



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2015

2015 HIGHLIGHTS



ftc.gov



FEDERAL TRADE COMMISSION PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2015

A Message from Chairwoman Edith Ramirez



Welcome to the Federal Trade Commission's 2015 Annual Highlights. Every year we take this opportunity to reflect on the work we have undertaken to protect consumers and promote competition. I am particularly proud of all we accomplished in the last year to advance this important dual mission.

In these Highlights, we outline the FTC's most significant achievements and initiatives for calendar year 2015. We continue to focus on protecting the interests of consumers in areas that have the greatest impact, from health care to the digital economy to basic consumer products and services. We have also sought to expand our understanding of emerging technologies and their impact on consumers. As the role that data plays in our economy continues to grow, our enforcement and policy work demonstrates the FTC's commitment to ensuring that consumers' personal information is handled responsibly and securely. We also examined new business

models and disruptive innovation in connection with the sharing economy and the way cars are sold and the impact on consumers.

In addition, we continue to devote significant resources to stopping anticompetitive consolidation, with a key merger victory last year in the foodservice distribution industry. The FTC is currently challenging four mergers – one seeking to block Staples' proposed acquisition of Office Depot and three opposing proposed hospital mergers in Huntington, West Virginia, Harrisburg, Pennsylvania, and the North Shore area of Chicago, Illinois.

The FTC has also been active in the first quarter of 2016, beyond these four pending merger actions. Earlier this year, we filed suit against DeVry University for deceiving students about the likelihood that they would find jobs after graduation in their field of study. Educational institutions owe prospective students the truth about their graduates' success finding employment and the income they can earn. Last week, we brought an action seeking relief for consumers who were harmed by Volkswagen Group of America's promotion of supposedly "clean diesel" VWs and Audis, which Volkswagen fitted with illegal "defeat devices" designed to mask high emissions. Additionally, in our latest effort to stop unlawful "pay-for-delay" drug settlements, we brought the agency's first enforcement action challenging agreements not to market an authorized generic as a form of reverse payment.

Finally, my fellow Commissioners – Commissioners Maureen Ohlhausen and Terrell McSweeney, and Commissioner Julie Brill who has just stepped down – and I want to thank the FTC's dedicated staff for their unwavering commitment to protecting the interests of American consumers and ensuring we have a competitive marketplace. I am confident that the agency's impact and success will only continue to grow in the months and years to come.

Edith P.

Edith Ramirez, Chairwoman



ftc.gov



FEDERAL TRADE COMMISSION

PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2015

Enforcement

The Commission is primarily a law enforcement agency. We bring both court and administrative actions to enhance competition and ensure that consumers receive truthful information and are treated fairly.

[Introduction](#)

[Health Care](#)

[Technology](#)

[Consumer Products and Services](#)

[Stopping Fraud](#)

[Enforcing Orders](#)

Introduction

In 2015, the Commission continued to actively promote competition with 27 merger challenges and a number of anticompetitive conduct cases. Most significantly, the Commission preserved competition in the \$231 billion foodservice industry by successfully preventing Sysco from buying its rival, US Foods. We also filed suit to block five other proposed mergers, four of which remain pending. In addition, the Commission obtained large monetary settlements in two healthcare sector conduct cases (Cephalon and Cardinal Health) as well as our third victory in three years at the Supreme Court in *North Carolina Board of Dental Examiners v. FTC*.



On the consumer protection front, the FTC had many victories in 2015 at both the district court and appellate levels on important topics such as the common carrier exemption (AT&T Mobility), data security (Wyndham), and deceptive advertising (POM Wonderful).

Here are the highlights of this year's law enforcement efforts, which focused on a number of sectors with a large impact on consumers' daily lives, such as health care, technology, and consumer products and services, and demonstrate the Commission's commitment to fulfilling its mandate to promote competition and protect consumers.

Health Care

The Commission has long prioritized promoting competition in healthcare markets because it helps contain costs, improves quality, and encourages innovation. Relying primarily on enforcement, the Commission works to prevent anticompetitive mergers and conduct that would harm competition in these markets.

The Commission continued to devote significant resources to stopping anticompetitive healthcare provider consolidation in 2015, filing suit to block three proposed hospital mergers—in Huntington, West Virginia; Harrisburg, Pennsylvania; and the



North Shore area of Chicago. The Commission has alleged that these mergers are likely to reduce competition by leaving health insurers with few alternative providers to include in their networks, increasing the bargaining leverage of the merged hospitals, and resulting in higher healthcare costs and lower quality service in local communities. The Commission's approach to analyzing the effects of provider mergers was validated in an important ruling by the Ninth Circuit in the *St. Luke's* case when the court affirmed an FTC trial victory stopping the merger between Idaho's dominant health system and the state's largest group of primary care physicians.

The pharmaceutical sector has also experienced significant merger activity in recent years, and the Commission continues to carefully review mergers between pharmaceutical manufacturers and require divestitures where necessary to maintain competition. The Commission announced settlements in six mergers involving pharmaceutical products, including cancer treatments in development, antibiotics, and generic drugs to treat common conditions such as dry mouth and ulcers. Additionally, the FTC also required divestitures to preserve competition in the markets for certain medical devices used to treat injuries to ankles, toes, knees, and elbows.

The Commission also maintained a robust program to stop anticompetitive conduct in healthcare markets. In April, Cardinal Health agreed to pay \$26.8 million to settle charges that it monopolized 25 local markets for the sale of radiopharmaceuticals, forcing hospital and clinics to pay inflated prices for the vital drugs that are used to diagnose a range of conditions, including heart disease.

The Commission continues to investigate and challenge anticompetitive reverse payment patent settlements between branded and generic pharmaceutical mergers following a favorable ruling from the Supreme Court in 2013 in *FTC v. Actavis*, which cleared the way for antitrust review of potentially anticompetitive pay-for-delay patent settlement agreements. In May 2015, the Commission settled its case against Cephalon, with Teva, Cephalon's parent, forfeiting \$1.2 billion in ill-gotten profits to purchasers who overpaid for the drug Provigil as a result of its anticompetitive pay-for-delay agreements with generic rivals. Additionally, Teva agreed to stop using certain types of anticompetitive patent settlements. The Commission has two other pay-for-delay cases pending.



