



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

**Prepared Remarks of Chairman Joseph J. Simons¹
National Association of Attorneys General Winter Meeting
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I am delighted to be here today. And I am very grateful to the National Association of Attorneys General for this opportunity to discuss our common goals to protect consumers and promote competition. For the FTC to accomplish its mission in the most effective way possible, it is crucial that we work closely with you and your colleagues. Our agency has a long history of doing just that, and with our new slate of commissioners, I can say confidently that you can expect that tradition to continue and to grow.

I would like to start by highlighting some of our recent joint initiatives, because they demonstrate how effective we can be when we work together. Next, I will outline some FTC enforcement priorities for 2019—priorities that reflect some of the unique challenges consumers face in today’s marketplace. Finally, I would like to leave time to hear any questions or suggestions you have for our continued collaboration.

I. OUR WORK TOGETHER

I would like to kick things off by bragging a bit—for *all* of us—about some of the work we have done with state partners, many of whom are represented in this room. We have worked

¹ These remarks reflect my own views. They do not necessarily reflect the views of the Commission or any other individual Commissioner.

on joint investigations and enforcement, education and outreach, sharing consumer complaints, and collaborating through joint events, task forces, and working groups.

The FTC is first and foremost a law enforcement agency, and we are more effective thanks to our work with you. On the consumer protection side, for example, the FTC and the offices of eight state Attorneys General, along with other partners, announced the results of *Operation Main Street*, a law enforcement initiative targeting operations seeking to defraud small businesses.² The initiative also included an education outreach effort to help small businesses protect themselves from fraud.

And in July 2018, the FTC, along with law enforcement officials and charity regulators from 70 offices in every state, the District of Columbia, American Samoa, Guam, and Puerto Rico, announced more than 100 actions and a consumer education initiative in *Operation Donate with Honor*, a crackdown on fraudulent charities that con consumers by falsely promising their donations will help veterans and service members.³ One of those actions, *Help the Vets*, was brought by the FTC and state attorneys general from California, Florida, Maryland, Minnesota, Ohio, and Oregon.⁴ As a result of this partnership, the sham charity and its founder were banned from soliciting charitable contributions and required to pay close to \$2 million.

My own experience working with our state partners goes back to my days when I was the Bureau Director for the Bureau of Competition. We worked hand in hand on a number of

² Press Release, *FTC, BBB, and Law Enforcement Partners Announce Results of Operation Main Street: Stopping Small Business Scams Law Enforcement and Education Initiative* (June 18, 2018), <https://www.ftc.gov/news-events/press-releases/2018/06/ftc-bbb-law-enforcement-partners-announce-results-operation-main>.

³ Press Release, *FTC and States Combat Fraudulent Charities That Falsely Claim to Help Veterans and Servicemembers* (July 19, 2018), <https://www.ftc.gov/news-events/press-releases/2018/07/ftc-states-combat-fraudulent-charities-falsely-claim-help>.

⁴ *FTC et al. v. Help the Vets, Inc.*, No. 6:18-CV-01153 (M.D. Fla. July 18, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/172-3159/help-vets-inc>.

matters, and I am heartened to see that we have maintained our close relationships enforcing the antitrust laws. Whether we are working with all 50 states or very closely with a single state, our partnerships with state allies are critical to our competition enforcement mission.

For instance, state investigators often are much closer to the conduct under investigation than we are at the federal level. Take our recent investigation of Marathon's acquisition of Express Mart. Our staff worked closely with the New York Attorney General's office because they were much more familiar with the local dynamics of the retail gasoline markets than we were. Our coordinated efforts allowed us to focus quickly on the areas of concerns and ultimately led to divestitures in five cities in New York State.⁵

In addition to sharing the investigative work, our state partners also have shared in obtaining some of the relief. In the *Mallinckrodt* case, we worked closely with Alaska, Maryland, New York, Texas, and Washington. All five states ultimately joined in our complaint, and obtained \$10 million of the \$100 million settlement relating to charges that the company maintained its monopoly by acquiring rights to development of a competing drug.⁶

Last, we cannot talk about our partnerships with the state attorneys general without mentioning our hospital merger enforcement program. In recent hospital merger enforcement cases—Advocate/North Shore, Penn State Hershey/PinnacleHealth, and Sanford/Mid Dakota—state partners teamed up with us on staffing and other resources to litigate these merger cases. Our combined efforts have helped stem rising healthcare costs by challenging anticompetitive hospital mergers. Some states also have asked us for support and training in evaluating and

⁵ Press Release, *FTC Approves Final Order Imposing Conditions on Marathon Petroleum Corporation's Acquisition of Express Mart* (Feb. 8, 2019), <https://www.ftc.gov/news-events/press-releases/2019/02/ftc-approves-final-order-imposing-conditions-marathon-petroleum>.

