

Prepared Statement of
The Federal Trade Commission

Before the
Subcommittee on Commerce, Manufacturing, and Trade
of the
House Energy and Commerce Committee

on

Dr. Burgess, Ranking Member Schakowsky, and members of the Subcommittee, I am Daniel Kaufman, Deputy Director of the Bureau of Consumer Protection at the Federal Trade Commission (“Commission” or “FTC”).¹ I appreciate the opportunity to appear before you today to provide an overview of current fraud trends affecting older Americans² and the Commission’s actions to address them.

Combatting fraud is a critical component of the FTC’s consumer protection mission. All consumers are potential fraud targets, and older Americans are not necessarily defrauded at higher rates than younger consumers.³ However, certain types of scams are more likely to impact older Americans, such as imposter schemes purporting to provide technical support to “fix” non-existent computer problems or scams relating to health care. As the population of older Americans grows rapidly, the FTC’s efforts to recognize these trends, bring aggressive law enforcement action, and educate seniors become increasingly vital.⁴

The Commission has taken a multi-faceted approach that encompasses robust law enforcement, strategic policy proposals, and vigorous consumer education and outreach. This

¹ The views expressed in this statement represent the views of the Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

² References in this testimony to “seniors,” or “older” or “elderly” individuals, means the

testimony describes the current threat landscape, and then outlines the Commission's various initiatives to protect older Americans.

I. Current Threats to Older Americans

Virtually every law enforcement case that the Commission brings affects some seniors, and certain types of scams appear to target seniors specifically. The threats to seniors range from illegal telemarketing and online scams to identity theft. To identify and analyze trends, the FTC assesses the marketplace in numerous ways: by tracking consumer complaints; examining empirical data gathered from surveys;⁵ and investigating information obtained from collaboration with law enforcement partners, consumer groups, industry members, academics, and others. In addition, the FTC hosts Common Ground conferences around the country with state law enforcement partners and legal services advocates to help identify frauds affecting consumers in different communities and highlight research on successful interventions.⁶ For example, the FTC hosted a workshop entitled "Fraud Affects Every Community." The workshop brought together consumer advocates, state and federal regulators, fraud prevention experts, industry members, and academics to explore frauds affecting particular groups, including older adults.⁷

⁵ Fed. Trade Comm'n Bureau of Economics Staff Report, *Consumer Fraud in the U.S., 2011*, at 59 (Apr. 2013), available at <https://www.ftc.gov/reports/consumer-fraud-united-states-2011-third-ftc-survey> (last visited Oct. 13, 2015).

⁶ The FTC has hosted 30 Common Ground conferences since 2010. See Fed. Trade Comm'n, Common Ground Events Calendar, available at <http://www.consumer.gov/content/common-ground-events-calendar> (last visited Oct. 13, 2015). The most recent conference took place in Salt Lake City, Utah on October 22, 2015 where the FTC co-hosted the event with the Utah Division of Consumer Protection. See Utah Consumer Protection Summit (Oct. 22, 2015), available at <https://www.ftc.gov/news-events/events-calendar/2015/10/utah-consumer-protection-summit> (last visited Oct. 13, 2015).

⁷ Press Release, Commission Announces Workshop to Explore How Fraud Affects Different Communities (Sept. 9, 2014), available at <https://www.ftc.gov/news-events/press-releases/2014/09/commission-announces-workshop-explore-how-fraud-affects-different>.

Through these efforts and our law enforcement experience, the Commission has identified fraudulent practices in the marketing of several types of products to seniors including: (1) sweepstakes, prize promotions, and lotteries;⁸ (2) timeshare sales and re-sales;⁹ (3) health care products and services;¹⁰ (4) investments, business opportunities, and work-from-home programs;¹¹ (5) technical support services;¹² and (6) charitable donations.¹³

In addition, the Consumer Sentinel Complaint database—an online database of complaints maintained by the Commission—shows that in 2014 consumers age 60 and older

⁸ See, e.g., *FTC v. Mail Tree, Inc.*, No. 15-CV-61034-JIC (S.D. Fla. May 21, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3068/mail-tree-inc>. The FTC's third consumer fraud survey revealed that consumers between the ages of 65 to 74 years of age were more likely to be victims of fraudulent prize promotions than younger consumers. Fed. Trade Comm'n Bureau of Economics Staff Report, *Consumer Fraud in the U.S., 2011*, at 59 (Apr. 2013), available at <https://www.ftc.gov/reports/consumer-fraud-united-states-2011-third-ftc-survey> (last visited Oct. 13, 2015).