The Commission also stopped an agreement not to compete that was not related to a patent challenge. To settle the FTC charges, Concordia and Par abandoned an unlawful agreement not to compete, which would have reduced the number of competing generic drugs available to treat ADHD, depriving consumers of the lower prices that typically occur with generic competition.

Finally, the FTC achieved a notable victory in *North Carolina Board of Dental Examiners* when the Supreme Court affirmed a Commission administrative decision that "a state board on which a controlling number of decision-makers are active market participants in the occupation the board regulates must satisfy [the] active supervision requirement in order to invoke state action antitrust immunity." The Court's ruling is particularly significant because occupational licenses, which are often regulated by boards controlled by market participants, are required for a significant and growing number of occupations.

On the consumer protection side, the FTC continues to target deceptive health claims, which can result in serious harm to consumers. For example, as part of a joint law enforcement sweep with the Department of Justice and other federal agencies targeting illegal dietary supplement marketing, the FTC alleged Sunrise Nutraceuticals deceptively claimed that its supplement would alleviate opiate withdrawal symptoms and increase a user's likelihood of overcoming opiate addiction. The Commission also focused its resources on deceptive health claims involving children. The FTC's case against NourishLife challenged allegedly unsubstantiated claims for a supplement purporting to treat childhood speech and behavioral disorders, including those associated with autism. And in January, the D.C. Circuit affirmed a 2013 FTC decision that POM Wonderful deceptively advertised that its pomegranate products could treat, prevent, or reduce the risk of heart disease, prostate cancer, and erectile dysfunction, and were clinically proven to have such benefits.

The Commission is also tackling unsubstantiated health claims on the mobile platform. The FTC charged two app developers with deceptively claiming that their mobile apps – Mole Detective and MelApp – could detect symptoms of melanoma, even in the early stages. In fact, the Commission alleged, the companies lacked scientific evidence to support their claims. Similarly, the Commission sued the marketers of an app called Utimeyes for deceptive claims that they had scientific proof the app could “turn back the clock” on consumers’ vision through a series of visual exercises available on the app.

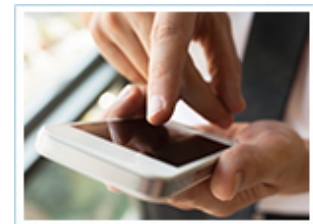
Deceptive weight loss claims also continue to be an enforcement priority. In 2015, the Commission brought a number of cases against companies touting the slimming effects of various products. For example, the FTC obtained an \$11.9 million dollar judgment against affiliate marketing network LeadClick Media for using fake news sites to convince consumers that acai berry and colon cleansing weight loss products were proven effective. The Commission halted the operations of Sale Slash, which allegedly used millions of illegal spam emails, along with false weight-loss claims and fake, unauthorized endorsements from celebrities like Oprah Winfrey, to market unproven diet pills. The FTC filed a complaint against Lunada Biomedical and its principals alleging that they deceptively advertised that their dietary supplement Amberen caused substantial weight loss for women over 40, and that the weight loss was clinically proven. Defendant Lindsey Duncan agreed to pay \$9 million in consumer redress after making TV appearances on The Dr. Oz Show touting pure green coffee bean extract. According to the Commission’s complaint, Duncan purported to be an independent expert when he was actually selling the supplement through websites set up in advance.

Technology

Technological innovation enhances our lives and provides us with new tools to perform everyday tasks, and the FTC seeks to ensure that technology markets remain competitive and benefit consumers.

In 2015, the Commission took action to preserve competition in the worldwide market for RF power amplifiers, which are semiconductors that amplify radio signals used to transmit information between devices such as cell towers and mobile phones. However, the Commission was unsuccessful in its attempt to prevent a merger between the second and third largest contract sterilization companies in the world after a federal district court allowed the merger to proceed despite Commission concerns that the merger would harm competition. Specifically, the Commission alleged that the merger would jeopardize the introduction of new x-ray sterilization technology in the United States that would compete against existing sterilization methods relied on by companies to ensure their products are free of unwanted microorganisms. Following the district court’s decision, the Commission dismissed the administrative complaint, concluding that further adjudication was not in the public interest.

On the consumer protection side, the Commission brought several actions challenging fraud on new platforms. For example, the FTC challenged the deceptive tactics of Erik Chevalier, a project creator who raised money from consumers to produce a board game through a Kickstarter campaign, but instead used most of the funds on personal items, such as rent. The agency also took action against the defendants behind Prized, a mobile gaming app that supposedly earned consumers rewards. The app promised it would be free from malware, but instead loaded consumers’ mobile phones with malicious software to mine virtual currencies for the developer. In Jerk.com, the Commission granted summary judgment against the operators of a website that billed itself as “the anti-social network,” for deceiving users about the source of content on the website. The Commission found that the operators misled consumers by claiming that content on the website was posted by other users, when instead most of the content came from Facebook profiles mined by the operators.



The FTC has also focused resources to challenge deceptive endorsements online. The Commission charged Machinima, an entertainment network, with paying a large group of “influencers” to develop and post videos online endorsing the XboxOne system and several games. The influencers paid by Machinima allegedly failed to adequately disclose that they were being paid for their seemingly objective opinions. In Roca Labs, the Commission filed a case in federal court against the marketers

of a line of weight-loss supplements who allegedly made baseless claims for their products, and then threatened to enforce “gag clause” provisions against consumers to stop them from posting negative reviews and testimonials online.

As the mobile marketplace continues to grow, privacy and data security remain Commission priorities. For example, the FTC addressed the growing practice of retailers using mobile technologies to track the movements of their customers in stores. The agency alleged in Nomi Technologies that the analytics firm’s online privacy policy promised that the stores using Nomi’s services would post signs and allow consumers to opt out of tracking at the store. In fact, the FTC alleged, there were no signs or opt outs in stores, and consumers had no way of knowing which stores were using Nomi’s services. In cases against app developers LAI Systems and Retro Dreamer, the FTC alleged that the companies created a number of apps directed to children that allowed third-party advertisers to collect personal information from children in the form of persistent identifiers without obtaining parental consent, in violation of the Children’s Online Privacy Protection Act (COPPA) Rule.

