



U.S. Federal Trade Commission Annual Report

Fiscal Year 2023

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Letter from FTC Chair Lina M. Khan

Since its founding in 1914, the Federal Trade Commission has been at the forefront of protecting Americans from unchecked monopoly power and the abuses that can follow. Congress created the agency over a century ago against the backdrop of an industrial revolution that delivered sweeping technological advances. The expansion of railroads and the emergence of new industries—like steel manufacturing and petroleum refining—connected the country and revolutionized commerce in profound ways. But these innovations also

gave rise to industrial trusts that were able to amass unchecked private power over markets across the American economy.

At the time, lawmakers were fearful that the trusts had free license to extort consumers, mistreat workers, crush farmers and independent businesses, and ultimately undermine our democratic institutions. They worried that these corporations had accumulated dangerous unchecked power akin to the very monarchs that the United States had been built to escape.

Months before President Wilson signed the FTC Act into law, he [echoed](#) lawmakers' concerns over private monopoly power and spoke of the need to “square our laws with the thought and desire of the country.” He said that “the businessmen of the country desire the advice, the definite guidance and information which can be supplied by an administrative body, an interstate trade commission.”

Nine months later, that body would become the FTC, tasked with preventing unfair methods of competition and scrutinizing business practices through regularly collecting data on market trends. Congress later expanded the Commission's legislative mandate to include laws to protect consumers from unfair or deceptive business practices. With each of these efforts, Congress has redoubled its commitment to fair, competitive, honest markets—even as business tactics and technologies evolve.

Over its 109-year history, fulfilling Congress' mandate has remained the FTC's North Star. While the economy has transformed over time, what has stayed constant is the FTC's ability and mission—as a small agency of roughly 1,300 dedicated public servants—to go up against some of the most powerful corporations in the country.

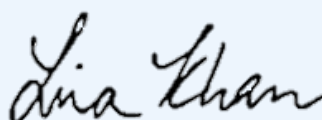
We do all that we can to faithfully enforce the law and protect American citizens and businesses from illegal tactics, ranging from monopolistic coercion and abuse to deceptive tricks and fraud. Through enforcing the law, conducting deep market studies, and administering rules, the FTC champions a fair and thriving economy for American consumers, workers, and honest businesses. In the aggregate, the Commission's work materially helps Americans in their daily lives—from ensuring more affordable access to necessities like groceries and healthcare, to leveling the playing field for workers and entrepreneurs, to protecting Americans' privacy in an increasingly digital economy.

As part of our effort to celebrate the tremendous work of FTC staff, the goal of this report is to commemorate key agency accomplishments and recognize the many ways the FTC delivered for the American people in FY 2023. Throughout the fiscal year, we continued to use the full scope of the FTC’s authorities to target root causes of unlawful conduct, deter corporate lawbreakers and illegal mergers, and scrutinize market trends and emerging threats. As artificial intelligence and algorithmic decision-making tools are proliferating, our efforts have been forward-looking—enabling the Commission to stay on the cutting edge of next-generation technologies across both competition and consumer protection. At every step, a key priority has been opening the agency’s doors so that we can constantly engage with and learn from the public—including through open meetings, open dockets, public workshops, and listening forums across the country. Open channels to the public not only help us spot challenges before they become crises—they also help the American people hold us accountable to do all that we can to check illegal corporate consolidation and unlawful business practices.

Above all else, our efforts reflect the extraordinary work of FTC staff, whose talent and dedication show Americans what it means for government to fight on their behalf. I am endlessly impressed by the expertise and tenacity of the FTC teams, especially in the face of ongoing resource constraints and legal challenges to our authorities. And I am grateful to serve as Chair alongside my fellow Commissioners—whose leadership and diverse perspectives critically enrich and sharpen all that we do at the agency.

In reflecting on the core tenets of the FTC back in 1937, President Franklin D. Roosevelt once [stated](#) that “eternal vigilance is the price of opportunity for honest business. It is the price we must pay if business is ... to carry on under fair, competitive conditions, protected from the sharp or shady practices of the unscrupulous.” The FTC will continue to be vigilant—so that American consumers, workers, and entrepreneurs have every opportunity to succeed and enjoy real economic liberty, and so that we can promote an economy that is more resilient, more innovative, and more prosperous for all.

Gratefully,

A handwritten signature in black ink that reads "Lina Khan". The signature is written in a cursive, flowing style.

Lina M. Khan
Chair
Federal Trade Commission

FTC Mission and Mandate

The Federal Trade Commission protects the American public from unchecked corporate consolidation and unlawful business practices. As the only federal agency with both consumer protection and competition jurisdiction in broad sectors of the economy, the FTC is on the frontlines of some of the most important challenges facing American consumers, workers, and honest business owners.

The FTC vigorously enforces the nation's antitrust and consumer protection laws; shares its expertise with federal and state legislatures and U.S. and international government agencies; develops policy tools and rules through public hearings, workshops, and comment dockets; and equips consumers and businesses with information that provides clarity and transparency in a constantly evolving economy. Across its work, the agency has prioritized breaking down siloes between competition and consumer protection by taking an integrated approach to cases, rules, research, and other policy initiatives.

The outstanding talent and dedication of FTC staff enable the agency to constantly deepen its expertise, learn from new evidence, and vigorously enforce the law on behalf of American consumers, workers, and honest business owners. This report celebrates many of those accomplishments over FY 2023 and shows the American public how the FTC is using the full scope of its tools to fight for them.

As the nation's primary consumer protection agency, the FTC has a broad mandate to protect the public from unfair or deceptive practices throughout the economy. The agency stops businesses from cheating consumers, pursues policy initiatives to ensure fairness in the marketplace, and administers market-wide rules to combat unfairness and deception on a wider scale. In FY 2023, the FTC fired on all cylinders to protect Americans'—and especially children's—privacy, hold scammers accountable for defrauding the public, stop companies from hiking prices with deceptive fees, shut down subscription tricks and traps, and ensure that domestic manufacturers, independent repairers, and other small businesses can compete on a level playing field.

The FTC also works to prevent unlawful corporate mergers and unfair methods of competition. The agency has been active in a range of critical markets, including healthcare, technology, energy, defense, consumer goods and services, labor, and manufacturing. Underlying the FTC's work is the tenet that vigorous antitrust enforcement is essential to economic growth and dynamism, as well as to Americans' shared prosperity and liberty. In that vein, the Commission in FY 2023 continued to deploy the full scope of the agency's tools to block anticompetitive mergers, halt coercive practices that monopolize markets, and prevent businesses from using unfair tactics to gain an advantage. The FTC brought important yet challenging cases and pursued bold remedies—reflecting an agency dedicated to maximizing efficacy, promoting deterrence, and keeping pace with new and evolving business models. In addition to enforcement, the Commission also spearheaded efforts to update merger policy and help the courts develop and clarify the law through amicus briefs.

More broadly, the outstanding talent and dedication of FTC staff enable the agency to constantly deepen its expertise, learn from new evidence, and vigorously enforce the law on behalf of American consumers, workers, and honest business owners.



Protecting America's Consumers: Highlights of FY 2023 Accomplishments

In FY 2023, the FTC continued to protect consumers in a rapidly evolving economy. The agency used the full scope of its tools and authorities to protect Americans'—and especially children's—privacy, to hold companies that defraud the public accountable, to stop companies from hiking prices with deceptive fees, to shut down subscription tricks and traps, and to ensure that domestic manufacturers, independent repairers, and other small businesses can compete on a level playing field. As new artificial intelligence and algorithmic tools facilitated more sophisticated forms of deception, the FTC adapted its approach and continued to protect Americans from AI-enabled scams—making clear that there is no AI exemption for the laws on the books.

In FY 2023, the FTC filed 43 complaints in federal district court and obtained 39 permanent injunctions and orders requiring defendants to pay more than \$193.8 million in consumer redress or disgorgement of ill-gotten gains. Defendants were also required to pay over \$7.3 million under two civil contempt orders. In addition, cases seeking civil penalties, including cases referred to the Department of Justice (DOJ), resulted in 22 court judgments imposing more than \$327.8 million in civil penalties. The FTC issued 11 new administrative complaints and entered 19 final administrative orders requiring defendants to pay over \$325 million. The agency also reviewed compliance in over 370 matters, including nearly 2,000 defendants, issued 11 reports on consumer protection, and released more than 250 new and revised consumer and business education publications.

The FTC is committed to using the full extent of its authority to return money to Americans harmed by financial scams and fraud. In *AMG Capital Mgmt., LLC v. FTC*, the Supreme Court ruled that Section 13(b) of the FTC Act does not authorize monetary remedies, eliminating the agency's long-standing and primary tool for obtaining court orders requiring wrongdoers to provide refunds to harmed consumers. In the wake of *AMG*, the FTC has focused on other remedial powers—such as Section 19 of the FTC Act and the FTC's Penalty Offense authority—to partially compensate for the loss of Section 13(b) monetary relief authority. The FTC has also undertaken rulemakings—including cracking down on deceptive or unfair junk fees and combatting deceptive or unfair review and endorsement practices—that, if finalized, will serve as the basis for future enforcement actions that can provide monetary relief to harmed consumers under Section 19. The FTC also has aggressively enforced its orders against repeat offenders, referring cases to criminal authorities as appropriate.

Consumer Protection Law Enforcement and Policy Initiatives

Protecting Americans from False and Deceptive Advertising, Marketing, and Fees

- Operation Stop Scam Calls:** The FTC and more than 100 federal and state law enforcement partners, including the attorneys general from all 50 states and the District of Columbia, announced a new crackdown on illegal telemarketing calls involving more than 180 actions targeting operations responsible for billions of calls to U.S. consumers. The joint federal and state initiative, “Operation Stop Scam Calls,” is part of the Commission’s ongoing efforts to combat the scourge of illegal telemarketing, including robocalls. The initiative not only targets telemarketers and the companies that hire them but also takes action against lead generators who deceptively collect and provide consumers’ telephone numbers to robocallers and others, falsely representing that these consumers have consented to receive calls. The effort also targets Voice over Internet Protocol (VoIP) service providers who facilitate illegal robocalls every year, which often originate overseas.

Operation Stop Scam Calls includes five new cases from the FTC against companies and individuals responsible for distributing or assisting the distribution of illegal telemarketing calls to consumers nationwide.

- In a complaint filed by DOJ, the FTC alleges Fluent, LLC and several related corporate defendants tricked consumers into consenting to receive marketing solicitations including telemarketing calls in violation of the FTC Act, Telemarketing Sales Rule (TSR), and the CAN-SPAM Act, which sets rules for commercial email. Under a proposed order, Fluent will be required to pay a \$2.5 million civil penalty and be banned from engaging in, assisting, or facilitating robocalls.
- The FTC alleges that California-based Viceroy Media Solutions, LLC, which does business as quick-jobs.com, and Voltron Interactive, and their sole owners Sunil Kanda and Quynh Tran, violated the FTC Act and the TSR by assisting and facilitating millions of illegal robocalls while doing business as a telemarketing lead generator. Viceroy Media Solutions, LLC agreed to an order that bans them from helping companies place robocalls and imposes a \$913,636 civil penalty, which will be partially suspended based on their inability to pay.
- The FTC filed a complaint against telemarketing company Yodel Technologies, LLC and its owner Robert Pulsipher alleges they violated the TSR by calling millions of consumers whose numbers are on the Do-Not-Call Registry and did not consent to be called. Under the proposed order settling the complaint, Yodel and Pulsipher will be banned from participating in telemarketing, either directly or through an intermediary. It also imposes a \$1 million civil penalty against them, which will be partially suspended after they pay \$400,000.
- The FTC filed a complaint alleging that New Jersey-based Vision Solar LLC; Solar Xchange LLC, which also did business as Energy Exchange; and its owner, Mark Getts, violated the FTC Act, the TSR, and Arizona’s Consumer Fraud Act and Telephone Solicitation Act by making unlawful telemarketing calls on behalf of Vision Solar, a company that sells solar

panels. Under the order settling the charges, Solar Xchange and Getts will be prohibited from: misrepresenting that they are affiliated with any utility or government agency; making unsubstantiated claims regarding the cost of installing solar panels; and engaging in abusive telemarketing practices. It also imposes a partially suspended civil penalty of \$13.8 million.

