[1] The Commission alleged that business practices employed on the company's Match.com service allowed it to profit off the activities of romance scams

knowingly processing payments and laundering credit card transactions for scams targeting hundreds of thousands of Americans.[3] These actions, taken by the FTC's regional offices, are models for the entire agency.

(2) Restate FTC Precedent to Deter Fraud and Boost Consumer Recoveries

The Commission's report describes common frauds targeting older Americans, including lottery scams, romance scams, and tech support scams. The FTC routinely brings law enforcement actions to halt this misconduct, but we should examine whether these actions are doing enough to deter fraud in the first place. Many of the actions outlined in this year's report resulted in no-money, no-help settlements. At the same time, when lawsuits do result in monetary relief, it is typically through Section 13(b) of the FTC Act, under which compensation is often capped at direct harm. This means that victims are often being undercompensated,[4] while wrongdoers are not actually facing any penalty.

To take one recent example, the report highlights the FTC's lawsuit against Agora Financial, which was brought under Section 13(b).[5] The complaint alleges that the company and its leadership targeted older Americans through a program that they claimed was affiliated with the U.S. government.[6] Because this conduct was not alleged to have violated any FTC rules, we will not be able to obtain any civil penalties or damages, even if we prevail in the litigation. Many other actions detailed in the report fall into the same category, and the Suprete

- Certification, licensure, or approval by the government or a nonprofit organization.

This restatement need not impose any new substantive requirements, but it would trigger damages and penalties for a wide range of conduct where FTC actions can otherwise result in no-money, no-help settlements, even against established corporate actors.[8] Recent examples of impostor fraud that resulted in no relief for victims include:

- Disseminating automobile recall notices with a similar appearance to notices required by the National Highway Traffic Safety Administration
- Falsely claiming participation in privacy programs overseen by the Commerce Department
- Falsely implying that health claims about an infant formula are approved by the Food and Drug Administration.

Had the FTC simply restated in a rule what it has stated elsewhere repeatedly – that it is illegal to impersonate the government or falsely claim government affiliation – these actions could have resulted in real relief for victims, rather than no-money orders.

The FTC has long been reluctant to codify commonsense rules, even when Congress expressly authorizes it.[9] Now, the agency's ability to recover funds for consumers and adequately hold wrongdoers accountable is in jeopardy.[10] It is time to change course. Regardless of how the Supreme Court interprets our authority under Section 13(b), this year's report underscores the need for comprehensive action to deter fraud, redress victims, and make clear that corporate America will pay a price for preying on older Americans.