The agency prioritizes data security beyond the mobile arena as well. Wyndham Hotels and Resorts agreed to settle FTC charges that the company’s security practices unfairly exposed the payment card information of hundreds of thousands of consumers to hackers in three separate data breaches. While the *Wyndham* case was pending, the Third Circuit affirmed the FTC’s authority to challenge unfair data security practices using its Section 5 authority. The FTC also settled charges that Oracle deceived consumers about the security provided by updates to its Java Platform, Standard Edition software (Java SE). Under the terms of a consent order, Oracle is required to give consumers the ability to easily uninstall insecure, older versions of Java SE.

We have also continued our efforts to stop illegal telemarketing. A federal district court found Dish Network liable for tens of millions of calls that violated the Commission’s Telemarketing Sales Rule (TSR), including Do Not Call, entity-specific, and abandoned-call violations. The Commission and 10 state attorneys general took action against Caribbean Cruise Line and seven other companies that assisted a massive telemarketing campaign resulting in billions of robocalls. The FTC and state partners alleged that the companies generated millions of dollars by illegally selling cruise vacations using political survey robocalls. And, following a public comment period, the Commission approved several amendments to the TSR, including a prohibition on the use in telemarketing of four discrete types of payment methods favored by con artists and scammers.

Consumer Products and Services



The Commission works to preserve competition for purchases consumers make every day, from groceries and cigarettes to discount goods and gasoline. For instance, the Commission required Dollar Tree to divest 330 Family Dollar stores in 35 states so that consumers will continue to benefit from competition among local dollar stores. The FTC also required supermarket chains Albertsons and Safeway to sell a number of stores to preserve competition in 130 local markets in eight Western states. In the \$27.4 billion merger of cigarette-makers Reynolds American and Lorillard, the Commission required Reynolds to sell four established cigarette brands (Winston, Kool, Salem, and Maverick) as well as Lorillard’s manufacturing facility in Greensboro, North Carolina to preserve

competition in the affected market.

The Commission achieved a significant victory when a federal district court blocked Sysco from acquiring its rival, US Foods. The court found that the merger would likely reduce competition in broadline foodservice distribution both nationwide and in 32 local markets, leading to higher prices and lower quality service for restaurants, hospitals, hotels, and schools. Also on the merger front, in December, the Commission filed suit to block the proposed merger of Staples and Office Depot, alleging that the transaction was likely to harm competition in the market for the sale of consumable office supplies to large business customers for their own use. This matter remains pending.

The Commission also works to maintain competitive energy markets. This year, Par Petroleum Corporation agreed to give up its storage rights at a key gasoline terminal in Hawaii so that its acquisition of Mid Pac Petroleum would not impair the ability of the terminal owner to obtain lower prices for bulk supplies of gasoline blendstock. The Commission also required

divestitures in connection with ArcLight Energy's acquisition of Gulf Oil to preserve competition among petroleum product terminals located in Altoona, Scranton, and Harrisburg, Pennsylvania.

The Commission earned a significant appellate win when the Eleventh Circuit affirmed the Commission's decision and order in a monopolization case involving McWane. The court upheld the Commission's ruling that a monopolist's exclusive dealing practices violated the antitrust laws because they prevented would-be market entrants from becoming meaningful competitors in the market for domestic pipe fittings, resulting in higher prices for municipalities and other waterworks customers.

In addition, the Commission uses its authority to stop deceptive or unfair marketing claims so that consumers can make well-informed purchasing decisions. The FTC and 32 law enforcement partners announced over 250 enforcement actions as part of Operation Ruse Control, a nationwide and cross-border crackdown to protect consumers when purchasing or leasing a car. The six FTC cases challenged deceptive auto sales and financing claims and included more than \$2.6 million in monetary judgments.

The Commission also challenged deceptive broadband and cable claims in 2015. The agency filed a lawsuit against DIRECTV alleging that it misrepresented the costs of its cable service – including by failing to disclose that its contracts required a two-year commitment and that the price in the second year would be substantially higher than advertised. The FTC took action against wireless provider TracFone for allegedly advertising “unlimited” data in its broadband plans when in fact, the company slowed down (or “throttled”) service when consumers reached a certain limit. TracFone paid \$40 million in refunds to consumers.

The FTC obtained \$7.5 million in consumer restitution from Allstar Marketing Group, a direct marketing company selling “as-seen-on-TV” type products, to settle charges in connection with its deceptive “buy-one-get-one-free” promotions. According to the complaint, consumers often were charged without their consent for additional products and undisclosed processing and handling fees. In addition to the \$7.5 million paid to the FTC, Allstar paid \$500,000 to the New York Attorney General's Office for penalties, costs, and fees to settle that action.



Ashworth College agreed to settle FTC allegations that it misrepresented to students that they would get the training and credentials needed to switch careers or get a new job, and that the course credits they earned would transfer to other schools. In reality, the Commission alleged, many programs offered by the for-profit institution did not meet state requirements for desired careers, and the claims made about credit transfers were often not true.

The Commission issued a decision against ECM BioFilms, finding that the company made deceptive claims that plastics treated with its chemical additive would completely biodegrade in a landfill within nine months to five years, and that scientific tests supported this claim. The Commission also upheld the ALJ's finding that ECM encouraged its customers – companies that manufacture plastics – to pass on the deceptive claims to their customers and end-users.

Stopping Fraud

Stopping fraud is the FTC's largest consumer protection program, and for good reason: fraud causes enormous harm to consumers. The Commission has significantly ramped up its enforcement efforts to reach and protect the many communities that are affected by fraud. For example, the FTC obtained a \$50 million judgment against Hispanic Global Way for an alleged scheme that charged Spanish-speaking consumers for unordered or defective products and made it costly or practically impossible for them to get their money back. The FTC and Florida Attorney General's Office charged Lifewatch with using blatantly illegal and deceptive robocalls to trick older consumers throughout the United States and Canada into signing up for medical alert systems with monthly monitoring fees ranging from \$29.95 to \$39.95. In Centro Natural, the FTC shut down an allegedly fraudulent debt collection scheme, claiming that it threatened Spanish-speaking consumers with lawsuits, arrest and immigration status investigations if they failed to make payments on phony debts.