- On behalf of the FTC, DOJ filed a complaint against Miami, Florida-based Hello Hello Miami (HHM) and Luis E. Leon Amaris, alleging that the defendants assisted and facilitated the transmission of approximately 37.8 million illegal robocalls by providing VoIP services to more than 11 foreign telemarketers. In its complaint, the FTC is seeking to permanently bar HHM and Amaris from assisting and facilitating illegal telemarketing robocallers and obtain monetary relief for defrauded consumers, as well as civil penalties.
- **Telemarketing Robocalls Enforcement:** The FTC implemented Project Point of No Entry (PoNE) to disrupt foreign-based scammers and imposters responsible for blasting U.S. consumers with annoying and unwanted calls. Through Project PoNE, the Commission: 1) identifies point of entry VoIP service providers that are routing or transmitting illegal call traffic, 2) demands they stop doing so and warns their conduct may violate the Telemarketing Sales Rule, and then 3) monitors them to pursue recalcitrant providers, including by opening law enforcement investigations and filing lawsuits when appropriate. The FTC can seek civil penalties and court injunctions to stop TSR violations. It can also seek money to refund to consumers who were defrauded via illegal telemarketing calls. The FTC coordinates directly with the agency's federal and state partners, which support the program and pursue their own actions to fight illegal telemarketing robocalls.

On behalf of the FTC, DOJ filed a complaint in federal court against Stratics Networks Inc. and its interconnected web of operations responsible for delivering tens of millions of unwanted Voice Over Internet Protocol (VoIP) and ringless voicemail (RVM) phony debt service robocalls to consumers nationwide. One set of lead generation defendants agreed to settle the complaint in this case. The court order prohibits debt relief lead generator KASM, also doing business as Kasm, Inc., and the company's owner from making the misrepresentations alleged in the complaint and from violating the Telemarketing Sales Rule (TSR). It also requires the defendants to review the methods used by their existing lead generators, determine if leads were sold or offered to them illegally, and stop buying leads from any lead generator found to have sold them such leads. Finally, the consent order imposed a \$3.38 million judgment against the defendants, which will be partially suspended based on their inability to pay.

The FTC sued to stop a VoIP provider, Xcast Labs, Inc., that continued to funnel hundreds of millions of illegal robocalls through its network, even after receiving multiple warnings. DOJ filed the complaint in federal court on the FTC's behalf. According to the complaint, in January 2020, the FTC sent letters to a number of VoIP providers, including Xcast Labs, warning them that assisting and facilitating illegal telemarketing or robocalling was against the law. The complaint also alleges that Xcast Labs received dozens of "traceback" inquiries from US Telecom's Industry Traceback Group regarding suspected illegal calls that originated on Xcast Labs' network, as well as inquiries from law enforcement agencies about transmission of suspected illegal traffic on the Xcast Labs network. Even after receiving these direct warnings, the FTC alleges that Xcast Labs transmitted illegal robocalls to consumers.

- Illegal Telemarketing Orders:** As a result of an FTC lawsuit, American Vehicle Protection Corp., the operators of a telemarketing scam that called hundreds of thousands of consumers nationwide to pitch them expensive “extended automobile warranties,” face a lifetime ban from the extended automobile warranty industry and from all outbound telemarketing. There are two separate court orders with the defendants. In addition to the lifetime ban, the first order includes a monetary judgment of \$6.6 million, which is largely suspended based on their inability to pay. The second order with Kole Consulting Group and its owner includes a lifetime ban and a monetary judgment of \$6.5 million, which is partially suspended once Daniel Kole pays \$500,000.
- Unsolicited Emails Settlement:** Experian Consumer Services (ECS) agreed to pay a \$650,000 civil penalty to settle charges it sent consumers unsolicited email without offering them a way to opt out of such messages, as required under the CAN-SPAM Act. The order also prohibits ECS from sending marketing emails that fail to offer a mechanism to opt out of such messages. The complaint was filed by DOJ on behalf of the FTC.
- Junk Fees Rule:** The FTC launched an advance notice of proposed rulemaking to crack down on junk fees proliferating throughout the economy. Junk fees are unnecessary, unavoidable, or surprise charges that inflate costs while adding little to no value. Consumers can get hit with junk fees at any stage of the purchase or payment process. Companies often harvest junk fees by imposing them on captive consumers or by deploying digital “dark patterns” and other tricks to hide or mask them. If finalized, a rule in this area would allow the Commission to seek penalties against first-time violators or the ability to obtain redress readily for consumers in instances in which fees violate the FTC’s prohibition on unfair or deceptive practices.
- Social Media Advertising 6(b) Orders:** With fraud on social media surging, the FTC issued 6(b) orders to eight social media and video streaming platforms seeking information on how these companies scrutinize and restrict paid commercial advertising that is deceptive or exposes consumers to fraudulent health-care products, financial scams, counterfeit and fake goods, or other fraud. The orders, which the companies are required to comply with by law, were sent to: Meta Platforms, Inc.; Instagram, LLC; YouTube, LLC; TikTok, Inc.; Snap, Inc.; Twitter, Inc.; Pinterest, Inc.; and Twitch Interactive, Inc.
- Opioid Addiction Recovery Fraud Prevention Act Order:** The FTC took action under the FTC Act and the Opioid Addiction Recovery Fraud Prevention Act (OARFPA), suing Michael J. Connors and companies he controls for deceptively marketing their Smoke Away products as able to eliminate consumers’ nicotine addiction and enable them to quit smoking quickly, easily, and permanently. The case is the FTC’s first smoking cessation product challenge under OARFPA, and its first alleging the deceptive use of testimonials to sell a supposed addiction-treatment product. The proposed stipulated order settling the Commission’s complaint permanently bans Connors—who settled a 2005 FTC complaint regarding Smoke Away—and his companies from marketing or selling any substance use disorder treatment product or service, including any smoking cessation product or service. The order also prohibits the defendants from making health-related advertising claims for other products unless they are substantiated by competent and reliable scientific evidence, prohibits them from using deceptive consumer testimonials, and imposes both a \$7.1 million monetary judgment and a \$500,000 civil penalty.

In another OARFPA action, the FTC sued Dr. Dalal A. Akoury and a set of companies she controls that operate as AWAREmed Health & Wellness Resource Center, a medical clinic, for making a wide range of false or unsupported claims for addiction treatment services, cancer treatment services, and the treatment of other serious conditions. DOJ filed the case on the FTC’s behalf. The court order bars Dr. Akoury and her AWAREmed clinic from making such unsupported claims and requires her to pay a \$100,000 civil penalty.

In a third OARFPA action, the FTC sued the makers of Sobrenix, which was marketed to reduce and even eliminate alcohol cravings and consumption. The FTC alleges the marketers, a company called Rejuvica and its owners, Kyle Armstrong and Kyle Dilger, made numerous unsubstantiated and false claims about Sobrenix, a liquid tincture made with a blend of kudzu root and other herbs and vitamins, and used paid endorsers in deceptively formatted advertising. The defendants also used bogus review sites, including one touting Sobrenix, to deceive consumers about their products.

- **Right to Repair Orders:** The FTC approved final orders against motorcycle manufacturer Harley-Davidson Motor Company Group, LLC, grill maker Weber-Stephen Products, LLC, and the manufacturer of Westinghouse outdoor power equipment, MWE Investments, LLC for illegally restricting customers’ right to repair their purchased products. The FTC orders require the companies to fix warranties by removing illegal terms and recognizing the right to repair, and ensure that dealers compete fairly with independent third parties.
- **Deceptive Advertising Orders:** In an initial decision, the FTC’s Administrative Law Judge (ALJ) ruled that Intuit Inc. (Intuit), the maker of the popular TurboTax tax filing software, “engaged in deceptive advertising in violation of Section 5 of the FTC Act.” Specifically, the ALJ found Intuit widely distributed numerous advertisements for TurboTax that “expressly or impliedly represented that the consumer-viewer would be able to file their taxes online for free using TurboTax, when, for a significant proportion of these consumers, this was simply untrue.” Under the terms of the ALJ’s order, which the Commission will review, Intuit is “prohibited from engaging in deceptive practices in the future.” It also is barred from representing that any good or service is free, unless: 1) it is free for all consumers; or 2) all the terms, conditions, and obligations upon which receipt and retention of the “Free” good or service are contingent are set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood. Further, if the good or service is not free “to a majority of U.S. taxpayers,” this also must be disclosed in a clear and conspicuous manner. The order also prohibits specific misrepresentations by Intuit regarding the tax preparation and filing services it offers, requires that the order be distributed to relevant parties for the next 20 years, and include strict recordkeeping and reporting provisions to ensure the company’s compliance.

The FTC finalized a consent order requiring Ohio-based LCA-Vision Inc., doing business as LasikPlus and Joffe MediCenter, to pay \$1.25 million for using deceptive bait-and-switch advertising to trick consumers into believing they could have their vision corrected for less than \$300. In reality, only 6.5 percent of consumers lured in for consultations were eligible for the advertised promotional price for both eyes. According to the FTC, despite the advertising claims, for consumers with less than near-normal vision (good enough to drive without glasses), the company typically quoted a price between \$1,800 and \$2,295 per eye.

- **Use of Consumer Reviews and Testimonials Rule:** The FTC proposed a new rule to prevent marketers from using illicit review and endorsement practices. Such practices may include using fake reviews, suppressing honest negative reviews, and paying for positive reviews, which deceive consumers seeking honest feedback on a product or service and undercut honest businesses. In its notice of proposed rulemaking, the Commission cited examples of clearly deceptive practices involving consumer reviews and testimonials from past cases and also noted the widespread emergence of generative AI, which is likely to make it easier for bad actors to generate fake reviews.
- **Fake Reviews Order:** Roomster Corp. and its owners, John Shriber and Roman Zaks, agreed to a settlement with the FTC and six state partners. The court-approved order permanently bans the defendants from buying or incentivizing consumer reviews as part of a settlement over charges that they bought fake reviews to entice consumers to pay for access to living arrangement listings that they claimed were verified, authentic, and available but often turned out to be fake. In addition, the order includes a monetary judgment of \$36.2 million and civil penalties totaling \$10.9 million payable to the states. These amounts will be suspended after Roomster and its owners pay \$1.6 million to the six states based upon the defendants' inability to pay the full amount.
- **Negative Reviews Order:** Online shoe retailer Hey Dude, Inc. agreed to pay \$1.95 million to settle FTC charges that the company misled consumers by suppressing negative reviews, including more than 80 percent of reviews that failed to provide four or more stars out of a possible five. In its Complaint, the FTC also alleged that the company violated the Commission's Mail, Internet, or Telephone Order Merchandise Rule in several ways between 2020 and 2022. The proposed order would bar Hey Dude from future violations of the Mail Order Rule and prohibit the company from making misrepresentations about consumer reviews by requiring it to publish all reviews it receives, including reviews previously withheld from publication, with limited exceptions related to moderation of inappropriate content.
- **Review Hijacking Order:** The FTC acted against a marketer of vitamins and other supplements called The Bountiful Company (Bountiful) for abusing a feature of Amazon.com to deceive consumers into thinking that its newly introduced supplements had more product ratings and reviews, higher average ratings, and "#1 Best Seller" and "Amazon's Choice" badges. The case against Bountiful marks the FTC's first law enforcement challenging "review hijacking," in which a marketer steals or repurposes reviews of another product. The FTC alleged that Bountiful carried out this deceptive tactic by merging its new products on Amazon with different well-established products that had more ratings, reviews, and badges. The order requires Bountiful to pay \$600,000 as monetary relief for consumers, prohibits Bountiful from making similar types of misrepresentations, and bars the company from using deceptive review tactics that distort what consumers think about its products or services.
- **Endorsement Guides:** The FTC finalized an updated version of its Guides Concerning the Use of Endorsements and Testimonials in Advertising (Endorsement Guides), which provide agency guidance to businesses and others to ensure that advertising using reviews or endorsements is truthful. The revised FTC Endorsement Guides strengthen and clarify guidance for advertisers and address emerging market trends. The FTC also issued an updated version of a guidance document that answers frequently asked questions about the Endorsement Guides.

- **Deceptive Endorsements Orders:** The FTC finalized consent orders against Google LLC and iHeartMedia, Inc. settling allegations that they produced and aired nearly 29,000 deceptive first-person endorsements by radio personalities promoting the personalities' use of and experience with Google's Pixel 4 phone in 2019 and 2020. The final orders approved by the Commission settle the allegations and bar Google and iHeartMedia from similar misrepresentations. Separate state judgments also require them to pay a total of \$9.4 million in penalties.
- **“Click to Cancel” Rule:** The FTC proposed a “click to cancel” provision requiring sellers to make it as easy for consumers to cancel their enrollment as it was to sign up. The notice of proposed rulemaking is part of the FTC's ongoing review of its 1973 Negative Option Rule, which the agency uses to combat unfair or deceptive practices related to subscriptions, memberships, and other recurring-payment programs.
- **Dark Patterns Orders and Litigation:** Vonage Holdings Corp., an internet phone service provider, agreed to pay \$100 million in refunds to consumers harmed by the company's actions, make its cancellation process simple and transparent, and stop charging consumers without their consent. The FTC alleged that the company used dark patterns to make it difficult for consumers to cancel and often continued to illegally charge them even after they spoke to an agent directly and requested cancellation.

