

PREPARED STATEMENT OF

THE FEDERAL TRADE COMMISSION

on

**IDENTIFYING AND FIGHTING
CONSUMER FRAUD AGAINST OLDER AMERICANS**

Before the

SENATE SPECIAL COMMITTEE ON AGING

Washington, D.C.

July 27, 2005

I. Introduction

Mr. Chairman, Ranking Member Kohl, and members of the Committee: I am Lois C. Greisman, Associate Director of the Division of Planning and Information in the Federal Trade Commission's Bureau of Consumer Protection.¹ I am pleased to be able to discuss with you today how consumer fraud and identity theft affect older Americans; how we at the FTC identify and prosecute these frauds; and how we use our consumer education program to help older consumers guard against fraud and identity theft in the first place. With complaints received by the FTC in 2004 showing \$152,000,000 in fraud losses by consumers age 50 and over, this is a problem that deserves an aggressive response.²

FTC consumer complaints and survey data indicate that fraud against older consumers mirrors fraud against the population as a whole. For example, Internet auction fraud is the top category of fraud complaints for consumers both younger and older than 50 years. Our FTC data show that in some respects, however, older consumers are more likely to fall victim to certain types of frauds. Prize and sweepstakes fraud is more prevalent among older consumers than among the public at large, and is particularly prevalent among consumers age 70 and older. And although we tend to think of the Internet as the domain of the electronic generation, older consumers are finding benefits – and scams – online. Consumers over age 50 who filed

¹ This statement represents the views of the Commission. My oral presentation and responses to any questions you have are my own, however, and do not necessarily reflect the Commission's views or the views of any individual Commissioner.

² Much of the data referred to in this testimony is drawn from the FTC's *Report on Fraud and Identity Theft Complaints Received by the Federal Trade Commission from Consumers Age 50 and Over*, May 2005 (hereafter *Older Americans Report*), attached to this testimony as Appendix 1.

complaints with the FTC reported losing roughly \$43.5 million due to Internet-related fraud in 2004. As discussed below, the FTC is using its resources to identify the nature of these problems, working with our state and federal law enforcement partners to bring actions in appropriate cases, and working with private and public groups to educate consumers on how to spot and steer clear of fraud.

II. An Overview

From fraud to identity theft, the FTC has developed a rich collection of data that enable us to detect activities that cause significant consumer harm. Consumers who contact the FTC provide the greatest source of data. Consumers reach us through our toll-free hotlines (877 FTC HELP and 877 ID THEFT) and online complaint forms (found at ftc.gov and consumer.gov/idtheft). We also receive valuable complaint data *via* external data contributors such as the FBI's Internet Crime Complaint Center, Canada's Phonebusters, local Better Business Bureaus, the US Postal Inspection Service, and the Social Security Administration's Office of Inspector General. We enter these complaints into the FTC's Consumer Sentinel system, a web-based network that links more than 1,300 law enforcement agencies throughout the United States, Canada, and Australia to over 2 million fraud and identity theft complaints.³ These agencies have direct access to complaints that enable them to develop cases, locate witnesses, and seek enhanced sentences for criminal prosecutions. Membership in the Sentinel

³ Consumer Sentinel, which is available to law enforcement agencies free of charge, also provides access to other investigative tools, including a library of telemarketing tapes, points of contact in domestic and foreign agencies, and model forms and pleadings for both criminal and civil fraud prosecutions. Sentinel has been an exceptionally successful model of law enforcement cooperation.

network ranges from local police departments to every state Attorney General and every major federal investigative agency. In addition to its use by law enforcement agencies in developing and pursuing investigations, the Sentinel data provide a window into consumer fraud and identity theft, which we track year-by-year for statistical analysis.

In 2004, the FTC received almost 650,000 fraud and identity theft complaints. Eighty-five percent of the complaints provided the consumer's age, and approximately a quarter of those complaints (145,895) were from consumers age 50 and over. Sixty-five percent (94,441) of the older consumers reported that they were victims of fraud and 35 percent (51,454) asserted that they were identity theft victims. The top fraud complaints categories from consumers age 50 and older were: Internet Auctions; Prizes/Sweepstakes and Lotteries; Internet Services and Computer Complaints; Shop-at-Home/Catalog Sales; Foreign Money Offers; Telephone Services; Advance-Fee Loans and Credit Protection/Repair; and Business Opportunities and Work-at-Home Plans.⁴

