and provide over $11 million in monetary relief.[39] The Commission also obtained bans and an $18.5 million

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

judgment against the Preferred Law defendants, who preyed on financially distressed consumers by falsely promising to make their mortgages more affordable.[40] The Commission also has been active in stopping debt-relief scams targeting students.[41] For example, in July 2020, the FTC won summary judgment against a student loan scheme run by Mission Hills Federal. In that case, the judge banned the operators from telemarketing and debt relief activities and ordered over $27 million in monetary relief for consumers.[42]

The FTC also continues to target business opportunity and coaching and mentoring scams that prey on people seeking extra household income. In June 2019, the FTC sued the operators of "8 Figure Dream Lifestyle" and "Online Entrepreneur Academy," alleging that the defendants falsely claimed—at times using illegal robocalls—that consumers could make $10,000 or more in 60 to 90 days using defendants' programs.[43] More recently, the Commission halted the operations of two large real estate training schemes, Zurixx and Nudge, which allegedly used TV celebrities and lavish false or unfounded earnings claims to bilk consumers out of at least $900

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credit card interest reduction scheme run by Canadian nationals that allegedly preyed on U.S. consumers with false promises of debt reduction. FTC Press Release, *FTC and Ohio Stop Rogue Payment Processor and a Credit Card*

million.[44]

C. Protecting Consumers from Unfair, Deceptive, or Discriminatory Financing Transactions

The FTC is also focused on protecting consumers in financing transactions. Many consumers rely on financing to pay for important purchases. It is thus important for consumers who seek financing to be able to count on truthful and accurate information to evaluate their financing options, and to be treated fairly and in a non-discriminatory manner when engaging in financing transactions. The FTC has taken a number of actions to protect consumers from

editorial content—to deceptively sell health products,[54] as well as marketing that failed to disclose that it used paid social media influencers.[55] The Commission also has sued companies that claimed, allegedly without scientific evidence, that using their products could alleviate the symptoms of opioid withdrawal and increase the likelihood of overcoming opioid dependency.[56] In addition, pursuant to the recently enacted SUPPORT (Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment) for Patients and Communities Act,[57] Congress has authorized the Commission to seek civil penalties for unfair or deceptive acts or practices with respect to substance use disorder treatment service or substance use disorder treatment products, and the FTC will use that authority where appropriate.[58]

they used deceptive advertisements that falsely touted their relationships and their ability to provide job opportunities with companies such as AT&T, Yahoo!, Microsoft, Twitter, and The American Red Cross.[59]

One of the most effective ways to protect consumers from false claims is to remove the claims from the market quickly and efficiently. To accomplish this, the Commission has used warning letters to halt quickly proliferating scams. For example, since the pandemic began in March, we have issued joint warning letters with the Food and Drug Administration ("FDA") to more than seventy marketers regarding claims that their products will treat, cure, or prevent COVID-19, and there are additional warning letters in the pipeline.[60] The FTC also has issued its own warning letters to more than 200 additional marketers of COVID-19 products.[61] In addition, the Commission and FDA have issued joint warning letters to marketers who claim their dietary supplements and cannabidiol ("CBD") products treat or prevent other serious diseases, including Alzheimer's disease, cancer, and autism.[62] Overwhelmingly, companies that have received FTC

[59] FTC Press Release, *FTC Obtains Record $191 Million Settlement from University of Phoenix to Resolve FTC Charges It Used Deceptive Advertising to Attrac-13 FT [(C)10.4 1 (e)4 1.6 (t)*

warning letters these past several

year, we held a workshop examining consumer protection issues in the online ticket sales market, and in May, Commission staff issued a Staff Perspective summarizing its observations about the workshop.[67] Last August, we hosted a workshop to explore consumer issues surrounding loot boxes in the video game industry, such as concerns with the marketing and use of loot boxes and other in-game purchases, and the potential behavioral impact of these virtual items on consumers, especially children.[68] In March, we co-hosted an "FDA/FTC Workshop on a Competitive Marketplace for Biosimilars," where we led a panel on truthful and non-misleading advertising and promotional communications.[69] Finally, in June, the Commission approved a final rule amending the Contact Lens Rule, which facilitates shopping for contact lenses by requiring prescribers to provide automatically a copy of a patient's prescription and to verify or provide prescriptions to third-party sellers.[70] When it goes into effect, the revised final rule, among other things, will provide confirmation that patients have received their contact lens prescriptions. The Commission also is undertaking regulatory review of its Guides Concerning the Use of Endorsements and Testimonials in Advertising.[71]