The Commission and 58 law enforcement partners from every state and the District of Columbia settled charges that Cancer Fund of America, three affiliated entities, and their principals operated sham charities bilking more than \$187 million from consumers. The Commission alleged that the defendants told donors their money would help cancer patients, including women suffering from breast cancer and children, but the overwhelming majority of donations benefitted only the perpetrators, their families and friends, and fundraisers. This is one of the largest actions brought to date by enforcers against charity fraud.

The FTC also had a record year of debt collection enforcement, filing twelve new cases against 52 new defendants and resolving nine cases to obtain nearly \$94 million in judgments. The agency also coordinated Operation Collection Protection, the first federal-state-local enforcement initiative targeting deceptive and abusive debt collection practices. In 2015, Operation Collection Protection resulted in over 130 actions against debt collectors who used intimidation and false threats against people across the country. In February, the FTC and the New York State Office of the Attorney General joined forces to halt an abusive debt collection operation that took in over \$30 million from consumers. According to the complaint against 4 Star Resolution and related entities and individuals, the defendants engaged in abusive and deceptive collection tactics including falsely threatening consumers with arrest, imprisonment, or civil lawsuits, unless the consumers made an immediate payment on the supposed debts.



In addition to targeting fraudsters, the Commission made it a priority to focus on entities and practices that enable fraud and deception to occur. For example, the FTC charged data broker Sequoia One with knowingly selling payday loan applicants' financial information to a scam operation that took millions of dollars from consumers by debiting their bank accounts and charging their credit cards without their consent. In Pay Basics, the FTC charged the participants of a credit card laundering scheme with illegally helping to provide access to payment networks, thereby enabling scammers to place bogus charges on consumers' credit cards. And Independent Sales Organization CardFlex and its principals settled charges that they illegally processed more than \$26 million in unauthorized consumer charges on behalf of a company called I Works. The order prohibits CardFlex from acting as a payment processor, ISO, or sales agent on behalf of several categories of merchants, as well as assisting and facilitating clients' attempts to evade credit card risk-monitoring programs.

Enforcing Orders

The FTC continues to pursue an aggressive order enforcement program to complement its litigation, including civil contempt actions and the criminal liaison program. The agency also actively pursues collection proceedings to obtain payment of judgments it obtains.



In the largest monetary award obtained by the Commission in a contempt action, LifeLock agreed to pay \$100 million to settle charges that it violated the terms of a 2010 federal court order that required the company to secure consumers' personal information and prohibited deceptive advertising. Under a settlement with the FTC, Crystal Ewing was permanently banned from direct mail marketing and found liable for a \$9.5 million judgment for allegedly violating a previous court order by running a sweepstakes scam. At the FTC's request, a federal court modified a 2014 order and banned Robert Ray Law and his company CPU Service Incorporated from sending unsolicited direct mail to advertise or promote goods or services, also imposing a judgment of almost \$400,000. In addition, the FTC obtained a \$2.7 million judgment and a debt relief products and services ban against Brian Pacios, who agreed to settle charges that he violated a 2013 court order that prohibited him from mortgage relief activities. Finally, the Commission obtained a \$7.9 million judgment and debt relief ban in a settlement with Bryan Taylor for allegedly running a sham debt relief operation. Mr. Taylor was previously named in a 2006 order against Credit Foundation of America for telemarketing violations.

When civil enforcement mechanisms are not enough, the FTC calls its criminal law partners. Our Criminal Liaison Unit (CLU) provides criminal authorities with evidence and information that builds strong criminal fraud cases and assists in the trial and conviction of FTC defendants and their associates. In 2015, prosecutors relied on FTC information and support to charge 50 criminal defendants and secure dozens of convictions, with an average sentence of 4.5 years. For example, Jonathan Herbert, a defendant in the FTC's FMC Counseling Services case, is now serving more than a 10-year sentence for pretending to be affiliated with the federal government's Making Home Affordable assistance program and pocketing consumers' mortgage payments.

In 2015, the FTC actively pursued the collection of outstanding judgments. At the FTC's request, a federal court found defendant Robert Douglas Krotzer in contempt of court for violating a 2012 final order that required him to turn over more than \$730,000 to compensate victims of his phony "alcoholism cure" scam. The Commission also obtained a court order entering a final judgment against Russell and Catherine Dalbey in the amount of \$330 million, and ordering them immediately to disgorge nearly \$860,000. When the Dalbeys failed to pay this amount, the FTC obtained a warrant for their arrest.



ftc.gov



FEDERAL TRADE COMMISSION

PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2015

Policy

The Commission works to advance government policies that promote competition and protect consumers.

[Introduction](#)

[Advocacy Comments](#)

[Amicus Briefs](#)

[Congressional Testimony](#)

[Workshops and Public Forums](#)

[Reports](#)

[Enforcement Policy Statements](#)

[International Engagement](#)

Introduction

In addition to an aggressive enforcement program, the agency issues [advocacy comments](#); files [amicus briefs](#) to aid in court deliberations; provides [Congressional testimony](#); solicits and reviews [public comments](#) regarding rules, cases, and policies; issues [advisory opinions](#); conducts [workshops](#); and publishes [reports](#) that examine cutting-edge antitrust and consumer protection issues. The FTC also works with state, local, and community-based organizations throughout the nation, as well as competition and consumer protection agencies around the world, to promote cooperation and sound policy approaches. We have strong relationships with our counterparts at home and abroad, and help countries develop and enhance their competition and consumer protection programs.