While older consumers are active web-users, they report less online-related fraud than the public at large. Focusing solely on the 94,441 fraud complaints, 18 percent of older fraud victims report that they were initially contacted by a company *via* the web, versus 22 percent for the public at large. Fraud initiated by email, such as spam, accounts for a smaller percentage of contacts for older consumers as well, with just 27 percent reporting it as the initial means of contact, as opposed to 35 percent for the general population. Twenty-five percent of older

⁴ *Older Americans Report*, Page 3.

consumers identified the telephone as the manner in which they were contacted, whereas only 16 percent of the general population reported that as the initial means of contact.⁵

The FTC's consumer data are self-reported, and therefore do not necessarily reflect general nationwide trends or the actual incidence of the fraud/crime in any given year. FTC staff therefore conducted two surveys to study the overall prevalence and costs associated with identity theft and consumer fraud.⁶ The Fraud Survey found that older consumers do not appear any more likely to be fraud victims than younger consumers.⁷ Controlling for certain features, the results of the survey "suggest that seniors [age 65 and older] face the lowest risk of being a victim."⁸ Older consumers, however, were found less likely to complain, once victimized. Indeed, only 55 percent of consumers age 55-64 reported being victimized by fraud, as opposed to over 70 percent of consumers between the ages of 18 and 54 who were victims.⁹

This testimony will draw upon both FTC complaint data and the surveys to illustrate older Americans' experience with fraud and identity theft.

⁵ *Older Americans Report*, Page 7; *2004 Annual Trends*, page 7.

⁶ The *Federal Trade Commission - Identity Theft Survey Report* (September 2003) can be found at ftc.gov/os/2003/09/synovatereport.pdf. The fraud report, entitled *Consumer Fraud in the United States: An FTC Survey*, Federal Trade Commission Staff Report (hereafter *Fraud Survey*) (August 2004) can be found at ftc.gov/reports/consumerfraud/040805confraudrpt.pdf. The Fraud Survey targeted ten specific types of fraud which were selected because they cover the most prevalent types of complaints reported in the FTC's complaint database and are frauds that have frequently led to FTC enforcement actions.

⁷ *Fraud Survey*, page 68.

⁸ *Id.*

⁹ *Fraud Survey*, page 86.

III. Internet Fraud

The Internet helps keep older Americans connected to their families, world events, and the marketplace in ways unimaginable 10 years ago. However, just as older Americans have reaped the benefits of this powerful medium, so too have they experienced its dangers. Thus, it is not surprising to find that 41 percent of all reported fraud complaints from consumers age 50 and older were Internet related.¹⁰ This figure is all the more dramatic when one considers that Internet-related fraud represented only 33 percent of all fraud complaints from this age group in 2002. The most common Internet-related fraud involves Internet auctions (43 percent), followed by online shop-at-home and catalog sales (14 percent), and Internet access services. Consumers age 50 and older reported being defrauded of over \$43 million in 2004 through Internet-related scams.

Because Internet auction fraud has reached so many consumers, the Commission has an ongoing program to address these high-tech rip-offs. First, in addition to prosecuting Internet auction fraud cases itself, the Commission uses outreach and training to support local, state, and federal law enforcement agencies throughout the nation in their efforts to investigate and prosecute Internet auction fraud artists. The FTC's Consumer Sentinel plays a key role in identifying Internet auction fraud artists and providing consumer complaints about those fraud artists to law enforcement. Second, through formal meetings and informal discussions with the

¹⁰ *Older Americans Report* page 4. A fraud complaint is "Internet-related" if: it concerns an Internet product or service; the company initially contacts the consumer *via* the Internet; or the consumer responds *via* the Internet. It is interesting to note that Internet-related fraud drops off for consumers age 70 and older. For example, Internet auction is the top complaint for consumers age 50-59 and 60-69. However, it drops to number 6 for consumers 70 and over. See, *Older Americans Report*, page 11.

operators of the largest Internet auction web sites, the FTC encourages the auction web sites to adopt meaningful consumer protection measures. Third, the Commission tracks trends in Internet auction fraud and seeks to educate consumers who are using Internet auctions about ways to minimize the risk of being ripped off.