In an action against Amazon.com, Inc., the FTC filed a Complaint charging the company with engaging in a years-long effort to enroll consumers into its Prime program without their consent while knowingly making it difficult for consumers to cancel their subscriptions to Prime. The FTC alleges that Amazon has knowingly duped millions of consumers into unknowingly enrolling in Amazon Prime. Specifically, Amazon used manipulative, coercive, or deceptive user-interface designs known as “dark patterns” to trick consumers into enrolling in automatically-renewing Prime subscriptions. The FTC also alleges that consumers who attempted to cancel Prime were forced to navigate multiple steps to accomplish the task of cancelling.

As a result of an FTC lawsuit, Publishers Clearing House, LLC (PCH) agreed to a proposed court order that will require it to pay \$18.5 million to consumers who spent money and wasted their time and make substantial changes to how it conducts business online. The FTC charged that PCH used dark patterns to mislead consumers about how to enter the company's well-known sweepstakes drawings and made them believe that a purchase is necessary to win or would increase their chances of winning, and that their sweepstakes entries were incomplete even when they were not. The FTC also charged that the company has added surprise shipping and handling fees to the costs of products, misrepresented that ordering is “risk free,” used deceptive emails as part of its marketing campaign, and misrepresented its policies on selling users' personal data to third parties prior to January 2019. Many consumers affected by these practices are older and lower-income.

- **Business Opportunity Rule:** The FTC launched an advance notice of proposed rulemaking seeking comment from the public on a number of questions related to the rule, including the need for the rule, its benefits and costs to consumers and to industry, the level of compliance with the rule, and any changes that should be made to the rule, including any practices or types of business opportunities that it should cover. The notice also sought comment on whether the rule be

expanded to include coaching or mentoring programs, e-commerce opportunities, investment opportunities, or other types of business or money-making opportunities.

- **Business Opportunity Enforcement:** At the request of the FTC, a federal court temporarily shut down a business opportunity scheme that lured consumers to invest \$22 million in online stores, using unfounded claims about income and profits. The operators of Automators also claimed to use artificial intelligence to ensure success and profitability for consumers who agreed to invest with Automators. The FTC alleges that the vast majority of Automators' clients did not make the promised earnings or even recoup their investment.
- **Deceptive Earnings Claims Orders:** The FTC took action against DK Automation LLC, related companies, and their principals for using unfounded claims of big returns to entice consumers into moneymaking schemes involving Amazon business packages, business coaching, and cryptocurrency. The defendants agreed to a court order requiring them to turn over \$2.6 million to be used to refund consumers harmed by their deception, as well as requiring them to stop their deceptive earnings pitches and follow the law. The FTC alleged that the defendants promised consumers that they could “generate passive income on autopilot” when in reality, few consumers ever made money from these schemes.

Kyle Dennis, a supposed stock trading “guru” for RagingBull.com, agreed to an order that permanently enjoins him from making further false earnings claims or other false or misleading marketing claims. In its complaint, the FTC alleged that Dennis pitched bogus stock tips that cost consumers more than \$40 million. The FTC’s complaint further alleged that Dennis pocketed more than \$13.6 million personally from the scheme. Due to the Supreme Court’s ruling in *AMG Capital Management v. FTC*, however, the FTC was unable to seek money that Dennis earned from the scheme to provide refunds to the consumers he harmed.

The FTC took action to stop Lurn, a Maryland-based online business coaching seller, from making unfounded claims that consumers can make significant income by starting an array of online businesses. In October 2021, the company received Notice of Penalty Offenses from the FTC about earnings claims that listed specific acts and practices that violate the FTC Act, but even after receiving that Notice, Lurn continued deceptively selling its programs. According to the complaint, thousands of consumers purchased tens of millions of dollars in programs from Lurn. The company, its CEO, and two spokespeople agreed to court orders that will require them to stop their unlawful practices and require Lurn and its CEO to turn over \$2.5 million to the FTC to be used to refund money to consumers they harmed.

- **Real Estate Scam Order:** The FTC finalized a consent order against Opendoor Labs, Inc. designed to prevent the online real estate business from deceiving consumers about how much money they could save by selling their home to Opendoor, as opposed selling on the open market. The order requires Opendoor to pay \$62 million, which is expected to be used for consumer redress; prohibits it from making the deceptive, false, and unsubstantiated claims to consumers about how much money they will receive or the costs they will have to pay to use its service; and requires it to have competent and reliable evidence to support any representations made about the costs, savings, or financial benefits associated with using its service, and any claims about the costs associated with traditional home sales.

- **Pyramid Schemes Order:** A federal court sided with the FTC, ruling that James D. Noland, Jr. illegally owned and operated two pyramid schemes, Success By Health (SBH) and VOZ Travel, in violation of the FTC Act and that Noland violated a previous federal court order barring him from pyramid schemes and from misrepresenting multilevel marketing participants' income potential. The court's ruling permanently bans Noland, his wife Lina Noland, Scott Harris, and Thomas Sacca from any participation in multi-level marketing. The ruling also imposes a \$7.3 million judgment on Noland, Harris, and Sacca, the full amount sought by the FTC. Any amount recovered by the FTC will be used to redress consumers.
- **Health Products Compliance Guidance:** The FTC issued "Health Products Compliance Guidance," the agency's first revision of its business guidance in this area in nearly 24 years. The revised business guide represents a substantial update to the staff's 1998 guide, "Dietary Supplements: An Advertising Guide for Industry." Since that guide was issued, the FTC has brought more than 200 cases challenging false or misleading advertising claims for dietary supplements, foods, over-the-counter drugs, and other health-related products. The revised guide draws on those cases with 23 new examples. One major revision is to extend the guidance covering dietary supplements to all health-related products. Among other things, the new guide includes a much more detailed discussion of the amount and type of evidence needed to substantiate health-related claims, with more emphasis on the fact that the FTC, as a general rule, expects high quality randomized, controlled human clinical trials.
- **False or Deceptive Health Claims Order:** ZyCal Bioceuticals Healthcare Company, Inc. and its principals agreed to an order barring them from making claims that their products grow bone and cartilage and relieve joint pain unless supported by randomized controlled clinical trials. The order also bars them from providing anyone else with the means to make false or misleading claims. The FTC previously settled with another corporate defendant, Excellent Marketing Results, Inc., and its principals.
- **False or Deceptive COVID-19 Related Claims Enforcement:** The FTC took action against California-based Precision Patient Outcomes, Inc. and the company's CEO for marketing an over-the-counter dietary supplement containing nothing more than vitamins, zinc, and a flavonoid as an effective treatment to mitigate the effects of COVID-19. In its complaint, the FTC is seeking to permanently stop the company and its CEO from using deceptive treatment or prevention claims with no supporting scientific evidence to sell their dietary supplement.

At the request of the FTC, a federal court issued an order permanently banning defendant Frank Romero from offering for sale or selling any protective goods or services, after granting the FTC's motion for summary judgment. The order also includes two monetary judgments against Romero, who has done business under the names Trend Deploy and Uvenux. The first judgment is for \$989,483.69, to be returned to consumers harmed by Romero's violations of the FTC Act and the Commission's Mail Order Rule. The court also entered a second civil penalty judgment of \$2,562.21 for Romero's violations of the FTC Act with regards to the COVID-19 Consumer Protection Act. The FTC alleged that Romero preyed upon consumers' fear of COVID-19 by advertising the availability and quick delivery of PPE, including N95 facemasks, even though he had no basis to make those promises.

The FTC brought lawsuits against Eliza Johnson Bacot, Lauren Busch, and Dr. Tina Wong, three current and former high-level distributors—so-called “Wellness Advocates”—of the Utah-based multi-level marketing company doTERRA International, LLC. The FTC alleges the distributors, all current or former healthcare practitioners, made false claims that the company’s essential oils and dietary supplements could treat, prevent, or cure COVID-19 in a series of webinars in early 2022 and touted their medical expertise in recommending the products. Each of the defendants agreed to court orders requiring them to pay a \$15,000 civil penalty, to stop making unfounded COVID claims, and to back-up any health claims.

The operators of an alleged grant scam called Grant Bae that targeted minority-owned businesses will face a permanent ban from grant-writing and business consulting services as a result of a lawsuit brought against them by the FTC and the State of Florida. The order against Treashonna P. Graham and C Lee Enterprises includes a monetary judgment of more than \$2 million, which is partially suspended due to an inability to pay. An additional settlement with one relief defendant contains a monetary settlement of \$115,000, which is fully suspended due to an inability to pay.

In Blessings in No Time (BINT), the operators of a “blessing loom” investment program that targeted African Americans and people struggling financially during the COVID-19 pandemic agreed to a settlement banning them from the business of multi-level marketing as a result of enforcement actions taken by the FTC and the State of Arkansas alleging they operated an illegal pyramid scheme. In addition to the permanent ban, the defendants are also prohibited from operating any chain referral scheme, including “blessing loom” schemes like BINT, and are banned from making deceptive or unsubstantiated income claims or misrepresentations. Moreover, the defendants will pay at least \$450,000 into a fund administered by the state of Texas that will be used to provide refunds to affected consumers.

- Health-Related Advertising Claims Putting Children At Risk:** As part of its ongoing monitoring of health-related advertising claims, the FTC sent cease and desist letters—jointly with the U.S. Food and Drug Administration (FDA)—to six companies currently marketing edible products containing Delta-8 tetrahydrocannabinol (THC) in packaging that is almost identical to many snacks and candy children eat, including Doritos tortilla chips, Cheetos cheese-flavored snacks, and Nerds candy. According to the letters, after reviewing online marketing for Delta-8 THC products sold by the six companies, the FTC has determined that their advertising may violate Section 5 of the FTC Act, which prohibits unfair or deceptive acts in or affecting commerce, including practices that present unwarranted health or safety risks. The letters stress that preventing practices that present such risks, particularly to children, is one of the Commission’s highest priorities, and that imitating non-THC-containing food products that children consume is misleading.
- Penalty Offense Authority:** The Commission continued its initiative to use its Penalty Offense Authority to deter unfair and deceptive practices on a market-wide basis and to protect consumers from scams that prey on economic precarity. The FTC sent Notice of Penalty Offenses to approximately 670 companies involved in the marketing of OTC drugs, homeopathic products, dietary supplements, or functional foods to place them on notice they could incur significant civil penalties if they fail to adequately substantiate their product claims in ways that run counter to the litigated decisions of prior FTC administrative cases. Notices of penalty offenses allow the agency

to seek civil penalties of up to \$50,120 per violation against a company that engages in conduct that it knows has been found unlawful in a previous FTC administrative order, other than a consent order.

- **Franchise Rule:** The FTC issued a request for information seeking public comment on franchise agreements and franchisor business practices, including how franchisors may exert control over franchisees and their workers. The FTC is interested in how franchisors disclose certain aspects and contractual terms of the franchise relationship, as well as the scope, application, and effect of those aspects and contractual terms.
- **Energy Labeling Rule:** The FTC updated its Energy Labeling Rule to allow consumers to more accurately compare the estimated annual energy consumption of appliances before they buy them.
- **Green Guides:** The FTC announced that it is seeking public comment on potential updates and changes to the Green Guides for the Use of Environmental Claims. The Commission’s Green Guides help marketers avoid making environmental marketing claims that are unfair or deceptive under Section 5 of the FTC Act. The Commission seeks to update the guides based on increasing consumer interest in buying environmentally friendly products. As part of the Green Guides review, the FTC also held a workshop, “Talking Trash at the FTC: Recyclable Claims and Green Guides,” to examine “recyclable” advertising claims. The workshop included three panel discussions featuring a range of stakeholders focusing on the current state of the recycling market and claims, the consumer perception of recycling claims, and the future of the Green Guides.
- **Deceptive Energy-Efficiency Claims Order:** In response to legal action by the FTC, a federal court ordered Superior Products International II, Inc. and its CEO to permanently halt the deceptive energy-efficiency claims they had been making about coating products sold for houses and other buildings. The court issued a permanent injunction prohibiting Superior Products and Pritchett from misrepresenting the coatings’ insulating or energy-saving capabilities and imposed a monetary judgment of \$14,182.95 against them.
- **Eyeglass Rule:** The FTC issued a notice of proposed rulemaking to update its Ophthalmic Practices Rules, known as the Eyeglass Rule, to ensure ophthalmologists and optometrists provide patients with a copy of their prescription immediately after the completion of a refractive eye exam, get a signed statement from the patient confirming that they have received their prescription, and keep a record of that confirmation for at least three years. The FTC hosted a workshop, “A Clear Look at the Eyeglass Rule,” to examine proposed changes to its Eyeglass Rule.
- **Contact Lens Rule:** The FTC sent 61 cease and desist letters to eye care prescribers after receiving complaints claiming that the prescribers failed to comply with the Contact Lens Rule. Some letters also cited potential violations of the Ophthalmic Practice Rules (known as the Eyeglass Rule). These rules ensure consumers the right to comparison shop for prescription lenses. The letters warn the prescribers that violations of the Contact Lens Rule or Eyeglass Rule may result in legal action, including civil penalties of up to \$50,120 per violation.
- **Funeral Rule:** FTC action against Funeral & Cremation Group of North America, LLC, Legacy Cremation Services, LLC, and their owner led to a court order requiring the defendants to pay

\$275,000 in civil penalties and abide by strict requirements on how they communicate with customers. On behalf of the FTC, DOJ alleged the defendants misrepresented their location, leading consumers to believe they were a local provider, advertised deceptively low prices, made illegal threats, failed to return cremated remains to bereaved consumers, and failed to provide disclosures required by the Funeral Rule.