Advocacy Comments

The Commission continues to provide guidance and recommendations to government bodies and lawmakers on how best to incorporate competition principles into proposed laws, regulations, or policies. In the healthcare sector, FTC staff issued a number of advocacy comments. This included comments to legislators in four states ([Oregon](#), [Virginia](#), [Tennessee](#), and two in New York ([April NY](#), [June NY](#)), expressing concerns over efforts to provide antitrust immunity for mergers and other collaborations among health care providers. The FTC provided comments to legislators in [Virginia](#) and [North Carolina](#) regarding efforts to curb or eliminate certificate of need regulations. FTC staff also commented on pending legislation in [Minnesota](#) regarding the benefits and risks of disclosing the negotiated terms of the state's health plan contracts. Staff continued to address scope of practice legislation, including comments to legislators in [Missouri](#) and [South Carolina](#) regarding the scope of practice of advanced practice nurses. Staff filed a comment with the Food and Drug Administration (FDA) in response to requests for public comment on the FDA's [proposed guidance on biologic naming](#). Also in response to

a request for public comment, FTC staff commented to the Office of the National Coordinator for Health Information Technology (ONC) explaining the benefits of using standard setting to encourage interoperability and stressing the importance of safeguards to protect consumer health data.



Issues at the intersection of competition and patent law and policy remain a key area of advocacy. For example, the FTC, together with the U.S. Department of Justice, submitted comments to the U.S. Patent and Trademark Office in response to the PTO's comprehensive initiative to increase the quality of issued patents, expressing support for the PTO's efforts to give clearer notice of the boundaries of claimed inventions.

The FTC also continued to promote competition in the sale of automobiles, filing comments in Michigan regarding direct-to-consumer sales by automobile manufacturers.

Staff also commented on a Pennsylvania bill that would impose additional restrictions and requirements on cemeteries that engage in the pre-need sale of cemetery goods. Finally, staff filed two comments in New York (September NY, November NY) regarding the way electricity regulators weigh benefits and costs when designing plans to optimize the way electricity distributors and customers can respond to supply and demand.

On the consumer protection front, Commission staff provided the Department of Defense with a comment supporting DOD's efforts to implement strong consumer protections for service members and providing feedback on several proposed amendments to its regulation implementing the Military Lending Act. FTC staff also provided the Federal Communications Commission (FCC) with a comment explaining the vital need for call-blocking technologies in the fight against illegal unwanted calls, and indicating staff's view that no legal barriers or policy considerations prevent common carriers from offering such services to consumers. Finally, in a comment to the FDA, Commission staff recommended that the agency consider amending or repealing its framework for homeopathic medications because it may appear to conflict with the FTC's advertising substantiation doctrine in ways that could harm consumers and cause confusion for advertisers.

Amicus Briefs

The Commission authorized staff to file a number of amicus briefs in 2015 where the agency's experience and expertise could prove helpful to courts. Some of these briefs arose in cases affecting pharmaceutical markets. In June 2015, the FTC filed an amicus brief in American Sales v. Warner-Chilcott, pending before the First Circuit Court of Appeals. The Commission argued that the district court incorrectly held that a valuable non-cash benefit in the form of the brand's agreement not to launch a so-called authorized generic in competition with the first-filing generic, was not a "payment" under the *Actavis* standard. In February 2016, the First Circuit agreed and adopted the FTC's view that the *Actavis* analysis does not require a cash payment from the brand to the generic to violate the antitrust laws. The Commission had previously filed an amicus brief in a Third Circuit case raising the same issue, and in April 2015, the Third Circuit also agreed with our views.

The FTC also filed an amicus brief in Mylan Pharmaceuticals v. Warner-Chilcott PLC in September 2015, asking the Third Circuit to reverse a district court judgment rejecting a product-hopping case. The brief explains that courts must consider the unique aspects of pharmaceutical markets when considering whether product hopping claims in that industry violate the antitrust laws.

Outside of pharmaceutical cases, in November 2015, the FTC filed an amicus brief in Woodman's Food Market v. The Clorox Co. and The Clorox Sales Co., a Robinson-Patman Act case pending before the Seventh Circuit. Section 2(e) of that Act forbids sellers of goods from providing discriminatory promotional services to competing buyers for resale. The district court held that the law required Clorox to sell large-size packages to all retailers and not just big-box stores, and our brief argues that the decision is incorrect.

On the consumer protection side, the Commission filed amicus briefs related to the Fair Debt Collection Practices Act (or FDCPA). In December, the FTC filed a brief in Franklin et al v. Parking Revenue Recovery Services, in the Seventh Circuit. The agency argued jointly with the CFPB that parking fees and any additional fees incurred due to nonpayment constitute "debts" under the FDCPA. In August 2015, the FTC filed a joint amicus brief with the CFPB in Bock v. Pressler & Pressler,

arguing that the FDCPA applies to debt-collection law firms that mass-file collection lawsuits without any meaningful attorney review.

Congressional Testimony

Congressional panels frequently ask FTC Commissioners and staff to testify about the agency's activities and to provide expertise on topics related to consumer protection and competition. In 2015, consumer protection topics included data security, phone scams, illegal robocalls, connected cars, and fraud affecting seniors. Competition topics included antitrust oversight and the impact of proposed legislation that would eliminate the Commission's role in adjudicating some merger cases. The [Commission's testimony](#) shines a light on issues of importance to our nation's lawmakers and consumers.

Workshops and Public Forums

Hosting workshops on emerging business practices and technologies is another example of how the Commission advances its competition and consumer protection missions. The FTC convenes fellow regulators and enforcement partners, as well as industry representatives, consumer advocates, and academics for lively, informative, and often groundbreaking discussions of the challenges posed by current issues.

The Commission and the Department of Justice Antitrust Division co-hosted a February 2015 workshop – the second in the “Examining Health Care Competition” series – to [study recent developments related to health care provider organization and payment models](#). In June 2015, the Commission held a workshop to examine competition, consumer protection, and economic issues raised by the proliferation of online and mobile peer-to-peer business platforms in certain sectors of the economy, often referred to as the “[sharing economy](#).”



The agency also hosted several consumer protection events in 2015 to explore practices in the marketplace that pose challenges for consumers. In November, the FTC hosted a workshop on [cross-device tracking](#) to examine the privacy and security issues around the tracking of consumers' activities across their different devices for advertising and marketing purposes. The Commission also held a workshop to examine the consumer protection issues raised by the practices of the [online lead generation industry](#). At the [Homeopathic Medicine & Advertising](#) workshop, the FTC brought stakeholders together to evaluate advertising for the growing over-the-counter homeopathic drug industry.