⁶ Press Release, *Mallinckrodt Will Pay \$100 Million to Settle FTC, State Charges It Illegally Maintained its Monopoly of Specialty Drug Used to Treat Infants* (Jan. 18, 2017), <https://www.ftc.gov/news-events/press-releases/2017/01/mallinckrodt-will-pay-100-million-settle-ftc-state-charges-it>.

litigating hospital mergers. We currently are developing such a program for hospital as well as physician group mergers, and we hope to make that training available to any state that is interested.

Beyond enforcement, we also hold joint events around the country, like our *Common Ground* initiative. In June 2018, the FTC and the California Attorney General's Office hosted the *FTC-Western States AGs Common Ground Conference*. We discussed our experiences investigating healthcare mergers, pharmaceutical issues, and anticompetitive conduct. We also compared notes on our approach to divestiture remedies. I understand that this was a very productive meeting, and that we are planning to host another meeting for the East Coast.

In September 2018, the FTC and the Utah Department of Commerce hosted the *Utah Consumer Fraud and Business Symposium* to share experiences and challenges, make connections, and discuss how groups can better collaborate and share information and resources.⁷ Continuing this tradition of collaboration, the FTC is planning a similar consumer protection conference with Minnesota later this year. The FTC has also been hosting a series of free webinars with our state partners on the top scams reported in each state to provide tips to help consumers avoid those scams, protect their identity, and recover from identity theft. Our most recent webinar was with South Dakota in December.⁸

Finally, sharing consumer complaints is critical so that we can learn about those scams doing the most harm, respond to emerging frauds before they become an even bigger problem, and develop evidence for law enforcement. Virtually all of the state AG offices have access to

⁷ FTC and the Utah Department of Commerce, *Consumer Fraud and Business Symposium* (Sept. 20, 2018), <https://www.ftc.gov/news-events/events-calendar/2018/09/ftc-utah-department-commerce-consumer-fraud-business-symposium>.

⁸ *Webinar: Fighting Consumer Fraud and Identity Theft in South Dakota* (Dec. 6, 2018), <https://www.ftc.gov/news-events/events-calendar/webinar-fighting-consumer-fraud-identity-theft-south-dakota>.

our Consumer Sentinel database. Sentinel membership allows your staffs to access the more than 16 million fraud and identity theft consumer complaints from the past five years in the database, plus more than 19 million Do Not Call complaints and over 146 million spam messages from the past three years. Sentinel includes complaints from many public and private partners. Having data from all of these sources increases the value of the database for everyone. Twenty-three states contribute data, and we have commitments from two other states to do so in the near future. But that is still only half, so I really encourage all of you that are not participating to think about how you might do so.

II. CURRENT ENFORCEMENT PRIORITIES

Let me now turn to the FTC priorities for 2019. I want to highlight these areas because they are important to consumer protection and competition, and because they may offer some additional areas for collaboration.

Antitrust. On the merger front, we continue to be active. When I was sworn in, there were four active merger litigations going on at the FTC—a lot for us to have going on at once. And in fiscal year 2018, we had 25 merger enforcement actions in total (merger litigations and other merger enforcement actions). We will also be looking at unilateral conduct by dominant firms in industries with substantial network effects, where the dominant firm’s conduct may impede or infringe entry or fringe expansion. This includes tech platforms. And you have probably all seen the announcement of our newly formed Technology Task Force, which we expect to be very active in this regard.⁹

⁹ Press Release, *FTC’s Bureau of Competition Launches Task Force to Monitor Technology Markets* (Feb. 26, 2019), <https://www.ftc.gov/news-events/press-releases/2019/02/ftcs-bureau-competition-launches-task-force-monitor-technology>.

Privacy and Data Security. Privacy and data security are always a top consumer protection priority at the Federal Trade Commission. Although the FTC uses its broad authority under the FTC Act to address privacy and security concerns,¹⁰ Section 5 is an imperfect tool, which is why I support data security legislation. The Commission has also urged Congress to consider enacting privacy legislation enforced by the FTC. We have committed to enforcing any such legislation vigorously and enthusiastically.

Regardless of any legislative proposals, however, the FTC will use every tool available when it comes to privacy and data security enforcement. Just last week, for example, we announced that Musical.ly, a video social networking app, illegally collected personal information from children in violation of COPPA.¹¹ The settlement included a \$5.7 million civil penalty—the largest ever obtained by the Commission in a children’s privacy case.

Advertising. Truthful advertising will always be one of the FTC’s core missions, because it lets consumers make informed decisions. As online marketplaces and infomercials continue to flourish, we will continue to prioritize enforcement involving the inappropriate use of influencers, native advertising, and consumer reviews. Our recent case against Creaxion and Inside Publications is a great example.¹²

Deceptive health and safety claims will also continue to be a focus for the FTC’s advertising program. For example, we will target deceptive claims that products treat particular

¹⁰ 15 U.S.C. § 45(a). The FTC also enforces sector-specific statutes that protect certain health, credit, financial, and children’s information. See 16 C.F.R. Part 318 (Health Breach Notification Rule); 15 U.S.C. §§ 1681-1681x (Fair Credit Reporting Act); 16 C.F.R. Parts 313-314 (Gramm-Leach-Bliley Privacy and Safeguards Rules), implementing 15 U.S.C. §§ 6801-6809; 16 C.F.R. Part 312 (Children’s Online Privacy Protection Rule), implementing 15 U.S.C. §§ 6501-6506.