⁹ See, e.g., *FTC v. Consumer Collection Advocates, Corp.*, No. 14-CV-62491-BB (S.D. Fla. Nov. 20, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3082/consumer-collection-advocates-corp>.

¹⁰ See, e.g., *FTC v. Lifewatch, Inc.*, No. 15-CV-05781 (N.D. Ill. July 6, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3123/lifewatch-inc>; *FTC v. Sun Bright Ventures LLC*, No. 14-CV-02153-JDW-EAJ (M.D. Fla. Oct. 2, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3217/sun-bright-ventures-llc-gmy-llc>.

¹¹ See, e.g., *FTC v. Consumer Collection Advocates, Corp.*, No. 14-CV-62491-BB (S.D. Fla. Nov. 20, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3082/consumer-collection-advocates-corp>; *FTC v. The Tax Club*, No. 13-CV-210 (S.D.N.Y. Jan. 9, 2013), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3071/tax-club-inc-et-al>; *FTC v. American Bus. Builders, LLC*, No. 13-CV-02368 (D. Ariz. Nov. 6, 2012), available at <https://www.ftc.gov/enforcement/cases-proceedings/122-3191/american-business-builders-llc-et-al>; *FTC v. Real Wealth, Inc.*, No. 10-CV-00060 (W.D. Mo. Jan. 21, 2010), available at <https://www.ftc.gov/enforcement/cases-proceedings/092-3207/real-wealth-et-al>.

¹² See, e.g.,

complained primarily about: telemarketing calls; government, business, and friend imposter scams; third-party debt-collectors; prizes/sweepstakes/lotteries; and shop-at-home sales.¹⁴

Figure 1: Top Product Service Codes for Consumers Age 60 and Over in Consumer Sentinel Network Complaints January 1 - December 31, 201⁵4

In response to these trends, the FTC has focused its efforts on three fronts described below: (1) law enforcement targeting specific types of fraudulent schemes and payment

and irretrievable transfer of money to a fraudster; and (3) clear messages to help older Americans avoid common fraud schemes.

II. Law Enforcement

Aggressive law enforcement is crucial to the FTC's efforts to protect older Americans. Since 2005, the Commission has brought over thirty cases against fraudsters who have specifically injured that population. Although scams targeting older Americans are diverse and have ranged from sweepstakes to business opportunities, the FTC has in recent years concentrated its law enforcement efforts on online threats and health care.¹⁶ In these scams, fraudsters frequently invoke affiliation with legitimate and well-known businesses or government agencies in an attempt to gain consumers' trust. As demonstrated by Consumer Sentinel complaint data, these tactics have become increasingly popular.¹⁷ The FTC also has pursued actions related to the money transfer services that are commonly used in scams affecting older adults and coordinated efforts with criminal law enforcement to achieve a broader impact.

¹⁶ See Fed. Trade Comm'n, Prepared Statement of the Federal Trade Commission on Elder Fraud and Consumer Protection Issues Before the Subcommittee on Commerce, Manufacturing, and Trade of the Committee on Energy and Commerce, United States House of Representatives, at 9-10 (May 16, 2013), available at <https://www.ftc.gov/public-statements/2013/05/prepared-statement-federal-trade-commission-elder-fraud-and-consumer>.

¹⁷ As demonstrated by the chart below, the number of reported imposter scams has more than tripled since 2012. Press Release, FTC Releases Top 10 Complaint Categories for 2012 (Feb. 26, 2013), available at <https://www.ftc.gov/news-events/press-releases/2013/02/ftc-releases-top-10-complaint-categories-2012>; Press Release, FTC Announces Top National Consumer Complaints for 2013 (Feb. 27, 2014), available at <https://www.ftc.gov/news-events/press-releases/2014/02/ftc-announces-top-national-consumer-complaints-2013>; Press Release, Identity Theft Tops FTC's Consumer Complaint Categories Again in 2014 (Feb. 27, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/02/identity-theft-tops-ftcs-consumer-complaint-categories-again-2014>.