E. Illegal Robocalls

Illegal robocalls remain a significant consumer protection problem and one of consumers' top complaints to the FTC. Through the first nine months of FY2020, the FTC has received more than 2.7 million complaints about unwanted calls, including 1.9 million complaints about robocalls. The FTC has used all the tools at its disposal to fight these illegal

[67] FTC Press Release, *FTC Staff Perspective Recaps Online Event Tickets Workshop* (May 7, 2020), https://www.ftc.gov/news-events/press-releases/2020/05/ftc-staff-perspective-recaps-online-event-tickets-workshop.
[68] *See* FTC Workshop, *Inside the Game: Unlocking the Consumer Issues Surrounding Loot Boxes* (Aug. 7, 2019), https://www.ftc.gov/news-events/events-calendar/inside-game-unlocking-consumer-issues-surrounding-loot-boxes.
[69] *See* FTC Workshop, *FDA/FTC Workshop on a Competitive Marketplace for Biosimilars* (Mar. 9, 2020), https://www.ftc.gov/news-events/events-calendar/fda-ftc-workshop-competitive-marketplace-biosimilars.
[70] The Rule is codified at 16 C.F.R. Part 315. The final rule will be published in the Federal Register shortly.
[71] 16 C.F.R. Part 255.

calls and has brought 148 enforcement actions against 502 corporations and 398 individuals to date.[72]

The FTC's most recent law enforcement crackdown, "Operation Call It Quits," included 94 total actions by the FTC and 25 federal, state, and local agencies.[73] Collectively, the defendants in these cases were responsible for making more than a billion illegal robocalls to consumers nationwide. Other FTC cases reflect the FTC's robocall enforcement efforts. For example, in *Grand Bahama Cruise Line*, the FTC is litigating claims against defendants who allegedly made or facilitated millions of illegal calls to consumers pitching free cruise vacations.[74] In *Career Education Corporation*, the operator of several post-secondary schools agreed to pay $30 million to settle FTC charges that it used sales leads from lead generators that called consumers on the National Do Not Call Registry, making false representations that the callers were affiliated with the U.S. military.[75] The FTC also recently filed its first action against a Voice over Internet Protocol ("VoIP") service provider based on evidence that it provided

marketers the means to make the alleged illegal calls.[76] While there is more work to do and there were likely many factors—including more aggressive blocking by phone companies and warning letters from the FTC and others—the FTC has seen a sharp drop in the number of robocall complaints since bringing its first VoIP case in December 2019.[77]

Despite the FTC's vigorous law enforcement program, however, technological advances continue to permit bad actors to place millions or even billions of calls, often from abroad, at very low cost, and in ways that are difficult to trace. This phenomenon infuriates consumers and challenges enforcers. Recognizing that law enforcement, while critical, is not enough to solve the problem of illegal calls, the FTC has taken steps to spur the marketplace to develop technological solutions. For instance, from 2013 to 2015, the FTC led four public challenges to incentivize innovators to help tackle the unlawful robocalls that plague consumers, which led to a shift in the development and availability of technological solutions in this area.[78] The telecommunications industry also has developed a new framework, SHAKEN/STIR, to help limit illegitimate number spoofing and reduce illegal robocalls. Congress mandated the implementation of this or a similar framework in last year's TRACED Act.[79]

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[76] The FTC amended its complaint in the *Educare Centre Services* litigation to add Globex Telecom, Inc. *FTC v. Educare Centre Services, Inc.*, No. 3:19-cv-196 (W.D. Tex., Am. Compl. filed Dec. 3, 2019), https://www.ftc.gov/enforcement/cases-proceedings/192-3033/educare-centre-services-inc.

[77] *See* FTC Press Release, *Court Halts Operations of VoIP Service Provider after the FTC and Ohio Alleged that It Helped Promote Credit Card Interest Reduction Scheme* (Dec. 5, 2019), https://www.ftc.gov/news-events/press-releases/2019/12/court-halts-operations-voip-service-provider-after-ftc-ohio.

[78] The first challenge, in 2013, called upon the public to develop a consumer-facing solution to block illegal

The FTC continues to engage with industry stakeholders and supports industry initiatives to authenticate caller ID numbers and curb illegal calling. For example, the FTC sent 15 warning letters to VoIP service providers and others

blurred. It impedes the FTC's work tackling illegal robocalls and more broadly circumscribes other enforcement initiatives. For example, a carrier that places, or assists and facilitates, illegal telemarketing might argue that its common carrier activities are beyond the Commission's reach because of the common carrier exemption. Likewise, the exemption may frustrate the Commission's ability to obtain complete relief for consumers when there are multiple parties, some of whom engage in common carrier activity. It also may pose difficulties when a company engages in deceptive or unfair practices involving a mix of common carrier and non-common carrier activities. Even where the FTC prevails against common carrier arguments raised in litigation,[83] fighting such arguments uses resources that could be better spent on finding—and halting—the next fraud.