¹¹ *United States v. Musical.ly*, No. 2:19-cv-01439 (N.D. Cal. Feb. 27, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/172-3004/musically-inc>.

¹² See, e.g., *Creaxion Corp.*, No. C-4668 (Feb. 8, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/172-3066/creaxion-corp>; *Inside Publications, LLC*, No. C-4669 (Feb. 8, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/172-3067/inside-publications-llc>.

medical conditions (such as opioid addiction)¹³ or are effective against diseases like diabetes,¹⁴ claims that target older Americans,¹⁵ or weight loss claims that are too good to be true.¹⁶

Fraud. Stopping fraud is and will always be a major focus of the FTC's law enforcement efforts. Our anti-fraud program tracks down and ends some of the worst scams that prey on the most vulnerable consumers. We fight all sorts of fraud—everything from imposter scams to illegal lead generation operations¹⁷ to frauds involving cryptocurrencies,¹⁸ and then some.

We also intend to target companies that help facilitate fraud, such as by ignoring red flags associated with fraudulent transactions. Our case with the Department of Justice against MoneyGram is a great example: the company agreed to pay \$125 million to settle allegations that it failed to take steps required under an FTC order to prevent fraudulent money transfers that cost U.S. consumers millions of dollars.¹⁹

¹³ See, e.g., *FTC v. Catlin Enters., Inc.*, No. 1:17-cv-403 (W.D. Tex. May 17, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/1623204/catlin-enterprises-inc>. In addition, in conjunction with the FDA, the FTC issued letters to companies that appeared to be making questionable claims in order to sell addiction or withdrawal remedies. See Press Release, *FTC, FDA Warn Companies about Marketing and Selling Opioid Cessation Products* (Jan. 24, 2018), <https://www.ftc.gov/news-events/press-releases/2018/01/ftc-fda-warn-companies-about-marketing-selling-opioid-cessation>.

¹⁴ See, e.g., *FTC v. Nobetes Corp.*, No. 2:18-cv-10068 (C.D. Cal. Dec. 13, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/172-3119/nobetes-corp>.

¹⁵ See, e.g., *FTC v. Global Concepts Ltd., Inc.*, No. 0:18-cv-60990 (S.D. Fla. May 2, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/162-3225/msa-30x-sound-amplifier>.

¹⁶ See, e.g., *FTC v. NextGen Nutritionals, LLC, Anna McLean, and Robert McLean*, No. 8:17-cv-2807-T-36AEP (M.D. Fla. Jan. 9, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/162-3176/nextgen-nutritionals-llc-anna-mclean-robert-mclean>; *FTC v. Health Research Labs., LLC*, No. 2:17-cv-00467-JDL (D. Me. Nov. 30, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/152-3021/health-research-laboratories-llc>.

¹⁷ *U.S. v. Sunkey Publ'g Inc. et al.*, No. 3:18-cv-01444 (N.D. Ala. Sept. 6, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/162-3211/sunkey-publishing-fanmailcom>.

¹⁸ See, e.g., FTC Business Blog, *Know the risks before investing in cryptocurrencies* (Feb. 2018), <https://www.ftc.gov/news-events/blogs/business-blog/2018/02/know-risks-investing-cryptocurrencies>; FTC Consumer Blog, *Protecting your devices from cryptojacking* (June 2018), <https://www.consumer.ftc.gov/blog/2018/06/protecting-your-devices-cryptojacking>.

¹⁹ Press Release, *MoneyGram Agrees to Pay \$125 Million to Settle Allegations that the Company Violated the FTC's 2009 Order and Breached a 2012 DOJ Deferred Prosecution Agreement* (Nov. 8, 2018), <https://www.ftc.gov/news-events/press-releases/2018/11/moneygram-agrees-pay-125-million-settle-allegations-company>; see also *FTC v. The Western Union Co.*, No. 1:17-cv-00110 (M.D. Pa. Jan. 19, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/122-3208/western-union-company>.

Finally, a major component of our fraud program will continue to be using every method available to fight illegal robocalls—consumers’ number one complaint to the FTC. The FTC has brought approximately 136 enforcement actions so far,²⁰ but advances in technology allow bad actors to place billions of calls, on the cheap, from abroad, that are difficult to trace. One solution that could help is the elimination of the common carrier exemption, which impedes our work tackling illegal robocalls at their entry point into the U.S. telephone network and more broadly circumscribes other enforcement initiatives.

III. CONCLUSION

So with that, I will end my formal remarks. As you can see, our collaborative efforts to date have been extremely effective. And going forward, you should expect more vigorous enforcement from the FTC, and more opportunities to work together. I look forward to hearing any questions or suggestions you have for the FTC. Thank you for having me here today.

²⁰ See Enforcement of the Do Not Call Registry, <https://www.ftc.gov/news-events/media-resources/do-not-call-registry/enforcement>.