IV. Prize and Sweepstakes Fraud and Other Cross-Border Scams

Almost 12,000 older consumers complained to the FTC that they were victims of fraudulent prize or sweepstakes promotions in 2004.¹¹ These reported frauds generally involve notifying consumers by mail or telephone that they have won a substantial monetary prize, which they can claim only if they pre-pay the taxes or other fees on the award. The complaints indicate that this fraud cost older consumers almost \$35 million in 2004, with approximately \$2,000 as the median amount paid.¹² These frauds can be devastating to consumers who sometimes cash out retirement funds to claim their purported prizes.

Lottery and sweepstakes frauds, many of which originate in Canada, have been major targets of FTC enforcement actions. Partnering with our law enforcement colleagues from the Royal Canadian Mounted Police (RCMP) and other Canadian law enforcement offices, the FTC has succeeded in shutting down many of these operations and obtaining judgments against the alleged fraud artists.¹³

¹¹ *Older Americans Report*, page 10.

¹² *Id.*

¹³ *See, e.g., FTC v. World Media Brokers, Inc., et al.* (N.D. Ill. July 29, 2004) (ordering payment of \$19 million in redress to consumers); *FTC v. Duraisami*, (W.D. Wash.); (continued...)

Other cross-border scams have involved the sale of alleged fake credit card protection services and discount drug services, advance-fee credit cards, and other benefits.¹⁴ Preying on consumers' greatest fears, one particularly egregious fraud involved telemarketers who allegedly represented themselves as calling from Social Security or Medicare. They allegedly told the consumers that unless they provided their Social Security number and bank account information, they would no longer receive Social Security benefits. They also told the older consumers that, for a \$299 fee, they would be enrolled in a new Medicare program.¹⁵ The FTC took swift action, obtaining a preliminary injunction freezing the defendants' assets and shutting down their operation.

The increasingly international nature of fraud presents a growing challenge for law enforcement. In June 2005, the FTC released a report to Congress recommending legislative changes that would enhance the agency's ability to combat cross-border fraud.¹⁶

¹³ (...continued)

FTC v. D&C Nat'l Holdings, Ltd., Civ. No. 02-1134 (W.D. Wash. final judgment entered Jan. 23, 2004); *FTC v. Dillon Sherif*, Civ. No. 02-0294 (W.D. Wash. final judgment entered April 14, 2003); *FTC v. NAGG Secured Investments*, Civil No. C00 - 2080Z (W.D. Wash. final judgment entered July 7, 2003). These cases ordered \$1.5 million in consumer redress.

¹⁴ *FTC v. 120194 Canada Limited*, Civ No. 04C 7204, (N.D. Ill) (complaint filed November 8, 2004).

¹⁵ *FTC v. Xtel Marketing*, Civ No. 04C-7328e (N.D. Ill) (stipulated preliminary injunction entered December 17, 2004).

¹⁶ *See: US Safe Web Act: Protecting Consumers from Spam, Spyware, and Fraud*, June 2005, found at ftc.gov/reports/ussafeweb/USSAFEWEB.pdf.

V. Health-Related Fraud

Although health care-related complaints are not among the top categories reported to the FTC by older consumers, they nonetheless represent a great concern to the Commission because the consequences of health-related fraud can be so dire.¹⁷

The Commission has taken a range of actions to curtail deceptive or unsubstantiated claims by dietary supplement marketers and other health care service providers. For example, marketers of a dietary supplement dubbed “Senior Moment” settled charges that they made unsubstantiated claims that their products could prevent memory loss and restore memory function in adults.¹⁸ In another recently concluded case, a Canadian defendant claimed that its cancer treatment, “Zoetron Therapy,” could cure cancer. Consumers allegedly misled by the defendants’ claims paid up to \$20,000 to travel to Mexico for this treatment. A final judgment prohibits the defendants from promoting this therapy, and imposed a suspended judgment of \$7,650,000.¹⁹

Following up on these and other law enforcement efforts, Commission staff conducted a surf of the Internet and identified 90 marketers selling dietary supplements and products that purported to have anti-aging benefits, including reducing fat, cholesterol, and blood pressure while increasing muscle mass and improving cognitive, immune, and sexual function. In June

¹⁷ “Health Care” ranks 9th among fraud categories, just after “Business Opportunities.” It is not represented on the pie chart on page 5 of the *Older Americans Report* because it represents less than 2 percent of all complaints from consumers age 50 and older.

