

Oral Statement of Commissioner Julie Brill
U.S. House of Representatives
Energy and Commerce Committee
Commerce, Manufacturing, and Trade Subcommittee
Hearing on “The FTC at 100: Where Do We Go from Here?”
Washington, DC
December 3, 2013

Good morning, Chairman Terry, Ranking Member Schakowsky, and Members of the Subcommittee, it is a pleasure to be here to listen to your views on the FTC at 100 and where we as an agency should go from here.

My name is Julie Brill, and I have served as an FTC Commissioner since 2010.

I will highlight some of the significant substantive work underway at the FTC as we approach our 100th anniversary.

Let me begin with our consumer protection mission.

The FTC is taking effective actions to protect consumers in a recovering economy. Aggressive enforcement plays a key role; and we actively monitor the marketplace to identify, understand, and eliminate financial scams. Recently we have focused on putting an end to scams that falsely promised to reduce consumers’ mortgage payments, prevent foreclosure, or ease credit card debts.¹ And we have stopped debt collectors who violated the law in their efforts to obtain payments from consumers – some of whom did not even owe a debt in the first place.² We pay particularly close attention to schemes that target vulnerable consumers, such as the elderly³ and military service members and their families.⁴

The FTC is also the nation’s top cop on the consumer data security and privacy beat. Our enforcement and policy work in these areas helps to ensure that consumers have confidence in

¹ See, e.g., *FTC v. Innovative Wealth Builders, Inc.*, Case No. 8:13-cv-00123-VMC-EAJ (M.D. Fl. Sept. 9, 2013), available at <http://www.ftc.gov/os/caselist/1223127/130910iwborder.pdf>; *FTC v. A to Z Mktg, Inc.*, Case No. 8:13-00919-DOC-RNB (C.D. Cal. July 13, 2013), available at <http://ftc.gov/os/caselist/1223074/130718azprelim.pdf>; *FTC v. Dinamica Financiera LLC*, Case No. CV-09-03554-MMM-PJW (C.D. Cal. Aug. 19, 2010), available at <http://www.ftc.gov/os/caselist/0823103/101119dinamicaorder.pdf>.

² See, e.g., *FTC v. Pinnacle Payment Servs. LLC*, Case No. 1:13-cv-3455 (N.D. Ga. Oct. 21, 2013), available at <http://www.ftc.gov/os/caselist/1323043/131024pinnaclecmpt.pdf> (complaint).

³ See Fed. Trade Comm’n, Prepared Statement for U.S. House of Representatives Energy and Commerce Committee, Subcommittee on Commerce, Manufacturing, and Trade Hearing on Elder Fraud and Consumer Protection Issues, at 2-3 nn.5-11 (May 16, 2013), available at <http://www.ftc.gov/os/testimony/113hearings/130516elderfraudhouse.pdf> (collecting cases).

⁴ See, e.g., *United States v. Mortgage Investors Corp. of Ohio, Inc.*, No. 8:13-cv-01647-SDM-TGW (M.D. Fla. June 25, 2013), available at <http://www.ftc.gov/os/caselist/1223084/index.shtm>; *FTC v. Goldman Schwartz, Inc.*, No. 4:13-cv-00106 (S.D. Tex. Jan. 14, 2013), available at <http://www.ftc.gov/os/caselist/1223096/130131goldmanschwartztro.pdf>

the dynamic and ever-changing marketplace for personal information.⁵ We enforce the Fair Credit Reporting Act,⁶ and we pay particularly close attention to children’s online privacy, as mandated by Congress in the Children’s Online Privacy Protection Act.

For over a decade, under both Republican and Democratic leadership, we have challenged deceptive and unfair data security and privacy practices. In that time period, we have brought 47 cases against companies that failed to properly secure consumer information, and more than 40 cases relating to the privacy of consumer data. Some of these cases involve household names, such as Google and Facebook.⁷ But we have also brought myriad cases against less well-known companies that spammed consumers,⁸ violated commitments in their privacy policies,⁹ installed spyware on consumers’ computers,¹⁰ or otherwise crossed the lines of deception or unfairness in their data collection and use practices.