Year	Number of Complaints	Percent of All Complaints
2012	82, 896	4%
2013	121,720	6%
2014	276,662	11%

A. Online Threats

With the explosion of technological developments, the online space is ripe for fraud

FTC alleged that the telemarketers told consumers that their computers were riddled with viruses and malware and then offered to “fix” these non-existent problems for several hundred dollars. The defendants agreed to relinquish most of their assets.²⁰ Similarly, in two other cases, the FTC charged defendants with tricking consumers into believing there are problems with their computers and selling technical support products and services to “fix” these consumers’ non-existent computer problems.²¹ These two cases remain in litigation. Technical support scams have caused hundreds of millions of

pharmaceutical services. For example, in *FTC v. Worldwide Info Services, Inc.*, the FTC filed suit against telemarketers who used robocalls to pitch a purportedly “free” medical alert system that a friend, family member, or other acquaintance had purchased for the consumer. In reality, no one had agreed to purchase the system, and the company charged consumers, many of whom were elderly, \$34.95 per month for monitoring.²³ The settlement with defendants permanently bans them from making robocalls.²⁴ Similarly, earlier this year the FTC sued Lifewatch, Inc. for tricking older consumers into signing up for a medical alert system.²⁵ That case remains in litigation.

Scammers have also falsely claimed an affiliation with government agencies to prey on consumers’ fear of losing a government health benefit. In *FTC v. Sun Bright Ventures, LLC*, the FTC charged that defendants pretended to be part of Medicare and targeted older Americans. Defendants allegedly tricked seniors into providing their bank account information by telling the consumers that the information was required to obtain a new Medicare card or to receive important information about Medicare benefits. Once the defendants received the bank account information, they debited consumers’ accounts by initiating a remotely created check that the

²³ *FTC v. Worldwide Info Services, Inc.*, No. 6:14-cv-8-ORL-28DAB (M.D. Fla. Jan. 6, 2014), available at <http://www.ftc.gov/enforcement/cases-proceedings/132-3175/worldwide-info-services-inc>. Worldwide Info Services was telemarketing on behalf of Lifewatch, Inc. Despite Worldwide’s agreement to be banned from sending robocalls, Lifewatch continued utilizing other telemarketers to engage in the same deceptive business practices, leading to the FTC’s current suit against Lifewatch, Inc. See Press Release, FTC, Florida Attorney General Sue to Stop Deceptive Robocalls from Operation that Pitched Seniors “Free” Medical Alert Systems (July 6, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/07/ftc-florida-attorney-general-sue-stop-deceptive-robocalls>.

²⁴ Press Release, Settlement with FTC and Florida Attorney General Stops Operations that Used Robocalls to Fraudulently Pitch Medical Alert Devices to Seniors (Nov. 13, 2014), available at <https://www.ftc.gov/news-events/press-releases/2014/11/settlement-ftc-florida-attorney-general-stops-operations-used>.

²⁵ *FTC v. Lifewatch, Inc.*, No. 15-CV-05781 (N.D. Ill. July 6, 2015), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3123/lifewatch-inc>.

consumer never saw or authorized.²⁶ The FTC sued Sun Bright Ventures and the individuals running it, seeking a temporary restraining order along with an asset freeze. As part of the recent settlement, defendants are permanently banned from selling healthcare-related products and from debiting bank accounts by creating or depositing remotely created checks and a similar payment mechanism, remotely created payment orders.²⁷

Complementing these enforcement actions against the fraudsters, the FTC also has sued the money transfer services commonly used in these scams targeting older Americans. For example, in 2009, the Commission charged that MoneyGram allowed telemarketers to bilk U.S. consumers out of tens of millions of dollars using its money transfer system.²⁸ The FTC's settlement with MoneyGram required it to pay \$18 million in restitution to settle the charges.

²⁶ *FTC v. Sun Bright Ventures LLC*, No. 14-CV-02153-JDW-EAJ (M.D. Fla. Oct. 2, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3217/sun-bright-ventures-llc-gmy-llc>.

²⁷ Press Release, FTC Action: Scammers Banned from Selling Healthcare Products (July 27, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/07/ftc-action-scammers-banned-selling-healthcare-products>.