¹⁸ *In the Matter of Nutramax Laboratories, Inc.*, Docket No. C-4116 (final consent order August 31, 2004)

¹⁹ *FTC v. CSCT*, Civ No. 03 C 00880 (N.D. Ill.) (Final Judgment entered February 17, 2004)

2005, staff issued warning letters to these marketers, informing them that health claims must be supported by competent and reliable scientific evidence. The letters further stated that the Commission was unaware of any such substantiation to support their claims of anti-aging benefits and instructed the marketers to discontinue any deceptive claims immediately.²⁰

VI. Identity Theft

Misuse of sensitive information threatens consumers' sense of economic security and undermines confidence in our financial systems. Although the published report from our identity theft survey did not include an age-based analysis, the survey did yield age-related data.²¹ These data show that 31.6 percent of all victims were age 50 or older, with 10.3 percent in the age range of 50-54, 12.1 percent of all victims in the 55-64 range, and 9.2 percent older than 64. If we look only at the more serious types of ID theft – those that involved more than just having unauthorized charges placed on the victim's existing accounts – the victim was at least 50 in 21.7 percent of cases. Consumers who were 65 and over accounted for 4.5 percent of all cases of this type of fraud.

The Commission's own complaint data provide another window on the experience of older Americans. Last year, the Commission received nearly 250,000 identity theft complaints. Approximately 51,000, or 22 percent, came from consumers age 50 or older. The most striking difference between consumers under 50 and those over 50 was the greater prevalence of older consumers complaining that new credit accounts had been opened in their names. While such

²⁰ See, press release at ftc.gov/opa/2005/06/greatamerican.htm.

²¹ Appendix 2 provides an age-based analysis of the *Identity Theft Report*.

complaints represented 16.5 percent of all ID theft complaints for the general population, 19.6 percent of complaints from older consumers involved this type of identity fraud. Our identity theft survey found that this form of “New Account” fraud was more difficult for consumers to discover, more costly, and posed greater challenges for recovery.²² Not surprisingly, older consumers were less likely to experience fraud associated with others seeking or obtaining employment in their names. Among the general population, this represented 13 percent of all episodes.²³ However, only 5 percent of the instances of identity theft reported by older consumers involved employment-related identity theft.²⁴

Combating identity theft is a high priority for the Commission. We have developed a comprehensive program to attack this problem that includes: (1) substantial consumer and victim assistance; (2) a virtual library of consumer resources including the central identity theft website at consumer.gov/idtheft; and (3) a training program for criminal investigation conducted jointly with the US Department of Justice, the Secret Service, FBI, and American Association of Motor Vehicle Administrators for local law enforcers throughout the country on how to respond to identity theft victims, and how to build a case for prosecution.²⁵

²² *Identity Theft Survey Report*, page 7.

²³ *Older Americans Report*, page 13.

²⁴ *See FTC National and State Trends in Fraud & Identity Theft* (2004), page 10. This report can be found at www.consumer.gov/sentinel/pubs/Top10Fraud2004.pdf.

²⁵ For a comprehensive description of the Commission’s identity theft program, see recent testimony before the Senate Committee on the Judiciary, *Securing Electronic Personal Data*, April 13, 2005, pages 17-21.

VII. Consumer Education

While the Commission has an aggressive program to combat fraud through litigation, an equally critical effort is reaching consumers before they fall prey to a scam. Consumer education is a key component to every element of our enforcement agenda, and we work to reach all segments of the population, including older consumers.

The FTC's web site provides a wealth of information for older consumers, including brochures on telemarketing fraud, Internet auction fraud, sweepstakes and lotteries, miracle health claims, reverse mortgages, and work-at-home schemes. We also have formed a partnership with the AARP to ensure that our messages reach as broad an audience as possible. Numerous articles about FTC anti-fraud and identity theft campaigns appear in AARP's publications, which reach millions of households. The AARP itself has reprinted and co-branded the FTC's identity theft publications, and links to many of our resources from their website. AARP also conducts valuable consumer research on the older American experience with fraud.

The FTC sends representatives to conferences and community events as well. At AARP's 2004 conference, the FTC was able to reach 27,000 attendees with information on a wide variety of issues, ranging from the Do Not Call registry to identity theft to spam. Our regional offices also organize and attend community events for seniors, where they offer information on avoiding scams, and referrals for those who have been defrauded.

VI. Conclusion

Our data show that fraudsters and identity thieves do not discriminate when it comes to committing trickery - everyone is at risk. Because older consumers are often on limited incomes,

and may not have the support to identify and avoid scams, the FTC will continue to use all the tools in our arsenal to identify the problems, attack those who exploit older consumers for their own financial gain and educate older people to the telltale signs of fraud.