The FTC is exploring possible steps to strengthen and modernize the Funeral Rule, which requires funeral providers to give in-person visitors price information to make informed decisions. The staff report “Shopping for Funeral Services Online: An FTC Review of Funeral Provider Websites” found that fewer than 40 percent of the funeral provider websites the agency reviewed provide any prices online. The FTC launched an advance notice of proposed rulemaking concerning potential amendments to the rule, including whether and how funeral providers should be required to display or distribute their price information online and through electronic means. The FTC also hosted a public workshop in September 2023 seeking input on proposed changes to the Funeral Rule. The workshop explored many of the issues raised in the advance notice of proposed rulemaking, including whether and how funeral providers should be required to display or distribute their price information online or through electronic means.

Protecting Americans from Fraud and Deception in Consumer Finance Markets

- **Deceptive Pre-Approved Claims Order:** The FTC finalized a consent order settling charges that credit services company Credit Karma, LLC deployed dark patterns to misrepresent that consumers were “pre-approved” for credit card offers. The consent order requires the company to pay \$3 million that will be sent to consumers who wasted time applying for these credit cards and to stop making these types of deceptive claims.
- **Money-Making Opportunities Order:** As a result of a lawsuit filed by the FTC and the Utah Division of Consumer Protection (DCP), the principals of a Utah-based real estate investment training company, Response Marketing Group, LLC, will pay \$15 million and be banned from selling money-making opportunities. The settlement includes two of Response Marketing’s affiliates, Nudge, LLC and BuyPD, LLC, along with the four individuals who the complaint alleges were the actual owners of Response Marketing and Response Marketing’s President. In addition, two of the primary real estate celebrities, Scott Yancey and Dean R. Graziosi, who endorsed the training, have agreed to separate settlements that require them to pay \$1.7 million. The settlements with Graziosi and Yancey are the FTC’s first monetary settlements with celebrity endorsers.

As the result of an FTC lawsuit, investment advice company WealthPress Holdings LLC has agreed to a proposed court order that would require it to refund more than \$1.2 million to consumers and pay a \$500,000 civil penalty for deceiving consumers with outlandish and false claims about their services. The case marks the first time that the FTC has collected civil penalties against a company that received the Notice of Penalty Offenses regarding money-making opportunities sent in October 2021, and the first civil penalties for violations of the Restore Online Shoppers’ Confidence Act (ROSCA).

- **Payment Processors Order:** The FTC acted to stop Nexway SASU, a multinational payment processing company, along with several of its subsidiaries, an associated company known as Asknet Solutions AG, its CEO, and its chief strategy officer, from serving as a facilitator for the tech support scammers through credit card laundering. The defendants in the case have agreed to court orders that prohibit them from any further payment laundering and require them to closely monitor other high-risk clients for illegal activity. The court orders also contain a total monetary judgment of \$16.5 million, which will be partially suspended once Nexway and its subsidiaries pay \$350,000, Asknet and its subsidiaries pay \$150,000, its CEO pays \$100,000, and the chief strategy officer pays \$50,000. The complaint and orders were filed by the DOJ on behalf of the FTC.
- **Credit Repair Scheme Order:** As the result of an FTC lawsuit, the operators of “The Credit Game,” a credit repair scheme that cost consumers millions of dollars, face a lifetime ban from the credit repair industry. The orders contain a total monetary judgment of over \$18.8 million, which is partially suspended. The defendants are required to turn over a wide array of property that would be liquidated and used to provide refunds to consumers harmed by the scam. The FTC alleged that the company illegally charged consumers hundreds and even thousands of dollars for credit repair services of little to no value and told consumers to “invest” their COVID-19 governmental benefits in a business opportunity that amounted to starting their own bogus credit repair scheme. In some cases, the company’s “services” also allegedly included filing false identity theft reports with the FTC and encouraging consumers to take actions that were unlawful.
- **Credit Card Disputes Litigation:** The FTC and State of Florida filed suit against Chargebacks911 for unfairly thwarting consumers who were trying to dispute credit card charges through the chargeback process. The FTC and Florida allege that since at least 2016, the “chargeback mitigation” company and its owners have used multiple unfair techniques to prevent consumers from successfully winning chargeback disputes.
- **Deceptive Cryptocurrency Claims Order:** The FTC reached a settlement with bankrupt cryptocurrency platform Celsius Network. The order charged three former executives with tricking consumers into transferring cryptocurrency onto the platform by falsely promising that deposits would be safe and always available and will permanently ban them from handling consumers’ assets. The settlement permanently bans Celsius and its affiliates from offering, marketing, or promoting any product or service that could be used to deposit, exchange, invest, or withdraw any assets. The affiliate companies also agreed to a judgment of \$4.7 billion, which will be suspended to permit Celsius to return its remaining assets to consumers in bankruptcy proceedings. The FTC’s case against the three former executives will proceed in federal court.
- **Deceptive Financing Provider Order:** The FTC and State of California took action against home improvement financing provider Ygrene Energy Fund Inc. for deceiving consumers about the potential financial impact of its financing, and for unfairly recording liens on consumers’ homes without their consent. Ygrene agreed to pay \$3 million to provide relief to certain consumers whose homes are subject to the company’s liens and to stop its deceptive practices and meaningfully oversee the contractors who have served as its salesforce.
- **Student Loan Debt Relief:** The FTC stopped SL Finance LLC and BCO Consulting Services Inc., a pair of student loan debt relief schemes that it alleges bilked students out of approximately \$12

million by using deceptive claims about repayment programs and loan forgiveness that did not exist. The agency also alleges the companies falsely claimed to be or be affiliated with the Department of Education and told students that the illegal payments the companies collected would count towards their loans.

The FTC took action to stop scammers who the agency alleges facilitated an operation to prey on students seeking debt relief. The agency alleges that the Apex Processing Center pretended to be affiliated with the U.S. Department of Education, used deceptive loan forgiveness promises, and falsely claimed they were offering relief under the “Biden Loan Forgiveness” plan to lure students and collect millions in illegal upfront fees.

- **Credit Card Debt Relief:** As the result of an FTC lawsuit, ACRO Services LLC, the operators of an alleged credit card debt relief scheme based in Tennessee, have agreed to court orders that would permanently ban them from telemarketing and selling debt relief products or services. The orders contain a total monetary judgment of \$17.5 million, which is partially suspended. The FTC alleged the defendants took tens of millions of dollars from people by falsely promising to eliminate or substantially reduce their credit card debt.

Protecting Americans’ Privacy and Data Security

- **Meta Consent Order:** The FTC proposed changes to the agency’s 2020 privacy order with Facebook, Inc. after alleging that the company has failed to fully comply with the order, misled parents about their ability to control with whom their children communicated through its Messenger Kids app, and misrepresented the access it provided some app developers to private user data. As part of the proposed changes, Meta, which changed its name from Facebook in October 2021, would be prohibited from profiting from data it collects, including through its virtual reality products, from users under the age of 18. It would also be subject to other expanded limitations, including its use of facial recognition technology, and required to provide additional protections for users.
- **Children’s Online Privacy Protection Act Orders:** The FTC secured agreements requiring Epic Games, Inc., creator of the popular video game Fortnite, to pay a total of \$520 million in relief over allegations the company violated the Children’s Online Privacy Protection Act (COPPA) and deployed design tricks, known as dark patterns, to dupe millions of players into making unintentional purchases. The FTC’s action against Epic involves two separate record-breaking settlements. As part of a proposed federal court order filed by DOJ on behalf of the FTC, Epic will pay a \$275 million monetary penalty for violating the COPPA Rule, which is the largest penalty ever obtained for violating an FTC rule. Additionally, in a first-of-its-kind provision, Epic will be required to adopt strong privacy default settings for children and teens, ensuring that voice and text communications are turned off by default. Under a separate administrative order, Epic will pay \$245 million to refund consumers for its dark patterns and billing practices, which is the FTC’s largest refund amount in a gaming case.

To settle charges that it violated the COPPA Rule and deceived parents and users of the Alexa voice assistant service about its data deletion practices, Amazon.com, Inc. has agreed to pay a \$25 million civil penalty, overhaul its deletion practices, and implement stringent privacy safeguards.

According to the complaint filed by the DOJ on behalf of the FTC, Amazon prevented parents from exercising their deletion rights under the COPPA Rule, kept sensitive voice and geolocation data for years, and used it for its own purposes, while putting data at risk of harm from unnecessary access.

Microsoft Corporation will pay \$20 million to settle FTC charges that it violated COPPA collecting personal information from children who signed up to its Xbox gaming system without notifying their parents or obtaining their parents' consent, and by illegally retaining children's personal information. As part of a proposed order filed by the DOJ on behalf of the FTC, Microsoft will be required to take several steps to bolster privacy protections for child users of its Xbox system. For example, the order will extend COPPA protections to third-party gaming publishers with whom Microsoft shares children's data. In addition, the order makes clear that avatars generated from a child's image, and biometric and health information, are covered by the COPPA Rule when collected with other personal data.

The FTC obtained an order against education technology provider Edmodo, Inc. for collecting personal data from children without obtaining their parent's consent and using that data for advertising, in violation of the COPPA Rule, and for unlawfully outsourcing its COPPA compliance responsibilities to schools. Under the order, Edmodo is, among other things, prohibited from requiring students to hand over more personal data than is necessary to participate in an online educational activity, which is a first for an FTC order. The proposed order also includes a suspended civil penalty of \$6 million.

- **Health Breach Notification Rule Orders:** The FTC took enforcement action for the first time under its Health Breach Notification Rule against the telehealth and prescription drug discount provider GoodRx Holdings Inc., for failing to notify consumers and others of its unauthorized disclosures of consumers' personal health information to Facebook, Google, and other companies. In a first-of-its-kind proposed order, filed by DOJ on behalf of the FTC, GoodRx is prohibited from sharing user health data with applicable third parties for advertising purposes, and has agreed to pay a \$1.5 million civil penalty for violating the rule.

The FTC charged that the developer of the fertility app Premom deceived users by sharing their sensitive personal information with third parties, including two China-based firms, disclosed users' sensitive health data to AppsFlyer and Google, and failed to notify consumers of these unauthorized disclosures in violation of the Health Breach Notification Rule. The order, which was entered on June 22, 2023, prohibits the app developer, Easy Care Healthcare Corporation, from sharing users' personal health data with third parties for advertising, requires the app to obtain users' consent before sharing health data for any other purpose, and to tell consumers how their personal data will be used.

In FY 2023, the FTC sought public comment on proposed changes to the Health Breach Notification Rule that include clarifying the rule's applicability to health apps and other similar technologies. Since the rule's issuance, health apps and other direct-to-consumer health technologies, such as fitness trackers, have become commonplace. The proposed changes to the rule come as business practices and technological developments increase both the amount of health data collected from consumers, and the incentive for companies to use or disclose that sensitive

data for marketing and other purposes. In April 2024, the Commission voted to finalize changes to the Health Breach Notification Rule.