In all of our work, we recognize the need to stay abreast of fast-paced technological changes. As the world has moved to mobile, we have focused on the effects of data collection and use practices, as well as the variety of mobile payment systems, in this complex and evolving marketplace. We just held a workshop on the Internet of Things, to explore data security and privacy issues related to connected devices – smart cars, smart medical devices, and smart appliances.¹¹

Moving on to our competition mission, here are some recent highlights from our work to promote competition and free markets.

In the high-tech marketplace, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law – issues related to innovation, standard-setting, and patents.¹² The Commission’s policy work in this area is grounded in the recognition

⁵ Fed. Trade Comm’n, *Protecting Consumer Privacy in an Era of Rapid Change* (2012), available at <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf>.

⁶ Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (2006).

⁷ In the Matter of Google, Inc., FTC File No. 102 3136 (Oct. 13, 2011), available at <http://ftc.gov/os/caselist/1023136/111024googlebuzzdo.pdf> (decision and order); In the Matter of Facebook, Inc., FTC File No. 092 3184 (July 27, 2012), available at <http://www.ftc.gov/os/caselist/0923184/120810facebookdo.pdf> (decision and order).

⁸ See, e.g., *United States v. ValueClick, Inc.*, Case No. CV08-01711 (C.D. Cal., Mar. 17, 2008), available at <http://www.ftc.gov/os/caselist/0723111/080317judgment.pdf> (stipulated final judgment).

⁹ See *In the Matter of Chitika, Inc.*, FTC Docket No. C-4324 (June 7, 2011), available at <http://ftc.gov/os/caselist/1023087/110617chitikado.pdf> (decision and order).

¹⁰ See, e.g., *FTC v. CyberSpy Software, LLC*, Case No. 6:08-cv-01872-GAP-GJK (M.D. Fla., Apr. 22, 2010), available at <http://www.ftc.gov/os/caselist/0823160/100602cyberspystip.pdf>.

¹¹ Fed. Trade Comm’n, *Internet of Things: Privacy and Security in an Interconnected World* (Nov. 19, 2013), <http://www.ftc.gov/bcp/workshops/internet-of-things/>.

¹² See, e.g., *In the Matter of Motorola Mobility, LLC, and Google Inc.*, FTC File No. 121 0120 (July 24, 2013), available at <http://ftc.gov/os/caselist/1210120/index.shtm>.

that intellectual property and competition laws share the fundamental goals of promoting innovation and consumer welfare.¹³

With respect to the health care market, the Commission devotes significant resources to ensure that competition will enable market participants to deliver cost-containment, excellence, and innovation. Using enforcement as its primary tool, the Commission works to prevent anticompetitive mergers and conduct that might diminish competition in health care.

This year the FTC won an important pharmaceutical enforcement case in the Supreme Court.¹⁴ The *Actavis* case involved so-called reverse payments between branded and generic pharmaceutical firms. These payments had the effect of keeping price-lowering generic drugs off the market to the detriment of consumers. The Supreme Court ruling that these payments should be subject to the antitrust laws was an important win for consumers. The *Actavis* decision vindicated the balanced and bipartisan goal of the Hatch-Waxman Act¹⁵ to increase the rewards of branded pharmaceutical manufacturers for bringing new drugs to market, and increase the incentive of generics to challenge invalid drug patents.

¹³ See Fed. Trade Comm'n & U.S. Dep't of Justice, *Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition* (2007), available at <http://www.ftc.gov/reports/innovation/P040101PromotingInnovationandCompetitionrpt0704.pdf>.

¹⁴ Fed. Trade Comm'n v. Actavis, Inc., 570 U.S. ___, 133 S. Ct. 2223 (2013), available at http://www.supremecourt.gov/opinions/12pdf/12-416_m5n0.pdf.

¹⁵ Drug Price Competition and Patent Term Restoration Act of 1984 ("Hatch-Waxman Act"), Pub. L. 98-417, 98 Stat. 1585 (codified as amended in scattered sections of 21 U.S.C.).