



Federal Trade Commission

**National Aging and Law Conference
“The FTC’s Consumer Protection Agenda: Strategies for the Present and Future”
Washington, DC**

**Remarks of David C. Vladeck¹
Director, FTC Bureau of Consumer Protection
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The FTC appreciates the opportunity to speak at the National Aging and Law Conference and tell you about our consumer protection agenda. As consumer advocates, we share a common goal of protecting America's older consumers, especially the most at-risk consumers – including low-income people and people with disabilities. We also share an enormous job. According to our research, more than 30 million adults, or nearly 14% of the U.S. adult population, are defrauded annually. We believe the FTC and community services advocates for older consumers are natural partners and can work together for the benefit of all consumers. Like you, the FTC is working every day on consumer issues that affect these consumers – issues like identity theft, telemarketing and online consumer frauds, including foreclosure rescue scams, work-at-home scams, and health-related frauds. Let me tell you a little about the FTC and focus on some of the things we've been doing recently.

What Does the FTC Do?

¹ The views expressed here are my own and do not necessarily represent the views of the Federal Trade Commission or any Commissioner.

Many of you are already familiar with the FTC's mission and work. For those who are not, in short, the FTC's Bureau of Consumer Protection protects consumers against unfair, deceptive or fraudulent practices. BCP uses multiple approaches that include litigation, promulgating and enforcing rules, advocating to Congress, encouraging industry groups to police their marketplace, and reaching out to educate businesses and consumers about their rights and responsibilities.

On the litigation front, the FTC brings aggressive law enforcement actions seeking a range of equitable remedies, including injunctions, disgorgement, and restitution for consumers. To challenge unfair or deceptive practices, the FTC typically files lawsuits in federal court. In the most egregious cases, where the company is permeated with fraud, the FTC can move even more aggressively, often seeking and getting orders freezing the assets of both the corporate and individual defendants so that we can preserve the possibility of getting money back for consumers. We have a tough enforcement agenda and work tirelessly to combat fraud. But con artists looking to take advantage of consumers never sleep and we have to engage all our partners in our efforts to protect consumers.

Our dedication to educating consumers equals our dedication to enforcement actions. We believe that information is a consumer's first line of defense against fraud, and we have a wealth of consumer education materials about privacy, online security, job scams, health care products and services, investment pitches and more. There are samples of many of these consumer education materials on the display table here at the Conference, and please do stop by the table and pick up some materials. I hope you'll read our materials, order them and use them with your clients and in your community. You can order in bulk quantities. All of our educational materials are available in English and Spanish.

Recent BCP Highlights

Debt Relief Services

With credit card delinquencies at historic highs, we are seeing the emergence of many debt relief service companies that falsely claim they can reduce or eliminate consumers' interest rates or balances. The FTC has addressed this problem through rulemaking and enforcement.

The FTC recently published amendments to the Telemarketing Sales Rule addressing the practices of providers of debt relief services. The amended Rule, which is now in full effect, covers entities engaged in the telemarketing of services that assist consumers with settling or otherwise reducing unsecured debt. The Amendments prohibit companies from charging fees until they have provided the services; require disclosures about services offered, including how long they will take and the total cost; prohibit specific misrepresentations about material aspects of services, including success rates; and extend the TSR to cover calls consumers make to debt relief services in response to their ads.

In the last seven years, the FTC has brought 23 cases against credit counseling firms that are sham non-profits, debt settlement services, and debt negotiators – thereby helping the hundreds of thousands of consumers harmed by these practices.

Loan Modification Services

One of the most pressing issues that we are all seeing is loan modification scams. Here, too, we have acted with a combination of rulemaking and enforcement.

We have issued the Mortgage Assistance Relief Services rule, which, as of January 31, will outlaw up-front fees for mortgage modification services. The Rule also requires these companies to disclose key information to consumers, like the fact that the lender may not agree to change the loan, and that if a company tells a consumer to stop paying his or her mortgage, the consumer could lose his home and damage his credit rating. The disclosure provisions of the Rule go into effect on December 29.

Since the housing crisis began, the FTC has brought 32 cases involving mortgage rescue or loan modification scams. In addition, we have partnered with numerous state and federal law enforcement agencies to bring two nationwide sweeps: Operation Stolen Hope and Operation Loan Lies. These sweeps involved more than 200 lawsuits against loan modification and foreclosure rescue providers.