- **Biometric Information Policy Statement:** The FTC issued a policy statement warning that the increasing use of consumers' biometric information and related technologies, including those powered by machine learning, raises significant consumer privacy and data security concerns and the potential for bias and discrimination. Biometric information refers to data that depict or describe physical, biological, or behavioral traits, characteristics, or measurements of or relating to an identified or identifiable person's body. The policy statement warns that false or unsubstantiated claims about the accuracy or efficacy of biometric information technologies or about the collection and use of biometric information may violate the FTC Act.
- **Health Data Orders:** The FTC finalized an order banning online counseling service BetterHelp, Inc. from sharing consumers' health data, including sensitive information about mental health challenges, for advertising. The order also requires the company to pay \$7.8 million to consumers to settle charges that it revealed consumers' sensitive data with third parties such as Facebook and Snapchat for advertising after promising to keep such data private.

The FTC charged that the genetic testing firm 1Health.io Inc., formerly known as Vitagene, left sensitive genetic and health data unsecured, deceived consumers about their ability to get their data deleted, and changed its privacy policy retroactively without adequately notifying and obtaining consent from consumers whose data the company had already collected. As part of the final order with the FTC, 1Health agreed to pay \$75,000 and will strengthen protections for genetic information and instruct third-party contract laboratories to destroy all consumer DNA samples that have been retained for more than 180 days.

- **Health Privacy:** The FTC and the U.S. Department of Health and Human Services' Office for Civil Rights (OCR) cautioned hospitals and telehealth providers about the privacy and security risks related to the use of online tracking technologies integrated into their websites or mobile apps that may be impermissibly disclosing consumers' sensitive personal health data to third parties. The two agencies sent a joint letter to approximately 130 hospital systems and telehealth providers to alert them about the risks and concerns regarding the use of technologies, such as the Meta/Facebook pixel and Google Analytics, that can track a user's online activities. These tracking technologies gather identifiable information about users, usually without their knowledge and in ways that are hard for users to avoid, as users interact with a website or mobile app.
- **Illegal Surveillance Order:** The FTC charged home security camera company Ring, LLC with compromising its customers' privacy by allowing any employee or contractor to access consumers' private videos and by failing to implement basic privacy and security protections, enabling hackers to take control of consumers' accounts, cameras, and videos. The court order requires Ring to pay \$5.8 million and to delete data products such as data, models, and algorithms derived from videos it unlawfully reviewed. The order also requires Ring to implement a privacy and security program with novel safeguards on human review of videos as well as other stringent security controls, such as multi-factor authentication for both employee and customer accounts.

- **Data Security Orders:** The FTC finalized an order with online alcohol marketplace Drizly, LLC and its CEO over security failures by the company that the FTC said led to a data breach exposing the personal information of about 2.5 million consumers. The FTC alleged that Drizly and its CEO were alerted to security vulnerabilities two years prior to the 2020 breach yet failed to take steps to protect consumers' data from hackers despite publicly claiming to have appropriate security protections in place. The FTC's order, among other things, requires Drizly to destroy any personal data it collected that is not necessary for it to provide products or services to consumers and must refrain from collecting or storing personal information unless it is necessary for specific purposes outlined in a retention schedule.

The FTC finalized its order with education technology provider Chegg Inc. for its careless data security practices that exposed sensitive information about millions of Chegg's customers and employees, including Social Security numbers, email addresses, and passwords. The FTC's order requires Chegg to implement a comprehensive information security program, limit the data the company can collect and retain, offer users multifactor authentication to secure their accounts, and allow users to request access to and deletion of their data.

- **Tax Prep Consumer Data:** The FTC used its penalty offense authority to warn five tax preparation companies that they could face civil penalties if they use or disclose confidential data, collected from consumers for the purpose of preparing their taxes, for unrelated purposes such as advertising, without first obtaining consumers' consent. By sending a Notice of Penalty Offenses, the agency is warning recipients they could incur civil penalties of up to \$50,120 per violation if they misuse personal data in ways that run counter to the original purpose for which this information was collected.
- **Fair Credit Reporting Act Violations Orders:** Background report providers TruthFinder and Instant Checkmate agreed to a proposed order requiring them to pay \$5.8 million to settle charges that they deceived consumers about whether consumers had criminal records and that the companies violated the Fair Credit Reporting Act (FCRA) by operating as consumer reporting agencies while, among other things, failing to ensure the maximum possible accuracy of their consumer reports. The proposed order also requires the companies to implement an FCRA monitoring program, among other provisions.

Protecting Every Community

- **Scams Targeting Black and Latino Consumers:** The FTC took action against auto dealer Passport Automotive Group for deceiving consumers by tacking hundreds to thousands of dollars in illegal junk fees onto car prices and for discriminating against Black and Latino consumers with higher financing costs and fees. Passport, its president, and its vice president will pay more than \$3.3 million to settle the FTC's lawsuit, which will be used to refund consumers harmed by Passport's conduct.

In response to an action filed by the FTC, a federal court entered a temporary restraining order against the operators of a Florida-based business opportunity and real estate investment training scheme known as Ganadores Online and Ganadores Inversiones Bienes Raíces. The FTC charges that the companies behind Ganadores, their owners, and key employees targeted Spanish-speaking

consumers with brazen and false money-making pitches for online businesses and real estate investments.

- **Scams Targeting or Disproportionately Impacting Older Adults:** The DOJ, on behalf of the FTC and the Wisconsin Attorney General, filed suit against Consumer Law Protection, LLC and related companies, along with their owners and operators, for scamming consumers, mostly older adults, out of more than \$90 million in a massive timeshare exit scam. Since at least 2018, the defendants used direct mail and in person “seminars” to pitch a dizzying array of deceptive claims to pressure consumers into paying for their services.
- **Background Screening Issues:** The FTC and the Consumer Financial Protection Bureau (CFPB) requested comment on background screening issues affecting individuals who seek rental housing in the United States, including how the use of criminal and eviction records and algorithms affect tenant screening decisions and may be driving discriminatory outcomes. The FTC and CFPB are working closely to identify practices that may unfairly prevent consumers from obtaining and retaining housing, and comments to the Request for Information (RFI) will help inform enforcement and policy actions under each agency’s jurisdiction. The Fair Credit Reporting Act, which the FTC and CFPB both enforce, also imposes requirements on many aspects of the tenant screening process.

Protecting Small Businesses

- **Made in the USA:** The FTC finalized a consent order against Electrowarmth Products, LLC and its owner for deceptively claiming the heated fabric mattress pads they sell for truck bunks are made in the USA. The final order prohibits Grindle and Electrowarmth from making any country-of-origin claim about a product or service unless the claim is not misleading and they have a reasonable basis that substantiates their claim. It also requires the respondents to make certain disclosures about the country of origin of any product subject to the Textile Fiber Products Identification Act, and to provide compliance reports. The order also imposes a suspended \$815,809 monetary judgment.

The FTC finalized its order against Instant Brands LLC, manufacturer of Pyrex-brand kitchen and home products, for making false “Made in USA” claims. The order stops the company from making deceptive claims about products being “Made in USA” and requires it to pay a \$129,416 judgment.

The FTC finalized its order against motocross and ATV parts maker Cycra, Inc. and its officer for falsely claiming that the company’s products were manufactured in the United States. The order stops Cycra and its officer from making deceptive claims about products being “Made in USA” and require them to pay a monetary judgment of \$872,577, which is partially suspended once the defendants pay \$221,385.66.

FTC took action against Chaucer Accessories, Inc., Bates Accessories, Inc., and Bates Retail Group, Inc., a group of Massachusetts and New Hampshire based clothing accessories companies, and their owner for falsely claiming that certain company products were manufactured in the United States. The final order stops the companies and their owner, Thomas Bates, from making

deceptive claims about products being “Made in USA” and requires them to pay a monetary judgment of \$191,481.

- Small Business Debt Collection:** As a result of action by the FTC and Commonwealth of Pennsylvania, debt collection company International Credit Recovery, Inc. (ICR), an officer, and a manager agreed to a permanent ban from the debt collection industry after being charged with engaging in bogus debt collection efforts against businesses and non-profits. The FTC and Pennsylvania alleged that ICR was a key part of a telemarketing scheme run by American Future Systems, Inc., (AFS), which also does business as Progressive Business Publications and the Center for Education and Employment Law. ICR allegedly collected on debts AFS claimed organizations such as businesses, schools, fire and police departments, and non-profits owed for book and newsletter subscriptions they did not order. The settling defendants are also required to cooperate since the case will continue against the other defendants.
- Small Business Credit Reporting:** The FTC launched an inquiry into the small business credit reporting industry, ordering five firms in that industry to provide the Commission with detailed information about their products and processes. The orders were issued to Dun & Bradstreet, Experian Information Solutions, Equifax, Ansonia Credit Data, and Creditsafe USA. The Commission’s inquiry will examine multiple aspects of how information is collected and processed for business credit reports, how the reports are marketed, and how and whether the credit reporting companies address factual errors in the reports. In addition to information about these topics, the orders also require the companies to provide information on services they provide to businesses to monitor or enhance their own credit reports.
- Workers and Small Businesses in the Gig Economy:** The FTC finalized a consent order against Denver-based HomeAdvisor, Inc., a company affiliated with Angi, formerly known as “Angie’s List,” settling allegations that it used a wide range of deceptive and misleading tactics in selling home improvement project leads to service providers, including small businesses operating in the “gig” economy. The final order requires that HomeAdvisor pay up to \$7.2 million for redress and prohibits the company from making any false or misleading claims regarding its leads, including that they concern individuals who are ready to hire a service provider or who submitted a request for home services directly to HomeAdvisor.

Consumer Protection Law Enforcement Collaboration and Advocacy

- Key Law Enforcement Tools:** In FY 2023, more than 7.7 million fraud, identity theft, financial, and DNC complaints were added to the FTC’s Consumer Sentinel Network (CSN) database. Nearly 3,000 law enforcement users worldwide have access to CSN. In FY 2023, over 249 million telephone numbers were on the National Do-Not-Call Registry. In FY 2023, the Consumer Response Center handled more than 51,000 inquiries and complaints from consumers and businesses each week, for a total of 2.7 million complaints and inquiries. The FTC also maintains the federal government’s central repository for identity theft complaints. The one-stop website is integrated with the FTC’s consumer complaint system, allowing consumers who are victims of identity theft to rapidly file a complaint with the FTC and create the documents they need to alert police, the nationwide consumer reporting agencies, and the Internal Revenue Service (IRS).

- **Criminal Referrals:** The FTC continues to refer law violators to criminal law enforcement agencies for prosecution. In Fiscal Year 2023, FTC staff actively worked on 37 new formal requests for cooperation from our criminal law enforcement partners, including 29 federal, five state, and three local requests. In Fiscal Year 2023, prosecutors relied on FTC information and support to charge 18 new defendants and obtain eight new convictions. Nineteen defendants were sentenced during this period, and those sentences included prison terms totaling 429 months. Of these defendants, Steven Short was sentenced to 78 months in prison for his role in a credit-card laundering scheme. Another defendant, Jennifer Shah, was sentenced to 78 months in prison for her role in a nationwide telemarketing fraud scheme that targeted elderly victims. Additionally, Sergio Rodriguez was sentenced to 48 months in prison for his participation in a foreclosure rescue scam that defrauded thousands of financially distressed homeowners.
- **Collaboration with State Attorneys General:** In addition to the FTC’s collaboration with attorneys general from all 50 states the District of Columbia to crack down on illegal telemarketing calls, the FTC continues to partner with state attorneys general to protect consumers from unfair and deceptive practices across the marketplace. In FY 2023, the FTC and the Wisconsin Attorney General together filed suit against a timeshare exit scam for defrauding older adults and other consumers out of more than \$90 million; the FTC worked with the Utah Attorney General to stop a real estate investment training from false promising wealth creation opportunities; and the FTC, in collaboration with the California Attorney General, took action against a home improvement financing provider for deceiving property owners about the terms attached to home improvement financing.

The FTC also issued a request for public information (RFI) seeking public comments and suggestions on ways it can work more effectively with state attorneys general to help educate consumers about, and protect them from, potential fraud. The RFI comes at the direction of the FTC Collaboration Act of 2021. The Collaboration Act directs the FTC to “conduct a study on facilitating and refining existing efforts with State Attorneys General to prevent, publicize, and penalize frauds and scams being perpetrated on individuals in the United States.” It further requires the Commission to consult directly with interested stakeholders, as well as provide the opportunity for public comment and advice relevant to the production of the study.