²⁸ *FTC v. MoneyGram Int'l, Inc.*, No. 1:09-cv-06576 (N.D. Ill. Oct. 19, 2009). The FTC charged that MoneyGram knew that its system was being used to defraud people, many of whom were elderly, but did very little about it. For example, the FTC alleged that MoneyGram knew, or avoided knowing, that about 131 of its more than 1,200 agents accounted for more than 95 percent of the fraud complaints MoneyGram received in 2008 regarding money transfers to Canada. The Commission further alleged that MoneyGram ignored warnings from law enforcement officials and its own employees that widespread fraud was being conducted over its network, and even discouraged its employees from enforcing its own fraud prevention policies or taking action against suspicious or corrupt agents. See Press Release, FTC, *MoneyGram to Pay \$18 Million to Settle FTC Charges That it Allowed its Money*

The FTC is currently investigating whether another money transfer service company – Western Union – has used effective procedures to stop consumers from sending funds to perpetrators of fraud, here and abroad, using its money transfer network.²⁹ In addition to its enforcement efforts, the FTC continues to collaborate informally with money transfer companies, reloadable prepaid card services, retailers, financial institutions, and other private sector entities to improve their fraud-prevention practices.

C. Coordinating with Criminal Law Enforcement

The Commission, through its Criminal Liaison Unit (“CLU”), coordinates extensively with criminal law enforcement agencies in combatting scams, including referring perpetrators to criminal law enforcement authorities for prosecution.³⁰ Since the creation of the CLU in 2003, hundreds of fraudsters have faced criminal charges and prison time as a result of FTC referrals.

Given the cross-border nature of many scams, the Commission also partners with foreign agencies to combat scams that impact the elderly. For example, the Commission is a member of the Centre of Operations Linked to Telemarketing Fraud (“Project COLT”), a joint operation

²⁹ *FTC v. The Western Union Co.*, No 13-3100, Brief of Appellant [D.E. #49] at 1 (2d Cir. Nov. 27, 2013) (filing in litigation to enforce FTC ci

involving U.S. and Canadian agencies to combat cross-border telemarketing fraud.³¹ Through this operation, the FTC coordinates law enforcement efforts and exchanges intelligence with Canadian authorities. The FTC's involvement in Project COLT has resulted in at least ten indictments of individuals involved in grandparent³² and timeshare scams.³³ Since its inception in 1998, Project COLT has recovered over \$26 million for victims of telemarketing fraud.

In addition, the FTC is also a member of the Jamaican Operations Linked to Telemarketing taskforce ("Project JOLT"). Project JOLT is a multi-agency task force consisting of U.S. and Jamaican law enforcement agencies working cooperatively to combat Jamaican-based fraudulent telemarketing operations that target U.S. consumers.³⁴ The FTC, through its involvement in Project JOLT, shares information, investigative resources, and complaint data

with Project JOLT, including prosecutions for scams that targeted the elderly and impersonated government agencies to promote fake lottery schemes.³⁵

III. Policy Initiatives

The FTC's robust and longstanding law enforcement program has revealed certain systemic and regulatory weaknesses that fraudsters exploit time and again. Indeed, the Commission's telemarketing law enforcement record demonstrates that certain payment mechanisms enable fraudsters to steal consumer funds more easily. In *FTC v. First Consumers*, for example, the defendants cold-called seniors claiming to sell fraud protection, legal protection, and pharmaceutical benefit services for several hundred dollars. In some cases, the defendants pretended to be affiliated with a financial institution or government agency in order to gain consumers' trust. Once the consumers disclosed their bank account information, the defendants used remotely created checks to take consumers' monies right out of their bank accounts.³⁶ Many other FTC cases against fraudulent telemarketing operations contain similar facts.³⁷

Seeking to protect consumers from such tactics, the FTC announced proposed amendments in 2013 to strengthen the Telemarketing Sales Rule by barring sellers and

³⁵ For example, on April 29, 2014, a federal judge sentenced Jamaican citizen Oneike Barnett to 60 months in prison for his role in a fraudulent lottery scheme that targeted elderly victims in the United States. Barnett, who pled guilty, acknowledged that he was a member of a conspiracy that called elderly victims, informing them that they had supposedly won a large amount of money in a lottery. The fraudsters induced victims to pay bogus fees in advance of receiving their purported lottery winnings. In an effort to convince the victims that the lottery winnings were real, the conspirators sent written and electronic communications that claimed to be from the IRS and the Federal Reserve. See Press Release, U.S. Dep't of Justice, *Jamaican Citizen Sentenced in Connection With International Lottery Scheme That Defrauded Elderly Americans* (Apr. 29, 2014), available at <http://www.justice.gov/opa/pr/2014/April/14-civ-454.html>.