The Commission also hosted several workshops as part of its Every Community initiative, including: a [joint event with the NAACP](#) to explore frauds that affect the African-American community; a [Scam Jam](#) event to empower Georgia consumers; the [Utah Consumer Protection Summit](#); the [Colorado Common Ground conference](#); an ethnic media news briefing on [Spotting and Avoiding Scams in Our Communities](#); the [Navajo Consumer Credit Seminar and Roundtable](#); and an event on [Working Together to Advance Protections for Immigrant Consumers](#).

Reports

Commission and staff reports continue to shed light on a range of important topics. Staff's May 2015 report on [Competition in the Pet Medications Industry](#) highlighted the changing competitive landscape in pet medication markets and recommended ways to make those markets even more competitive.

FTC staff issued a report on the [Internet of Things](#), which recommended a series of concrete steps that businesses can take to enhance and protect consumers' privacy and security as they increasingly use Internet-connected devices. The FTC also issued a [follow-up study of credit report accuracy](#) that found most consumers who previously



reported an unresolved error on one of their three major credit reports believe that at least one piece of disputed information on their report is still inaccurate.

Enforcement Policy Statements

The Commission issued an important statement providing additional guidance regarding the scope of the FTC's competition authority related to unfair methods of competition. The [Statement of Enforcement Principles Regarding Unfair Methods of Competition Under Section 5 of the FTC Act](#) confirms that the Commission uses its standalone authority under Section 5 of the FTC Act to promote consumer welfare and uses a framework similar to the rule of reason when considering whether the conduct in question harms competition or the competitive process, taking into account any procompetitive justifications or efficiencies. These principles are consistent with those employed in previous enforcement actions brought by the Commission using its standalone Section 5 authority.

In the consumer protection arena, the FTC issued its [Enforcement Policy Statement on Deceptively Formatted Advertisements](#), which explains how established truth-in-advertising principles apply to different ad formats, including "native" ads that look like surrounding non-advertising content. The policy statement affirms that advertisements and marketing messages that promote the benefits and attributes of goods and services should be identifiable as advertising to consumers.

International Engagement

The FTC cooperates with competition and consumer protection agencies in other countries to halt deceptive and anticompetitive business practices that affect U.S. consumers, and promotes sound approaches to issues of mutual international interest by building relationships with counterpart agencies around the world on competition and consumer protection issues.



The FTC cooperated on enforcement-related mutual assistance with foreign agencies or multilateral organizations in 58 matters, using its authority under the U.S. SAFE WEB Act in 19 of these matters to provide investigative assistance to foreign authorities. One highlight was the FTC's successful effort, working with the Royal Canadian Mounted Police and the U.S. Department of Justice, to obtain a court order from a Montreal court repatriating nearly \$2 million to the victims of a phony mortgage assistance and debt relief scheme. The Commission and consumer protection agencies in 33 other countries that are part of the [International Consumer Protection and Enforcement Network \(ICPEN\)](#) relaunched the [econsumer.gov](#) complaint portal. The site, which is now

available in eight languages and has a new, user-friendly interface, guides consumers through the process of filing a complaint.

In the policy arena, the FTC played a leading role in revising the OECD's Guidelines on Consumer Protection in Electronic Commerce, which were adopted by the OECD Council in early 2016, to address new developments in e-commerce including mobile applications, digital content, and peer platform marketplaces. The agency also was key in updating the United Nations Guidelines on Consumer Protection to include provisions on e-commerce, consumer financial services, dispute resolution and redress, and international cooperation.

The FTC continues to advocate for global interoperability and strong enforcement of privacy laws. For example, the FTC and enforcement agencies from seven other countries that are members of the Global Privacy Enforcement Network (GPEN) also launched a new information-sharing system – [GPEN Alert](#). This system will enable the FTC and its counterparts to better coordinate international efforts to protect consumer privacy by sharing information about investigations while maintaining confidentiality.

The FTC's international competition program promoted cooperation with competition agencies in other jurisdictions and convergence of international antitrust policies toward best practice throughout 2015. For example, in September, the FTC

and the Department of Justice signed an [antitrust memorandum of understanding with the Korea Fair Trade Commission](#) to promote increased cooperation and communication among the competition agencies in both countries.

In addition to promoting convergence toward sound competition policy and enforcement, the FTC plays a lead role in advocating fair and transparent enforcement procedures, including through co-leading the ICN's Agency Effectiveness Working Group and its Investigative Process Project. This multi-year project culminated in the adoption by the ICN's 130 member competition agencies of [ICN Guidance on Investigative Process](#), which is the most comprehensive agency-led effort to articulate best practices on providing due process in antitrust investigations. The FTC also participated in the interagency teams that negotiated outcomes with China in the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue, including with regard to procedural fairness in anti-monopoly law proceedings and the coherence of antitrust monopoly and intellectual property rules. We also played an active role in developing the competition chapters of Trans-Pacific and Transatlantic Trade and Investment Partnerships.

Finally, the FTC has continued its robust technical assistance program in which it shares its experience with competition and consumer protection agencies around the world, conducting 51 programs in 25 countries. Through its [International Fellows Program](#), the FTC brought seven fellows to the FTC from four competition and three consumer protection agencies to work alongside FTC staff on antitrust and consumer protection enforcement matters.



[ftc.gov](https://www.ftc.gov)



FEDERAL TRADE COMMISSION

PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2015

Education

The Commission believes that enforcement coupled with policy work and education is the most effective formula to promote competition and protect consumers. As a result, the FTC seeks to inform businesses of every size about compliance standards, and to alert consumers about typical signs of fraud and deceptive business practices. Our outreach efforts combine the use of the media and the web as well as coordination with thousands of interested intermediaries to disseminate important information.

[Introduction](#)

[IdentityTheft.gov](#)

[Start with Security](#)

[Debt Collection](#)

[Every Community](#)

Introduction



In 2015, the agency published 40 blog posts through its Competition Matters blog. Popular topics included [the failing firm defense](#), [direct-to-consumer auto sales](#), and the [HSR exemption for investment-only purchases](#). The Bureau of Competition also published [guidance for state agencies on when and how to actively supervise regulatory boards](#) controlled by active market participants, in the wake of the Supreme Court's decision in *North Carolina State Board of Dental Examiners v. FTC*.