- **Advocacy in the Courts and Other Federal Agencies:** The FTC filed briefs and comments with federal and state government bodies advocating for policies that promote the interests of consumers and highlighting the role consumer and empirical research might play in their decision-making.
 - The FTC joined the CFPB in filing a friend-of-the-court (amicus) brief with the U.S. Court of Appeals for the Eleventh Circuit in the case of *Louis v. Bluegreen Vacations Unlimited, Inc.* The brief asks the appeals court to overturn a lower court decision that denied servicemembers the right to sue to invalidate a contract that they allege violates the Military Lending Act. The district court erred, the brief argues, and its ruling could undermine enforcement of the Military Lending Act, a law designed to protect military families from predatory lending. Servicemembers are particularly vulnerable to predatory practices, which can undermine military readiness and morale.

- The FTC filed an amicus brief arguing that the Children’s Online Privacy Protection Act (COPPA) does not preempt state privacy laws that are consistent with COPPA. The brief was filed in support of a federal appeals court’s ruling in *Jones v. Google*, a case in which a group of children allege that Google collected data and surreptitiously tracked their online activity in violation of state laws.
- The FTC filed an amicus brief in the U.S. Court of Appeals for the Seventh Circuit challenging a district court ruling that invalidated a key anti-discrimination rule in the Equal Credit Opportunity Act (ECOA). The case, *CFPB v. Townstone Financial and Barry Sturner*, relates to a Chicago-based mortgage lender and its owner, which the CFPB alleged violated Regulation B, the rule that implements ECOA. The CFPB alleged that the defendants took steps to discourage Black consumers from applying for loans, violating Regulation B’s anti-discouragement rule. The district court ruled that the anti-discouragement provision was invalid and that ECOA protects only those consumers who have already applied for credit. In its brief, the FTC argues that the district court’s ruling was incorrect. The Commission’s brief notes that the anti-discouragement rule—which has stood for nearly 50 years—is authorized by the plain language of ECOA, which mandates that regulators further ECOA’s “purpose” and prevent its “evasion.” The FTC also argues that the district court’s ruling would have “profoundly negative consequences” for consumers, emboldening discriminatory lenders to openly discourage consumers from applying for loans.
- The FTC filed a comment with the U.S. Department of Education regarding the U.S. Department of Education’s proposed regulations to protect postsecondary students in the education marketplace. In the comment, FTC staff stresses its support of the Education Department’s proposed regulations, noting that prohibiting misrepresentations and deceptive recruitment practices would help curb the very type of harm that the FTC has encountered in its cases. Staff’s comment also notes that, given the importance and expense of education, the FTC has prioritized protecting consumers from unfair and deceptive practices in this space. The comment endorses the Education Department’s effort to protect consumers from the harms caused by such practices in the education marketplace.
- **SAFE WEB:** In 2023, the FTC gathered data and information and submitted its SafeWeb Report to Congress, detailing the agency’s efforts to combat cross-border fraud through the U.S. SAFE WEB Act and its work contributing to the fight against ransomware and other cyber attacks that originate outside the United States.
- **International Cooperation on Fighting Fraud:** In FY 2023, the FTC renewed its Memorandum of Understanding (MOU) with the Unsolicited Communications Enforcement Network, which includes the FCC as well as international counterparts in Canada, Australia, New Zealand, South Korea, and the UK. In addition, the FTC partnered with Latin American countries to fight fraud, entering into a multilateral MOU with Chile, Colombia, Mexico, and Peru. In FY 2022 and 2023, the agency worked with international partners to ensure that victims of the Next-Gen sweepstakes scam were eligible to receive refunds.
- **Providing Expertise Internationally:** The FTC provided input to international policy organizations such as the OECD, UNCTAD, APEC, and the Global Privacy Assembly, dealing

with such issues as dark commercial patterns, artificial intelligence, sustainability, and international data transfers. The FTC similarly participated in regional networks, such as the Asia Pacific Privacy Authorities Forum, the African Consumer Protection Dialogue, and the Iberoamerican network of consumer authorities. The FTC and the European Commission launched a consumer dialogue which included bilateral discussions and webinars for FTC, EC, and member state officials to exchange expertise on dark patterns, online reviews, environmental claims, repair restrictions, and other topics of mutual interest. The FTC led the G7 data protection authorities' work on enforcement cooperation, and in June participated in a G7 roundtable of these authorities, engaging in dialogues on various cutting edge privacy topics, including generative AI.

Consumer Protection Research, Outreach, and Education

- Open Commission Meetings:** During FY 2023, the FTC held eight Open Commission Meetings to provide a forum for the public to directly engage with the work of the Commission. These meetings begin with an opportunity for any member of the public to address the Commission and share their experiences in the marketplace, followed by Commission discussion on key agency priorities, including protecting children's privacy online, eliminating junk fees, and halting scams that target our nation's veterans and servicemembers. During FY 2023, nearly 150 members of the public—from small business and franchise owners to advocates for children's privacy to grocery store workers to the Majority Leader of the United States Senate—had the opportunity to speak before the Commission, and these meetings opened the FTC's important work to protect consumers to thousands of viewers across the country.
- Outreach to Older Americans:** The FTC's Pass It On campaign (ftc.gov/PassItOn and ftc.gov/Pasalo in Spanish), tailored to people aged 65 and older, shares information about fraud and encourages readers to share it with a friend. The agency has expanded upon the successful campaign by adding topics and refreshing its approach as part of its Stop Senior Scams Act activities. As part of the 2023 rollout of the refreshed materials, the FTC held public-facing webinars that brought in more than 2,600 attendees. The agency continues to promote these resources through webinars and presentations in collaboration with other federal agencies, such as the CFPB, local government offices on aging, legal services providers, and non-profit organizations including AARP and the Senior Medicare Patrol. Nearly 20 million pieces of Pass It On educational material have been distributed since the campaign launched in July 2014.
- Protecting Older Consumers Report:** In October 2022, the Commission issued "[Protecting Older Consumers 2021-2022: A Report of the Federal Trade Commission](#)." The report highlights key trends based on fraud reports by older adults, and the FTC's efforts to combat the pressing problems through law enforcement actions, rulemaking, and outreach and education programs. New analysis in the report identified differences in the fraud types and payment methods reported by older adults most likely to be Black, Latino, and Asian American and Pacific Islander compared to reports from all consumers.
- Outreach to Military Service Members:** The FTC has developed and manages the Military Consumer campaign together with the U.S. Department of Defense's (DoD's) Office of Financial Readiness and the CFPB, with nearly 50 other military, federal, and state partners. The campaign addresses unique challenges of military life that often make military personnel and families targets

for scammers. Service members and their families, along with the DoD's personal financial managers who serve them, use the campaign website ([MilitaryConsumer.gov](https://militaryconsumer.gov)) as a tool for financial readiness. Two highlights of the campaign (Military Consumer Month in July and Veterans Day in November) feature extensive social media outreach and virtual events with the network of military partners. Since the launch of the campaign in 2017, the Commission has distributed more than 1.2 million Military Consumer bookmarks to the military community, guiding servicemembers, veterans, and their families to [MilitaryConsumer.gov](https://militaryconsumer.gov).

- **Outreach to Small Businesses:** The FTC continues its focus on educating small business owners about small business financing, data security, and scams and deceptive practices targeting small businesses. Providing information and guidance to small businesses in communities of color is a priority for the agency, which makes business education materials available in Spanish. Outreach efforts are ongoing to reach minority-owned businesses, as well as women-owned businesses, veteran-owned businesses, and other historically disadvantaged small businesses. Agency staff regularly engage chambers of commerce that represent diverse business communities and provides advice to the Small Business Administration's (SBA) District Offices on cybersecurity scams that target small business owners and their business networks. The FTC continues to promote free resources for small business owners to help train their employees on cybersecurity threats. The FTC participated in the SBA's four-day 2023 National Small Business Virtual Summit and, among other efforts, continues expand the reach of its Spanish language campaign materials on cybersecurity and the scams that target small businesses, in collaboration with the SBA, the SBA's Small Business Development Corporations (SBDCs), the Better Business Bureau (BBB), and local Hispanic Chambers of Commerce.
- **Consumer Issues Affecting American Indian and Alaska Native Communities Report:** In 2022, the FTC engaged in a national outreach and education efforts to gain a broader understanding of the particular consumer protection challenges American Indian and Alaska Native communities experience and how the Agency may work to further support these communities. This effort included listening to and collaborating with sources in American Indian and Alaska Native communities as well as analyzing consumer complaints to the FTC from individuals in these communities. The "Consumer Issues Affecting American Indian and Alaska Native Communities Report," submitted to Congress in March 2023, provides details on the consumer issues identified through these efforts, including a summary of some of the law enforcement actions and recent notices of proposed rulemaking relating to consumer abuses identified as impacting American Indian/Alaska Native communities, the Agency's actions to better reach and respond to their needs, In addition, the Agency partnered with organizations, including the Native Learning Center and the National Indian Council on Aging, to provide information on consumer protection issues.
- **Outreach to Protect Americans from COVID-related Fraud:** The FTC used paid radio, print, and digital advertising campaigns to target millions of consumers in communities across the U.S. to warn Americans about pandemic-related scams and to promote a new website aimed at helping people manage the financial impact of the pandemic: ftc.gov/MoneyMatters and ftc.gov/AsuntosDeDinero. In FY23, topics from the site have been featured in six national and targeted radio tours, reaching millions of listeners nationwide. Recognizing the impact of the pandemic on small businesses, the FTC continues to work with the SBA, SBDCs, the BBB, and

other groups that serve minority small business owners, all to help business owners in all communities protect their businesses, livelihood, and employees from pandemic-related scams and economic hardship. To date, the agency has held 33 Ethnic and Community Media Briefings, bringing together journalists, state and local law enforcement, legal services, and community advocates to discuss scams and bad business practices affecting communities of color, immigrant communities, Tribal communities, and English language learners. The agency also engaged in a paid advertising campaign for radio, print, and digital media outlets that primarily reach Native American communities focused on raising awareness about gift card scams and reporting fraud.

- **Outreach to Historically Underserved Audiences:** The FTC continues its commitment to reaching historically underserved audiences to help them locate and use consumer education resources aimed at protecting against scams. This has included offering core FTC resources in 12 languages, in addition to English and Spanish. As of FY 2023, people who call the FTC Call Center are able to report fraud and identity theft in their native language by following prompts to select a specific language. In addition, the Agency continues to reach out to audiences which speak languages other than English through an ongoing media strategy that includes a series of community briefings and roundtables that have connected community media with FTC experts on how fraud impacts communities of color. Topics have included scams and bad business practices in auto buying; job and money-making scams that plague historically underserved audiences; new phishing scam trends, including using text messages and AI; and the ways scammers demand payment. Geographically based roundtables have connected the FTC with local law enforcement, legal services, community advocates, and ethnic media. Audiences reached include rural, immigrant, Black, and Latino communities in Louisville and Tampa; the Hmong, Latino, Black, and immigrant communities in Minneapolis; and Chinese, Korean, South Asian, Pacific Islander, and other Pan-Asian communities in San Francisco. The results have included numerous, in-language articles and radio spots in local and ethnic media, reaching not only those targeted communities via trusted sources, but also carrying the messages into less-reached rural communities, sharing practical and actionable advice, and encouraging reporting to the FTC.
- **INFORM Consumers Act:** Congress passed the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act, or the INFORM Consumers Act, to add more transparency to online transactions and to deter criminals from acquiring stolen, counterfeit, or unsafe items and selling them through online marketplaces. The FTC sent letters to 50 online marketplaces nationwide notifying them about their obligations to comply with the new INFORM Consumers Act. The FTC also developed business education materials that are available on the agency’s website to summarize how online marketplaces can comply with the act, along with links to the act itself. Violations of the act may be treated as a violation of an FTC rule, and thus noncompliant online marketplaces may face enforcement that could result in civil penalties of \$50,120 per violation.
- **Stealth Social Media Advertising to Children:** The FTC hosted a virtual event on “Protecting Kids from Stealth Advertising in Digital Media,” Bringing together researchers, child development and legal experts, consumer advocates, and industry professionals to examine the techniques being used to advertise to children online and what measures should be implemented to protect children from manipulative advertising. The FTC also issued a staff paper “Protecting Kids from Stealth Advertising in Digital Media.” The paper recommends that businesses, social media influencers

and others who market or promote products online to children should avoid blurring advertising by clearly separating advertising and entertainment, educational, and other content to help limit potential harms to children. It warns that for younger children in particular, disclosures are unlikely to be effective.

- **PrivacyCon:** The FTC hosted its annual PrivacyCon event virtually, bringing together a diverse group of stakeholders, including researchers, academics, industry representatives, consumer advocates, and government regulators, to discuss the latest research and trends related to consumer privacy and data security. The seventh annual PrivacyCon featured presentations on commercial surveillance, automated decision making, and a range of other privacy and data security topics.