³⁶ *FTC v. First Consumers, et al.*, No. 14-1608 (E.D. Pa. Mar. 13, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3291/first-consumers-et-al>.

³⁷ Telemarketing Sales Rule, Notice of proposed rulemaking, Request for public comment ("NPR"), 78 Federal Register 131 (Jul. 9, 2013), pp. 41207-09, available at <https://www.ftc.gov/news-events/press-releases/2013/05/ftc-seeks-public-comment-proposal-ban-payment-methods-favored> (last visited Oct. 13, 2015).

includes numerous pieces of particular relevance to seniors, including those specifically describing grandparent scams,⁴⁰ prize and lottery fraud,⁴¹ medical alert scams,⁴² technical support scams,⁴³ and government imposter fraud.⁴⁴

In addition, the FTC recently created Pass It On, an innovative education effort aimed at active, older adults. Pass It On seeks to arm older people with information that they can “pass on” to family and friends who might need it. The materials and videos available at www.ftc.gov/PassItOn are direct and to the point, with a friendly and respectful tone informed by research about the target community’s preferences. The materials cover topics such as imposter and health care scams, charity fraud, and identity theft,⁴⁵ all of which are available in

⁴⁰ See *Family Emergency Scams*, FTC, <http://www.consumer.ftc.gov/media/audio-0052-family-emergency-scams> (last visited Oct. 13, 2015); *Family Emergency Scams*, FTC,

print in both English and Spanish.

The Commission seeks to reach older adults through the facilities where they gather or live: libraries, social and civic clubs, senior centers, adult living communities, and veterans' facilities. The FTC recently mailed information to three thousand such facilities and within three days had orders from around the country for more than two thousand copies of the Pass It On printed materials. This confirmed the demand for clear, friendly, respectful education materials for older Americans. The Commission looks forward to continuing to share these materials with public and private sector organizations.

Pass It On resources complement the FTC's other outreach and coordination activities on behalf of older people. For instance, we work extensively with the Elder Justice Coordinating Council to identify cross-agency initiatives to protect seniors from abuse, neglect, and exploitation, and other crimes.⁴⁶ In 2012, the Commission also entered into an innovative program with the American Association of Retired Persons Foundation. Through this program, the FTC refers for individual peer counseling consumers over the age of 60 who have called the FTC's Consumer Response Center with complaints about certain frauds, including lottery, prize promotion, and grandparent scams.⁴⁷ The counseling provides older Americans with important support to help overcome the non-monetary impacts of being targeted by fraudsters. In the last six months, the FTC has referred over 1,000 consumers. In 2014, the AARP Foundation peer

⁴⁶ The Secretary of the Department of Health and Human Services ("DHHS") convened the Elder Justice Coordinating Council in accordance with the Elder Justice Act of 2009. The Council consists of heads of federal departments and other government entities, including the FTC, identified as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation. The Council's mission is to develop recommendations to the DHHS Secretary for the coordination of relevant activities. See Elder Justice Coordinating Council, *Facts*, <http://ltcombudsman.org/uploads/files/issues/elder-justice-coordinating-council-factsheet.pdf> (last visited Oct. 13, 2015).

⁴⁷ The FTC only refers consumers who have consented to being contacted by the AARP.

counselors successfully communicated with more than fourteen hundred people referred by the FTC, providing one-on-one advice and guidance to consumers to help them avoid future fraud.⁴⁸

V. Conclusion

The Commission is committed to protecting all consumers from fraud in the marketplace. To address scams that target older Americans, the agency will continue to employ a combination of law enforcement, informed policy proposals, and effective consumer education messages. Moreover, the Commission will continue to identify areas in which new policy and law enforcement approaches are warranted. The Commission looks forward to working with the Committee on this important issue.

⁴⁸ The consumers contacted by the Foundation counselors reported having lost nearly \$19.5 million.