Health Insurance Scams

We have also been active fighting fraud relating to health insurance. We recently led a law enforcement sweep – Operation Healthcare Hustle – which included 54 law enforcement actions filed by federal and state law enforcement agencies. We alleged that con-artists tricked the uninsured, unemployed, or uninsurable into buying medical discount plans. One consumer paid \$1,100 for what she thought was health insurance coverage, which she needed desperately to cover the costs related to her brain tumor. The product she got was not insurance; it was a worthless membership to a discount club.

We are particularly concerned that with the implementation of the new Health Care Reform legislation, there will be increased confusion in the marketplace regarding health care issues. Fraudsters are likely to take advantage of this confusion, making consumers even more susceptible to fraudulent medical and health care-related sales pitches.

Debt Collection

We know that debt is a major concern for Americans, and economic conditions have led to an increase in consumer debt collection efforts. While most of these efforts are lawful, others are not. The law is clear that debt collectors may not deceive, harass, or abuse consumers. In 2009, the FTC received nearly 120,000 complaints from consumers about the conduct of debt collectors – more complaints than the agency received about any other industry.

The FTC recently issued a Debt Collection Roundtables Report which describes numerous problems in the industry, including the failure of many companies to notify consumers when they have been sued for a debt, the failure to provide proof that a valid debt exists, and the freezing of funds in bank accounts that are exempt from garnishment by law. My staff is presently discussing the debt collection litigation portion of the report with state court officials, consumer groups, and legal aid organizations; and we have issued a consumer education piece to assist consumers in debt collection arbitration.

We will continue to make enforcement of the Fair Debt Collection Practices Act a priority. Just this fall the Commission settled a case against one of the nation's largest debt collectors – Allied Interstate – because of its violations of law, and it now holds the distinction of paying the second largest civil penalty (\$1.75 million) obtained by the FTC in a debt collection case.

Negative Options

We are also keeping a close eye on is negative option marketing, which occurs whenever a marketer takes a consumer's silence as agreement to continue a transaction, such as billing monthly for membership in an Internet discount buying club. While these offers can provide benefits to consumers, they also pose a high risk of deception. Unscrupulous marketers use negative options that are not adequately disclosed to trap consumers in a cycle of recurring charges for goods or services they do not want and never knew they purchased.

One business falsely claimed ties to Google in marketing a bogus work-at-home scheme under names like "Google Money Tree," "Google Pro," and "Google Treasure Chest." Consumers were lured into giving financial account information to this phony business to pay a small shipping fee for the work-at-home kit. Defendants did not adequately disclose, however, that buying this kit would also trigger automatic, monthly charges of \$72 for another product.

The FTC sued the company and obtained an order banning it from using negative option features and requiring it to turn over \$3.5 million in assets.

That case is just an example; in the last 10 years, the Commission has initiated 60 cases against negative option marketers selling everything from dietary supplements to buyers' clubs. In addition, the FTC has developed consumer and business education to help consumers avoid negative option scams and to help businesses comply with the law.

The Importance of Working Together

As you all know, the economic downturn has had a severe impact on older American consumers. For persons 65 and over reporting income in 2008, the median income was \$18,337. The unemployment rate in the United States is now over 9%. Forty million Americans now live at or below the poverty line. For many people approaching retirement age, their home is their single greatest asset. Consumers planned to use the equity in their home to support them in retirement; as the market has changed, they're finding that now that won't be possible. People over age 55 have experienced the greatest increase in bankruptcy filings, according to a recent AARP study. Between 1991 and 2007, the share of people age 55 and over filing bankruptcy almost tripled. Job losses, foreclosures and dwindling retirement accounts are forcing more Americans to search for way to make ends meet.

Opportunistic fraudsters have quickly adapted their schemes and sales pitches to take advantage of consumers during the economic downturn. We know that people who have more debt than they feel they can handle are twice as likely to experience fraud as people with manageable debt loads. The current economy thus creates a one-two punch, making consumers more susceptible to fraud, while at the same time reducing the resources that consumers can turn to for help. That is why, in this economic climate, it is even more important than ever that we all

leverage our resources by working together.