Promoting Fair Competition: Highlights of FY 2023 Accomplishments

The FTC enforces America’s antitrust laws to promote open, competitive markets, which benefit American consumers, workers, innovators, and honest businesses. The agency has been active in a range of critical markets, including healthcare, technology, energy, defense, consumer goods and services, labor, and manufacturing. Underlying this work is the tenet that vigorous antitrust enforcement is essential to the growth and dynamism of the U.S. economy, as well as to Americans’ shared prosperity and liberty. Recent decades, however, have vividly illustrated how Americans lose out when markets become more consolidated and less competitive. Prices rise, wages fall, and our markets become more fragile and less resilient.

In light of these troubling realities, the FTC has been reassessing how it can enforce the antitrust laws to maximize efficacy, promote deterrence, and keep up with evolving business models. In that vein, the agency in FY 2023 continued to deploy the agency’s full toolkit to block anticompetitive mergers, halt coercive practices that monopolize markets, and prevent businesses from using unfair tactics to gain an advantage. The FTC continued to reinvigorate the full scope of the Commission’s statutory mandate, including revitalizing its enforcement of Section 5 of the FTC Act that prohibits unfair methods of competition and Section 8 of the Clayton Act that prohibits interlocking directorates. The Commission vigorously worked to carry out its law enforcement role—bringing important and justified, yet challenging theories and cases, seeking individual liability to deter future corporate lawbreaking, and pursuing bold remedies that fully restore and prevent harm to competition. In addition to the FTC’s enforcement work, the agency continued to address blind spots in federal enforcers’ merger policy and helped courts develop and clarify the law through amicus briefs.

In FY 2023, the agency acted swiftly to protect fair competition in critical sectors. The FTC brought 23 antitrust enforcement actions, initiated federal court or administrative litigation in six matters, and issued consent orders to remedy prospective or ongoing harm to competition in seven matters. In an additional ten matters, the parties abandoned or restructured their proposed acquisitions to address Commission concerns that the original transaction likely would have harmed competition. The FTC also continued to monitor and enforce compliance with existing consent orders, including prior approval provisions, as well as merger and acquisition reporting obligations under the Hart-Scott-Rodino (HSR) Act.

Competition Law Enforcement and Policy Initiatives

Providing Clarity to Market Participants

- Merger Guidelines:** In July, the FTC and the Department of Justice proposed draft Merger Guidelines, which lay out how U.S. enforcers will assess whether transactions may lessen competition or tend to create a monopoly. Informed by thousands of comments from consumers, workers, academics, attorneys, enforcers, business owners, and many others from across the economy, the draft guidelines capture the tangible effects that mergers have on people’s lives. The draft guidelines reflect modern market realities, advances in economics and law, and the experiences of a diverse array of market participants. The Merger Guidelines were finalized and issued in December 2023.
- Draft Hart-Scott-Rodino Form:** The FTC and the DOJ proposed changes to Hart-Scott-Rodino Form and Instructions, marking the first time in 45 years that the agencies have undertaken a top-to-bottom review of the form. These proposed changes would enable the agencies to more effectively and efficiently screen transactions for potential competition issues within the initial waiting period, which is typically 30 days. The proposed updates would require parties to provide details on relevant corporate relationships, previous acquisitions, the structure of entities involved, and labor practices.
- Section 5 Unfair Methods of Competition Policy Statement:** The Federal Trade Commission issued a statement that restores the agency’s policy of rigorously enforcing the federal ban on unfair methods of competition. The FTC’s previous policy restricted Section 5’s oversight to a narrower set of circumstances, making it harder for the agency to challenge the full array of anticompetitive behavior in the market. The current statement removes this restriction and declares the agency’s intent to exercise its full statutory authority against companies that use unfair tactics to gain an advantage instead of competing on the merits.

Promoting Fair Competition in the Healthcare and Pharmaceutical Industries

- Pharmaceutical Monopolization:** In January 2023, the FTC asked a federal judge to hold “Pharma Bro” Martin Shkreli in contempt for failing to provide the FTC with information needed to verify his compliance with a 2022 ground-breaking federal order banning him from working in the pharmaceutical industry for life. The order stems from the FTC’s federal court litigation where the court held that Shkreli orchestrated an illegal anticompetitive scheme to perpetuate a monopoly for the drug Daraprim, a life-saving drug used in the treatment of a rare, potentially fatal parasitic infection known as toxoplasmosis. Separate from the FTC’s request in federal district court to hold Shkreli in contempt, the FTC also urged the United States Court of Appeals for the Second Circuit to reject Shkreli’s arguments seeking to overturn his lifetime ban from participating in the pharmaceutical industry. The FTC ultimately prevailed before the Second Circuit, with that court affirming the 2022 order and its lifetime ban.

- Health Care Information Technology Anti-Competitive Conduct:** In July 2023, the FTC filed a stipulated order to settle charges that health information technology company Surescripts engaged in exclusionary conduct to maintain a monopoly in violation of the antitrust laws. The settlement follows a favorable federal court ruling that found that Surescripts possesses monopoly power in e-prescribing services with a 95 percent “supershare.” In adopting the Commission’s position, the opinion made important clarifications of the law, including on the establishment of monopoly power through market share and barriers to entry. According to the FTC’s April 2019 complaint, Surescripts employed illegal vertical and horizontal restraints in order to maintain its monopoly of the routing and eligibility e-prescribing markets. These markets involve technology used by physicians to route electronic prescriptions and health care providers to electronically determine patient eligibility and insurance coverage, respectively. The order prohibits Surescripts from imposing loyalty or exclusivity requirements on its routing and eligibility customers, including through all-unit discounting, as well as barring the company from using noncompete agreements with employees that would prevent them from working for a competitor.
- Health Care Advertising Platform Merger:** In July 2023, the FTC issued a complaint seeking to block the world’s largest health care data provider, IQVIA Holdings, from acquiring Propel Media, Inc. According to the complaint, the proposed acquisition would give IQVIA a leading position in the market for programmatic advertising for health care products (namely prescription drugs) to doctors and other health care professions and would incentivize IQVIA to withhold key information to discourage entry into the market by potential rival companies. IQVIA and Propel are two of the top three providers of these services, known as demand-side platforms, which specifically target health care professionals with advertising for pharmaceutical drugs and other products. The complaint alleges that the proposed deal would eliminate head-to-head competition between the two firms, driving up prices and reducing quality and choice—potentially harming patients by inhibiting knowledge of new products and affecting the prescribing behavior by health care providers and increasing prices if inflated marketing costs were passed-on to patients. After an evidentiary hearing in late 2023, U.S. District Court Judge Edgardo Ramos issued an order granting the FTC’s motion for preliminary injunction on December 29, 2023.
- Private Equity Serial Acquisitions of Anesthesia Providers:** In September 2023, the Commission filed a complaint in federal court alleging that U.S. Anesthesia Partners, Inc. (USAP), the dominant provider of anesthesia services in Texas, and private equity firm Welsh, Carson, Anderson & Stowe executed a multi-year anticompetitive scheme to consolidate anesthesiology practices in Texas, driving up the prices of anesthesia services for Texas patients to increase profits. According to the complaint, USAP and Welsh Carson engaged in a three-part strategy to consolidate and monopolize the anesthesiology market. First, they executed a roll-up scheme by systematically buying up nearly every large anesthesia practice in Texas to create a single dominant provider with the power to demand higher prices. Second, the firms drove up prices through price-setting agreements with the remaining independent practices. And third, the firms further reduced competition by striking a deal to sideline a significant competitor by keeping it out of USAP’s territory. This multiprong anticompetitive strategy has cost Texans an estimated tens of millions of dollars each year. This matter is pending in federal court.
- Pharmaceutical Merger:** In May 2023, the Commission issued a complaint seeking to block Amgen Inc.’s proposed acquisition of Horizon Therapeutics plc. According to the complaint, the

deal would allow Amgen to leverage its portfolio of blockbuster drugs to entrench the monopoly position of Horizon drugs Tepezza and Krystexxa, used in the treatment of thyroid eye disease and chronic refractory gout, respectively. The complaint alleges that Amgen has a history of using rebates on its high-volume drugs through cross-market bundling which may make it impossible for smaller rivals developing competing drugs to compete, discouraging market entry. In September 2023, the FTC reached a proposed consent order with Amgen to address the potential competitive harm from the proposed acquisition. Among other things, the proposed order prevents Amgen from bundling any of its products with either Tepezza or Krystexxa or from conditioning any product rebate or contract terms on the sale or positioning of either drug.

- **Pharmacy Benefit Managers Section 6 Study:** The FTC ordered the six largest pharmacy benefit managers (“PBMs”) to provide information and records regarding their business practices. The study focuses on the impact of vertically integrated PBMs on the access and affordability of prescription drugs. In FY 2023, as part of its ongoing inquiry into PBMs and the FTC issued compulsory orders to three group purchasing organizations (“GPOs”) that negotiate drug rebates on behalf of other PBMs.
- **Physician Group and Healthcare Facility Mergers Section 6 Study:** The FTC continues its 6(b) study based on orders issued to six health insurance companies to provide data that will allow the agency to study the effects of physician consolidation and healthcare facility consolidation that occurred from 2015 through 2020.
- **Certificates of Public Advantage Section 6 Study:** The FTC continues its 6(b) study on the effects of certificates of public advantage (COPA) on prices, quality, access, and innovation of healthcare services as well as on the impact of hospital consolidation on employee wages. Partly due to the FTC’s COPA policy paper, which was released last fiscal year, the state of Maine repealed its COPA law in April. The FTC has also submitted advocacy letters to state legislatures challenging requests for COPAs, which has led to parties abandoning proposed mergers.

Promoting Fair Competition in Digital Markets

- **Meta Monopolization Case:** The Commission’s landmark monopolization case against Facebook (now Meta), which was filed in December 2020, is pending in federal court. The complaint alleged the company has engaged in a systematic strategy, including the acquisition of nascent competitors, to maintain its monopoly, thereby allowing Meta to impose anticompetitive terms on software developers. The Commission filed an amended complaint in August 2021 and in January 2022, the judge denied Meta’s motion to dismiss.
- **Amazon Monopolization Case:** In September 2023, the FTC, along with 17 state attorneys general, filed a complaint in federal court alleging that online retail and technology company Amazon.com, Inc. is a monopolist that leverages a set of interlocking anticompetitive and unfair strategies to illegally maintain its monopoly power. According to the complaint, Amazon’s actions allow it to stop rivals and sellers from lowering prices, degrade quality for shoppers, overcharge sellers, stifle innovation, and prevent rivals from fairly competing. Importantly, the complaint makes clear that Amazon violates the law, not because it is big, but because it engages in exclusionary conduct that stifles the growth of existing competitors and entry by new competitors.

The complaint focuses on two sets of anticompetitive tactics employed by the firm. These anticompetitive tactics include anti-discounting measures that punish sellers and deter other online retailers from offering prices lower than Amazon's, and conditioning sellers' ability to obtain "Prime" eligibility for their products on the use of Amazon's costly fulfillment services, thus raising sellers' costs. According to the complaint, these exclusionary tactics make it impossible for competitors to gain a foothold in the online superstore and online marketplace services markets. This matter is pending in federal court.

- Mortgage Loan Origination Platforms Consent Order:** In March 2023, the FTC issued a complaint seeking to block Intercontinental Exchange, Inc.'s proposed acquisition of Black Knight Inc. The two firms are the nation's two largest providers of home mortgage loan origination systems (LOS) and product pricing and eligibility engines (PPE). The Commission alleged that the deal would drive up costs, reduce innovation, and reduce lenders' choices. LOS are software used to manage the documents and workflow required to generate a mortgage. PPEs are systems used by lenders to obtain the best interest rates for prospective homebuyers. ICE's Encompass LOS competes head-to-head with Black Knight's Empower platforms, and the firms also compete for the sale of a host of related services, including PPEs. The proposed deal would eliminate the vital competition and with it, and likely eliminate the discounts and price concessions the two companies use to win or protect business from each other to the detriment of lenders and homebuyers. In August 2023, the Commission approved a consent order resolving its competitive concerns by requiring Black Knight's divestiture of Empower and Optimal Blue, two businesses that provide critical services in the mortgage origination process, along with other terms designed to ensure the success of the divested businesses.
- Cloud Computing Request for Information:** The FTC issued a Request for Information (RFI) seeking information on the business practices of cloud computing providers, including issues related to the market power of these companies, impact on competition, and potential security risks. The FTC also hosted a virtual panel discussion with a diverse set of experts to discuss the business practices of cloud computing providers including issues related to security, competition, and emerging technology issues associated with cloud computing.