The Bureau of Consumer Protection published 234 blog posts for consumers and 143 blog posts for business people and attorneys in 2015. The most-read blog posts were about [IRS imposters](#), [getting calls from your own number](#), a [settlement with AT&T](#) and [tax scams](#). Nearly 128,000 people subscribe to the English and Spanish consumer blogs and almost 50,000 subscribe to the business blog. In 2015, consumers and business people ordered more than 17 million print publications and viewed 48.4 million pages of information online.

IdentityTheft.gov

In May, the FTC launched [IdentityTheft.gov](#) ([robodeidentidad.gov](#) in Spanish), a free, one-stop resource people can use to report and recover from identity theft. The site implements the President's Executive Order by consolidating federal resources and reducing the burden on identity theft victims as they repair damage caused by identity theft. The online site — accessible from mobile devices — is integrated with the FTC's consumer complaint system. Now, identity theft victims can use the site to create a personal recovery plan based on the type of identity theft they face and get pre-filled letters and forms to send to credit bureaus, businesses and debt collectors. During 2015, people viewed more than 1.3 million pages of IdentityTheft.gov and ordered more than 3.7 million related publications in English, Spanish and four other languages.

Start with Security



The Start with Security business outreach campaign includes a guide for businesses that summarizes the lessons learned from the FTC's 50+ data security settlements, as well as business education videos. In addition, the FTC organized one-day conferences in Austin and San Francisco that brought business owners and developers together with industry experts to discuss practical tips and strategies for implementing effective data security. The Start with Security guide was published in June, and people have ordered more than 43,000 copies through the end of



2015.

Debt Collection

In a series of three public debt collection dialogues organized by the FTC, members of the debt collection industry and regulatory agencies discussed recent enforcement actions, consumer complaints about debt collection practices, and compliance issues. More than half a million people viewed an online article about debt collection rights, and 113,000 people ordered Cobradores de Deuda, the Spanish language fotonovela (graphic novel) about debt collectors.

Every Community

The FTC combines innovative fraud prevention information and focused outreach to help people in every community protect themselves from fraud. In 2015, the FTC emphasized interactions with older adults, servicemembers and veterans, and people in African-American, Native American, immigrant and Latino communities. To encourage more attention to consumer protection issues in diverse communities, the FTC began a new project to reach ethnic media outlets by hosting roundtables with them in six cities across the country. These ethnic media events highlight scams, frauds, and illegal practices affecting the relevant communities. The Bureau of Consumer Protection and its Regional Offices participated in over 170 outreach events, including webinars, trainings, presentations, exhibits, and Twitter chats. The FTC developed a new video series titled Fraud Affects Every Community, which features vignettes from consumers on various topics. The first video dealt with debt collection and featured a military veteran explaining how he coped with a fraudulent debt collector.



The FTC's bi-lingual Pass It On campaign (Pásalo in Spanish), tailored to people age 65+, provides information about fraud and encourages readers to share the information with a friend. In 2015, Pass It On received the 2015 ClearMark award for best new document in plain language. Older adults and the people who work with them ordered more than 2.6 million Pass It On publications to read and share in 2015.

The FTC and military and consumer partners informed service members on various consumer topics through Twitter chats and 85 blog posts published on military.ncpw.gov. The FTC conducted multiple webinars with Veterans Affairs staff and military financial counselors, including a series of three webinars about tax identity theft and imposter scams that reached more than 1,100 Veterans Affairs staff and veterans.

The FTC's fotonovela (graphic novel) series for Spanish speakers addresses scams related to government imposters, jobs, debt collection and notario fraud. *Cobradores de Deuda* (Debt Collection) received the 2015 ClearMark Grand Prize for best Spanish plain language communication. In 2015, people ordered more than 440,000 copies of the fotonovelas.





[ftc.gov](https://www.ftc.gov)

COMPETITION

ANTITRUST
ENFORCEMENT

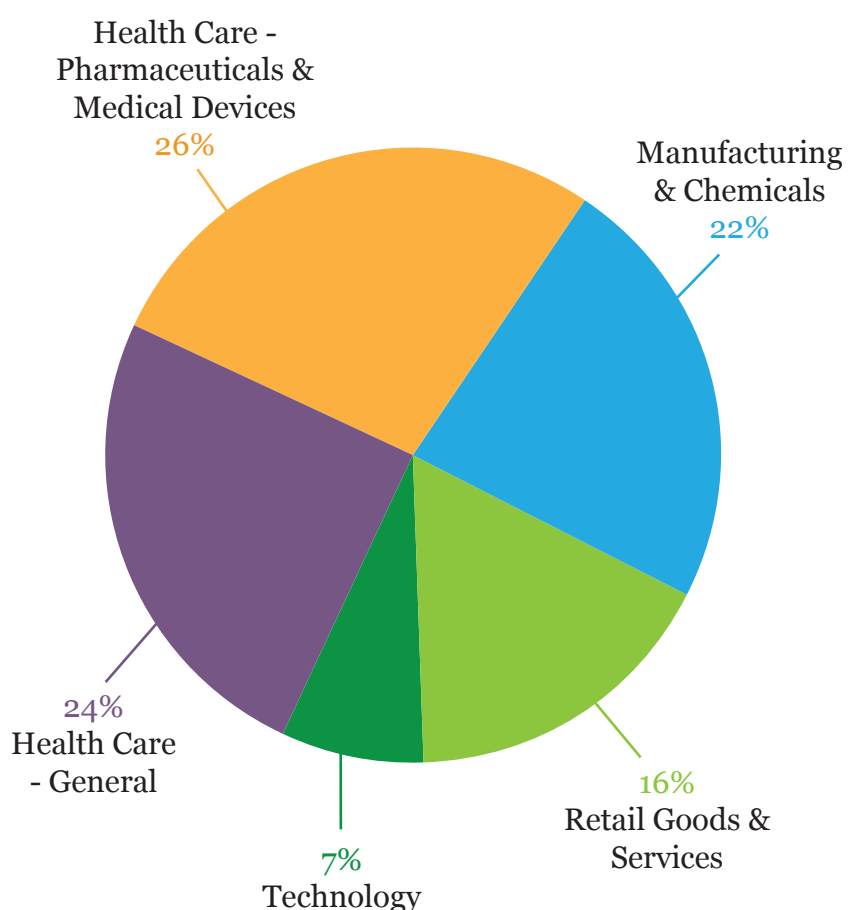
Merger Consent Orders	18
Filed Merger Cases	6
Abandoned Transactions	3
Non-Merger Actions	5
Civil Penalty Actions	3
Disgorgement Orders	2