F. Consumer and Business Education and Outreach

The FTC also supports and amplifies its consumer protection mission by engaging the public through outreach and education that reach tens of millions of people each year. Using the FTC's website, the media, partner organizations, and grass roots networking, the Commission disseminates actionable, practical, plain-language guidance to the public on timely topics and issues affecting American consumers and businesses.

As our activities during the past several months illustrate, the FTC keeps pace with current trends and strives to create education materials and campaigns that are timely and relevant to both consumers and business. In early February, the FTC posted its first blog warning consumers about potential COVID-related scams.[84] Within weeks, the FTC

[83] Recently, for example, the court rejected a defendant's argument that it was a common carrier and thus not subject to FTC jurisdiction. It held that the defendant's VoIP service constituted an unprotected "information service," as opposed to protected "telecommunication service." *See* Order at 13–18, Dkt. No. 145, *FTC v. Educare Centre Services, Inc.*, No. 3:19-cv-196 (W.D. Tex. Jan. 14, 2020),

developed a multi-media campaign, complete with a dedicated website[85] containing a library of nearly 100 consumer and business blog posts, scam alerts, and videos on topics ranging from relief checks[86] and treatment claims[87] to charity fraud,[88] government imposter scams,[89] and misinformation.[90] Simultaneously, the Commission leveraged its relationships with national and local organizations,[91] as well as its partnerships with federal agencies, to coordinate messaging and to deliver webinars, presentations, social media shareables, and m

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while maintaining trust in the important public health process. The FTC also has developed and delivered materials and presentations on the financial impact of the coronavirus,[96] and expects to continue its work to inform and protect consumers and businesses in this challenging environment.

The FTC continues to expand its outreach to consumers of diverse backgrounds, ages, education, and experience. F

One of the agencies' principal responsibilities is to prevent mergers that may substantially lessen competition. Under U.S. law, parties to certain mergers and acquisitions must file premerger notification and observe a statutorily prescribed waiting period before consummating their transactions. Prior to the COVID pandemic, premerger filings under the Hart

Commission also accepted negotiated settlements in an additional nine mergers, requiring

the Commission challenged Illumina, Inc.'s proposed acquisition of Pacific Biosciences of California under both Section 2 of the Sherman Act (which addresses monopolization) and

orders to five large technology firms (Alphabet, Amazon, Apple, Facebook, and Microsoft) requiring them to provide information about prior acquisitions not reported to the antitrust agencies under the HSR Act.[121] This initiative will allow the Commission to determine whether and to what extent large tech companies are making potentially anticompetitive acquisitions of nascent or potential competitors, outside the purview of advance HSR Act review.

The FTC supports its enforcement work with a vigorous policy agenda, which includes substantial research to stay informed of market developments. In June 2019, the Commission concluded its series of public *Hearings on Competition and Consumer Protection in the 21st Century*, through which the agency examined whether broad-based changes in the economy, evolving business practices, and new technologies might require adjustments to competition and consumer protection law, enforcement priorities, and policy.[122] One output from the hearings is the recently released Vertical Merger Guidelines, which is the first time the FTC and the DOJ have issued joint guidelines explaining how the agencies evaluate the likely competitive impact of vertical mergers.[123]

VI. CONCLUSION

The FTC remains committed to marshalling its resources efficiently in order to effectively protect consumers and promote competition, to anticipate and respond to changes in

[121] FTC Press Release, *FTC to Examine Past Acquisitions by Large Technology Companies* (Feb. 11, 2020), https://www.ftc.gov/news-events/press-releases/2020/02/ftc-examine-past-acquisitions-large-technology-companies.
[122] *See* Prepared Remarks of Chairman Simons Announcing the Competition and Consumer Protection Hearings (June 20, 2018), https://www.ftc.gov/system/files/documents/public_statements/1385308/prepared_remarks_of_joe_simons_announcing_the_hearings_6-20-18_0.pdf. From September 2018 through June 2019, the FTC held 14 sessions over the course of 23 days as a part of its Hearings on Competition and Consumer Protection in the 21st Century. In addition to the 393 individuals from outside the agency who participated in the Hearings, 71 members of FTC staff also participated. The hearings garnered a combined online audience of over 21,000 in addition to those who attended in person. The FTC held hearing sessions in Washington, DC; New York City; and Omaha, Nebraska.
[123] FTC News Release, *FTC and DOJ Issue Antitrust Guidelines for Evaluating Vertical Mergers* (Jun. 30, 2020), https://www.ftc.gov/news-events/press-releases/2020/06/ftc-

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 your questions.