Promoting Fair Competition in Agriculture Markets

- Pesticide Anti-competitive Conduct Case:** The Commission continued to devote resources to its ongoing litigation alleging leading pesticide manufacturers Syngenta Crop Protection and Corteva blocked competitors from selling cheaper generic products to farmers. According to the complaint, the two pesticide manufacturers leveraged so-called "loyalty programs" in which distributors receive payments in exchange for limiting business with competing manufacturers, allowing the firms to inflate their prices, and forcing American farmers to spend millions of dollars more for these critical products. The complaint seeks to end these harmful practices. In 2024, U.S. District Court Judge Thomas D. Schroeder denied Defendants' Motion to Dismiss and this matter is pending.
- Retail Farm Stores Consent Order:** In October 2022, the FTC issued a consent order to remedy concerns related to Tractor Supply Company's acquisition of rival chain Orscheln Farm and Home LLC. Farm stores offer customers a broad assortment of products to meet their farming, ranching,

or other rural lifestyle needs, including animal feed, supplies for the care of horses, livestock, and pets, fencing, and lawn and garden supplies, among other products. The consent order requires Tractor Supply to divest several stores and requires the receipt of prior approval before acquiring any other farm stores within 60 miles of any divested location. The order also establishes prior approval provisions for the two divestiture buyers for a period of three years.

Promoting Fair Competition in Energy Markets

- Natural Gas:** In August 2023, the FTC issued a consent order to resolve antitrust concerns stemming from a \$5.2 billion deal between private equity firm Quantum Energy Partners and natural gas producer EQT Corporation. According to the complaint, Quantum and EQT are direct competitors in the production and sale of natural gas in the Appalachian Basin, the largest natural gas-producing region in the United States; the proposed deal would have made Quantum one of EQT's largest shareholders and given Quantum (an active investor in natural gas in the region) a seat on EQT's board of directors in violation of the antitrust laws. The FTC's order enacted ground-breaking structural relief, prohibiting Quantum from occupying the EQT board seat, requiring Quantum to divest its EQT shares, prohibiting information exchange, and unwinding a separate joint venture between the two entities, among other provisions – marking the first case in 40 years enforcing Section 8 of the Clayton Act, which prohibits interlocking directorates.

Promoting Fair Competition in Consumer Goods and Services

- Video Games:** In December 2022, the FTC issued a complaint seeking to block Microsoft Corp. from acquiring video game developer Activision Blizzard, the largest proposed merger ever in the video game industry. The FTC alleged that the deal would enable Microsoft to suppress competitors to its Xbox gaming consoles and its subscription content (Xbox Game Pass) and cutting-edge cloud-gaming business. According to the complaint, Microsoft has a record of acquiring valuable gaming content and withholding that content from rival consoles. Activision is one of only a very small number of top video game developers in the world that create and publish high-quality video games available for multiple devices. In July 2023, following a week-long preliminary injunction hearing, the federal court for the Northern District of California denied the FTC's request to temporarily enjoin the proposed transaction. This matter is pending on appeal in federal court.
- Debit Card Payment Networks:** In December 2022, the FTC issued a consent order ending the illegal business tactics Mastercard employed to force merchants to route debit card payments through its payment network and requiring Mastercard to stop blocking the use of competing debit payment networks. Debit card payment networks are used by more than 80 percent of American adults and process \$4 trillion in purchases each year and are continuing to grow via new payment media such as Apple Pay, Google Pay, and Samsung Wallet. These networks transmit payment information between points-of-sale and banking institutions, transferring approvals or denials back to the merchant. Networks compete for the business of banks that issue debit cards and for the business of merchants who accept debit card payments. The payment networks charge processing fees for this transfer which are predominantly paid by the merchant. In 2010, in an effort to increase competition among these networks, Congress enacted the Durbin Amendment to the

Dodd-Frank Act, which requires banks to enable at least two unaffiliated networks on every debit card, giving merchants a choice in which network to use for each transaction, and bars payment networks from restricting the use of other networks. According to the complaint, Mastercard set policies that blocked merchants from routing ecommerce transactions using Mastercard-branded debit cards saved in e-wallets to alternative payment networks. The Commission approved a final order in this matter in May 2023.

- **Supply Chain Disruptions Section 6 Study:** In FY 2023, the FTC continued its study of the causes behind grocery supply chain disruptions resulting from the COVID-19 pandemic. In March 2024, the FTC published a report revealing that large market participants accelerated and distorted the negative effects associated with supply chain disruptions. It also found that consumers felt the negative effects of supply chain disruptions in the form of sky rocketing prices for groceries and product shortages for essentials, like toilet paper.

Promoting Fair Competition in Labor Markets

- **Noncompete Rulemaking:** In FY 2023, the FTC released a proposed rule to ban the use of noncompete agreements, which binds about one in five American workers, or approximately 30 million people. Empirical evidence shows that noncompetes suppress workers' wages, deprive workers of different or better employment opportunities, stifle innovation, and block entrepreneurs from starting new businesses. In response to the proposed rulemaking, the Commission received over 26,000 public comments from workers, employers, and business owners across a broad range of income levels and sectors in the economy—over 25,000 of which supported banning noncompetes. In April 2024, the Commission voted to promulgate a final rule to prohibit employers from imposing noncompetes on their workers.
- **Noncompete Enforcement:** The Commission issued three orders to Ardagh Group, O-I Glass, Inc. and Anchor Glass Container Corporation, and a fourth to security services firm Prudential Security Services and Prudential Command and their owners, that forced each firm to drop noncompete restrictions in their employment contracts. According to the complaints, the companies illegally imposed noncompete restrictions on workers in positions ranging from manufacturing to engineering or security guard services that barred them from seeking or accepting work with another employer or operating a competing business after leaving the companies.
- **Partnership with NLRB:** The Commission joined with the National Labor Relations Board (NLRB) in a new inter-agency agreement aimed at bolstering the agency's efforts to protect workers and promote competitive U.S. labor markets. The agreement enables the FTC and NLRB to share information, conduct cross-training, and partner in investigative efforts within each agency's respective legal authorities. The areas of mutual interest outlined in the agreement include the extent and impact of labor market concentration, labor market developments in the 'gig economy,' and the impact of algorithmic decision-making on workers, among other areas.
- **Partnership with DOL:** The Commission and the U.S. Department of Labor signed a new agreement that will bolster the FTC's efforts to protect workers by protecting labor market competition and putting an end to unfair, deceptive practices that harm workers. The new

memorandum of understanding (MOU) between the two agencies outlines ways in which the FTC and DOL will work together on key issues such as labor market concentration, one-sided contract terms, and labor developments in the “gig economy.”

Competition Law Enforcement Collaboration and Advocacy

- **Collaboration with State Attorneys General:** During FY 2023, the FTC strengthened collaboration with key state attorneys general. The FTC and a bipartisan coalition of 10 state attorneys general continued its ongoing litigation against pesticide manufacturers Syngenta and Corteva for blocking competitors from selling cheaper generic products to farmers, inflating prices and forcing farmers to spend millions of dollars more for their products. The FTC also joined with 17 state attorneys general in a lawsuit alleging that Amazon illegally maintained its monopoly power and raised prices for sellers and shoppers. In addition, the FTC has collaborated closely with state enforcers in protecting competition in local markets, including cooperating with 6 states on a consent order to address the potential competitive harm that would have otherwise resulted from Amgen Inc.’s acquisition of Horizon Therapeutics plc.
- **Advocacy in State Legislatures:** In addition to the 6(b) Certificate of Public Advantage (COPA) study discussed above, the FTC submitted a comment to North Carolina House Health Committee members and staff opposing North Carolina Senate Bill 743, which would attempt to prevent antitrust authorities from challenging the University of North Carolina Health Care System for engaging in anticompetitive mergers and conduct. In a letter to the New York State Department of Health, FTC staff opposed a request by SUNY Upstate Medical University and Crouse Health System to grant a COPA. The parties in that transaction ultimately abandoned the transaction, protecting access to life-saving healthcare for patients in upstate New York.
- **Convening Competition Enforcement Partners:** The FTC and the DOJ Antitrust Division hosted the second annual Enforcers Summit, bringing together state, federal, and international enforcement partners to discuss competition law enforcement and share insights on today’s market realities. The Enforcers Summit included both publicly streamed plenary sessions as well as closed-door, in-person breakout sessions, designed to share feedback, evidence, and ideas.
- **Advocacy in the Courts:** In FY 2023, the FTC filed five competition amicus briefs in federal court.
 - The Commission submitted an amicus brief in *Applied Medical Resources Corp. v. Medtronic*, to clarify the legal standards that apply in antitrust cases involving exclusive-dealing and bundling arrangements, both of which can harm competition.
 - The Commission submitted a second amicus brief in *In re Bystolic Antitrust Litigation* urging the Second Circuit reverse the district court’s decision dismissing the private plaintiffs’ reverse-payment complaints for failure to state a claim and to clarify the appropriate standards for pleading that a reverse payment is unjustified, arguing that the complaints met those standards.

- The Commission submitted a third amicus brief in *Sage Chemical, Inc. et al. v. Supernus Pharmaceuticals, Inc., et al.* The brief explains: (1) the potential harm to competition and consumers posed by a brand’s exclusion of generic competition from the market; (2) that a competitor’s marketing of an FDA-approved generic pharmaceutical product intended to work with the branded product is not improper free-riding under the antitrust laws; (3) that exclusive agreements can substantially foreclose competition from the market by barring a potential competitor’s access to a key input even if that competitor could theoretically develop its own alternative to that input; and (4) that single-brand or single-manufacturer markets are appropriate and not legally deficient when there are no adequate substitutes.
- The Commission submitted a fourth amicus brief in *Deslandes v. McDonald’s*. The FTC joined with the Department of Justice to argue that “no-hire” provisions in franchise agreements can be horizontal in nature and that such agreements are per se unlawful unless the defendants establish that they are ancillary to the franchise agreement, which requires a showing that they are reasonably necessary to achieve a procompetitive objective. It also argues that the Supreme Court’s recent decision in *NCAA v. Alston* did not change the standards for determining whether a horizontal restraint is per se illegal or subject to quick-look condemnation.
- The Commission filed a fifth amicus brief in *Jazz Pharmaceuticals v. Avadel CNS Pharmaceuticals*. The brief highlights the significant harm to consumers when a brand company improperly lists a patent on a distribution system in the Food and Drug Administration’s “Orange Book” and thereby blocks generic or follow-on competition. The FTC’s amicus brief explains how the Orange Book listing process can be abused and emphasizes the harm to competition and consumers that can result from that abuse, including depriving consumers of potential price competition and the ability to choose between products.
- **Providing Expertise Internationally:** In February 2023, the FTC and the Antitrust Division hosted a workshop on competition advocacy for the Competition and Policy Law Group at the Asian and Pacific Economic Cooperation (APEC) Senior Officials Meeting. This workshop built on APEC 2023 priorities, which include promoting competitive markets throughout the Asia-Pacific region and fostering cooperation across APEC’s 21 economies. The FTC is also working with key partners in multilateral fora, such as the International Competition Network (ICN), the Competition Committee of the Organization for Economic Cooperation and Development, and the United Nations Conference on Trade and Development, to develop enhanced cooperation tools. For example, following the FTC’s signing the 2020 Multilateral Mutual Assistance in Competition Framework, the Commission is working with counterparts to develop enhanced cooperation agreements based on the Framework’s template, including the Canadian Competition Bureau and the New Zealand Commerce Commission.

Competition Research, Outreach, and Education

- **Open Commission Meetings:** The FTC held eight Open Commission Meetings in FY 2023 to allow the public to engage directly with the Commission and to open up agency work to the public. These meetings give members of the public the opportunity to address the Commission and share their firsthand experiences, and open up Commission deliberation on key agency priorities to the public—including how the Commission is challenging improperly listed patents that raise prices

for critical medical devices such as inhalers and epi-pens, and the business practices of cloud computing providers on which business and entrepreneurs can be dependent. More than 150 members of the public, from small business owners to independent pharmacists to grocery workers, shared firsthand accounts of challenges they are seeing in the marketplace through these meetings in FY 2023, opening up the Commission's work to thousands of views across the country.

- **Workshops:** In FY 2023, the Bureau of Economics hosted its Fifteenth Annual Microeconomics Conference. The workshop brought together scholars working in areas related to the FTC's antitrust, consumer protection, and public policy missions. The FTC also hosted a public forum examining the FTC's proposed rule to ban noncompete clauses. In partnership with the DOJ, the FTC hosted a workshop with former enforcers, academics, economists, and practitioners to discuss the 2023 Draft Merger Guidelines.



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