POLICY
INITIATIVES

Workshops	3
Reports	8
Advocacy & Amicus Briefs	21

ENFORCEMENT ACTIONS BY SECTOR

FISCAL YEARS 2011-2015



CONSUMER PROTECTION

ACTIONS
FILED

Administrative	37
Federal	52
Civil Penalty	18

ORDERS
OBTAINED

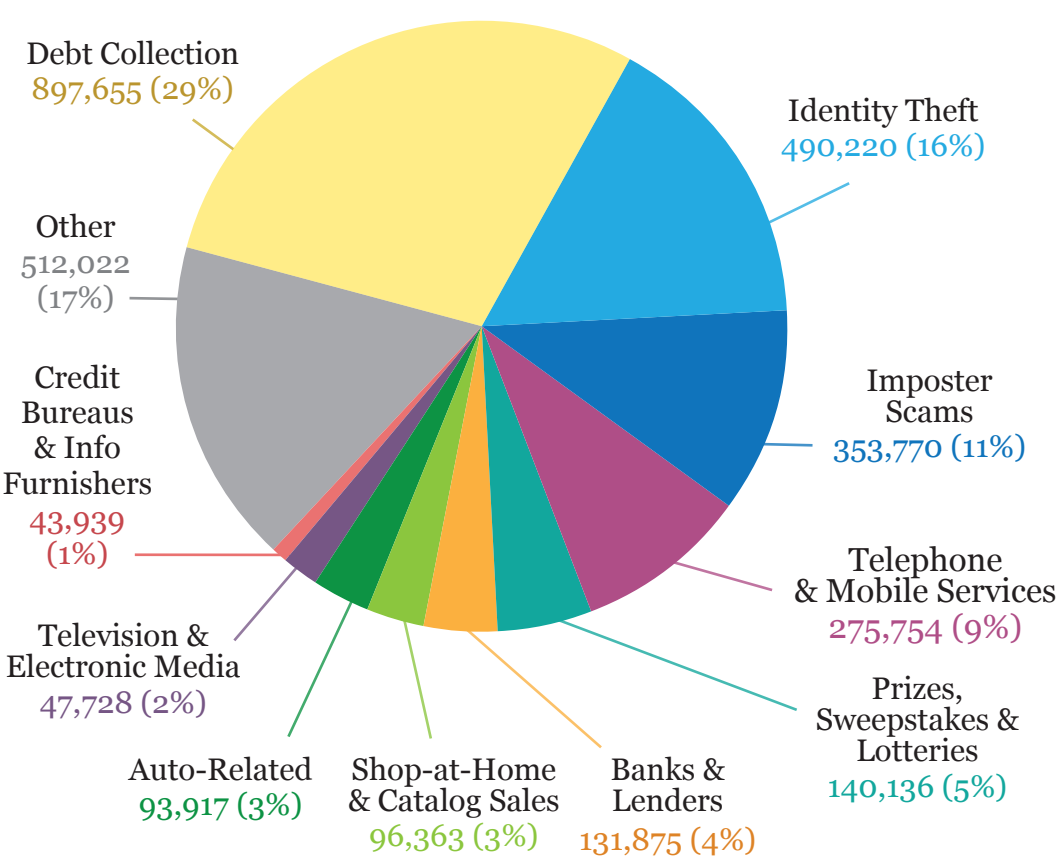
Administrative	41
Redress, Disgorgement, & Permanent Injunction	118
Civil Penalty	12
Civil Contempt	7

POLICY
INITIATIVES

Workshops & Conferences	17
Rulemakings Completed	6
Reports	7

CONSUMER COMPLAINTS

*DOES NOT INCLUDE DO NOT CALL COMPLAINTS



3,083,379 TOTAL COMPLAINTS*

MONETARY RELIEF

TOTAL AMOUNT
OF REDRESS &
DISGORGEMENT*

\$2 billion

TOTAL AMOUNT
OF CIVIL
PENALTIES*

\$21.8 million

844,036 consumers received redress totaling over \$22.3 MILLION**

TOP 5 REDRESS JUDGMENTS*

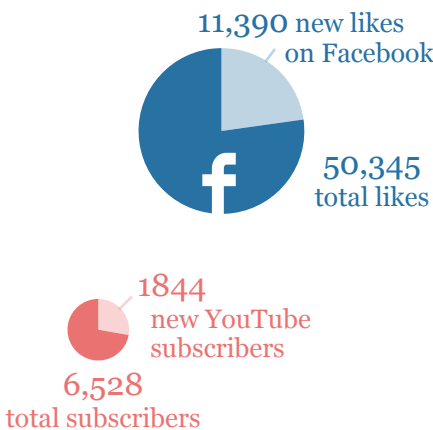
Cephalon	\$1.2 BILLION
Russell T. Dalbey	\$330.1 MILLION
Lifelock	\$100 MILLION
Hispanic Global Way	\$50.3 MILLION
Green Tree Servicing	\$48 MILLION

TOP 5 CIVIL PENALTY CASES*

Green Tree Servicing	\$15 MILLION
Daniel Chapter One	\$3.5 MILLION
Len Blavatnik/TangoMe	\$656,000
Bed Bath and Beyond	\$500,000
Transfers Argentina/ Roy Cox	\$466,926

* Does not include amounts suspended by the court based on inability to pay; any default judgments are included.
** Does not include \$1.2 billion recovery in Cephalon, which will compensate purchasers.

OUTREACH



Most Popular Tweet:
#BREAKING: FTC, 50 states & DC charge 4 #cancer charities w/bilking more than \$187M from consumers: go.usa.gov/38yzY #EndScams

Most Popular YouTube Video:
Stand Up To Cyberbullying