One of my goals as Bureau Director is for the FTC to better collaborate with community groups, including legal services advocates and other consumer advocates, to identify frauds affecting at-risk consumers, and to bring those frauds to an end. We have thus launched a Legal Services Collaboration that we welcome you to join. You have unique and valuable perspectives. You witness and identify the most pressing issues affecting older consumers in your local offices, on a daily basis. The FTC wants to benefit from your eyes and ears. We want to hear your ideas on how we can work together, but let me present some ideas that we have been working on. Specifically, we believe our collaboration should involve: (1) sharing our expertise; (2) consumer education; and (3) litigation and case referrals.

Sharing Our Expertise

We have on staff lawyers and investigators who are experts on any number of topics that affect the financial well-being of consumers. To give you a short and incomplete list – this expertise extends to foreclosure rescue and loan modification scams; debt collection scams; identity theft; and a wide range of telemarketing scams. In addition, we have provided trainings on fraud that affects older Americans, on how to conduct investigations with the Internet, and on identity theft. We want to continue to do that, and to be a resource for you.

Consumer Education

The FTC has a wealth of consumer education materials that you can provide to your clients, colleagues and community partners. The materials are available online and in print, for free, in bulk, on our web site ftc.gov; available in English and Spanish; and on a wide range of topics, including foreclosure rescue scams, health care products and services, Internet scams, business opportunity frauds, reverse mortgages, and debt collection issues. You can order multiple copies of our Consumer Education DVDs for free. The most recent DVD compiles

many of our videos on a number of different scams, including Dealing with Debt Collectors; How to Avoid Foreclosure Rescue Scams; How to Deter, Detect, Defend, and Avoid ID Theft; and how to avoid fraudulent telemarketing. Please put the FTC's materials in your office waiting room and take the FTC's materials with you when you go to public speaking engagements.

The FTC is open to other ideas for collaboration – just let us know what would be helpful.

Litigation and Case Referrals

Many of us at the FTC came from public interest backgrounds, and we understand the frustrations that consumer advocates sometimes have seeing the same legal problems walk through the door each day, with a different face. You can help the FTC by letting us know what older consumer issues you are seeing regularly. And if you are hearing the same terrible story about the same company over and over again, we want to hear about that too. As a federal government agency with law enforcement powers, the FTC is well-positioned to try to put a stop to the systemic frauds that are hurting your clients. In litigation, our goals are to stop the frauds before they hurt more consumers and to provide redress to those consumers who have already been harmed. If you have information or referrals, please contact Michelle Chua at 202-326-3248.

For consumers aged 50 and older, telemarketing fraud complaints continue to be among the top five complaint categories received by the Commission. Telemarketing fraud spans the gamut – including job scams, work-at-home scams, credit repair scams, debt collection scams, mortgage foreclosure and loan modification scams, medical fraud scams, and many others. If you have a lead on a telemarketing scam, please report it to us. Perhaps one of the most effective ways to fight telemarketing fraud against our older consumers is to increase the enrollment of these consumers with the National Do Not Call Registry. Many of you may have

clients who are bombarded with unsolicited telephone calls. We need your help in getting the word out and encouraging these consumers to enroll in the Registry. To register a telephone number on the Registry, go to www.DoNotCall.gov, or call 1-888-382-1222.

Many of the clients who come through your doors every day never file complaints with the FTC. They may be too busy dealing with their current crisis or may be understandably focused on getting their individual concerns resolved, rather than worrying about more global solutions to their own problems. As many of you know, the FTC has an online and telephone database of complaints called Consumer Sentinel. Consumers can file complaints directly online at ftc.gov. They also can file complaint by telephone in English or Spanish.

We want your referrals. We cannot always act on them, but if we hear from you, we will listen carefully and consider what might be done. And, in some instances, your referrals can make a big difference. Earlier this year we filed a case based on a referral from AARP Legal Services and, as a result, the company was shut down and all individual and corporate assets were frozen.

We also want to respond to you directly. If you have referrals, please call Michelle Chua. She is here today, and we are anxious to meet you and hear your perspectives.

The FTC is looking forward to working together with legal services attorneys and consumer advocates to help better address consumer problems affecting the older consumers, particularly people who are at greater risk due to low-income or disability. We are natural partners. We can and should work together to help address the needs of the most vulnerable older consumers. We look forward to working with you in the future.