



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2016

2016 HIGHLIGHTS



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A Message from Acting Chairman Maureen K. Ohlhausen



Welcome to the Federal Trade Commission's (FTC) 2016 Annual Highlights outlining our most significant achievements protecting consumers and promoting competition in calendar year 2016. Last year, we continued 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 also sought to expand our understanding of emerging technologies and their impact on consumers.

The FTC plays an indispensable role in ensuring that the American economy remains competitive and continues to foster innovation and growth, to the benefit of all consumers, based on sound free-market principles. The FTC successfully challenged mergers that would have harmed the competitive process and consumers. For example, we secured injunctions blocking hospital mergers in Harrisburg, Pennsylvania, and Chicago's North Shore, with two circuit court opinions validating the agency's analysis. The FTC also continued to challenge anticompetitive reverse payment agreements between branded and generic

pharmaceutical mergers after a favorable ruling from the Supreme Court in *FTC v. Actavis* supported the agency's antitrust enforcement in this area, including its first challenge to an agreement not to market an authorized generic.

On the consumer protection side, we continued to tackle the issues of most importance to consumers, including fraud utilizing traditional and novel platforms, deceptive advertising, privacy, and data security. The Commission's focus on stopping deceptive and unfair marketing so consumers can make informed purchasing decisions resulted in the FTC's largest false advertising settlement in its history. Volkswagen Group of America agreed to spend up to \$10 billion to settle FTC charges that its "clean diesel" claims deceived consumers. We also settled our lawsuit against DeVry University for deceiving students about the likelihood that they would find jobs after graduation in their field of study. DeVry and its parent company will pay \$100 million to students harmed by the university's conduct.

Our policy efforts continued to be strong in 2016, with numerous advocacy comments, amicus briefs, Congressional testimony, workshops, and community events.

Finally, my fellow Commissioner Terrell McSweeney and I want to thank the FTC's dedicated staff for their unwavering commitment to protect consumers and promote competition. Their dedication to the FTC's dual missions is unparalleled.

Maureen K. Ohlhausen



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Annual Highlights 2016

Enforcement

The Federal Trade Commission (FTC) functions primarily as a law enforcement agency. We undertake both court and administrative actions to enhance competition and protect consumers.

[Introduction](#)

[Health Care](#)

[Technology](#)

[Consumer Products and Services, and Manufactured Goods](#)

[Stopping Activities Related to Fraud](#)

[Enforcing Orders](#)

Introduction

The Federal Trade Commission is a bipartisan federal agency with a unique and important mission: protect consumers and promote competition.

In 2016, the Federal Trade Commission continued to promote competition through its merger challenges and anticompetitive conduct cases. Most notably, the Commission blocked three mergers, preserving competition in the market for office supplies sold to large business customers and in two local markets for hospital services. The Commission also brought two cases against companies for using unlawful means to maintain a monopoly, increasing consumer prices, and limiting access and innovation.

On the consumer protection front, the FTC had many successes at the district court and appellate levels. The agency obtained the largest false advertising settlement in its history with Volkswagen Group of America, a historic settlement with Herbalife, and its largest litigated judgment ever against operators of payday lending scheme AMG Services. At the appellate level, the U.S. Court of Appeals for the Second Circuit upheld a lower court ruling requiring the operator of affiliate marketing group LeadClick Media to pay \$11.9 million for its part in helping to promote LeanSpa, a deceptively marketed weight-loss supplement.

Here are the highlights of the FTC's enforcement efforts over the last year. As these highlights show, the FTC remains vigilant in protecting competition and consumers across many important sectors of the U.S. economy, such as health care and technology, and demonstrates the Commission's commitment to stopping fraud and enforcing its orders.

Health Care

The Commission promotes competition among health care providers to encourage cost-containment, higher quality care, increased access, more choices, and health care innovation. Using enforcement as its primary tool, the Commission works to prevent anticompetitive mergers and conduct that might diminish competition in health care markets.

One key enforcement effort is to prevent mergers that would remove competitive constraints and likely enable health care providers to raise rates or decrease quality for vital services. The Commission secured injunctions blocking hospital mergers in Harrisburg, Pennsylvania, and Chicago's North Shore with two circuit court opinions that validated the agency's analysis. The Commission reviews pharmaceutical mergers with an eye to preserving competition in both generic and branded markets for these vital products. This year the Commission ordered the largest divestiture in a pharmaceutical merger when Teva agreed to sell assets related to 79 products in order to acquire Allergan plc. The Commission announced settlements in four other mergers involving pharmaceutical products, including generic drugs to treat common conditions such as colitis and epilepsy, and several generic injectable drugs, as well as animal vaccines. Two other actions required divestitures to preserve competition for polymer discs used in hard contact lenses and for vascular closure devices and steerable sheaths used to guide catheters.

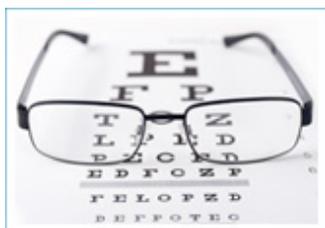


The Commission also continues to challenge anticompetitive reverse payment agreements between branded and generic pharmaceutical mergers after a favorable ruling from the Supreme Court in *FTC v. Actavis* supported the agency's antitrust enforcement in this area. The Commission brought its first case challenging an agreement not to market an authorized generic — often called a “no-AG commitment” — as a form of reverse payment. In a suit filed in federal court, the FTC alleged that Endo Pharmaceuticals and several other drug companies violated antitrust laws by using these settlement agreements to block consumers' access to lower-cost generic versions of Opana ER, Endo's extended release opioid drug, and Lidoderm, a topical patch used to relieve pain.

On the consumer protection side, the FTC continues to take action against deceptive health claims. For example, developers and marketers behind LearningRx “brain training” programs agreed to pay \$200,000 and stop making false and unsubstantiated claims that their programs were clinically proven to permanently improve serious health conditions like autism, dementia, Alzheimer's disease, strokes, and concussions, and that the training substantially improved career earnings and job performance. In another case, marketers of Mercola-brand indoor tanning systems settled charges they made false and unsupported claims about the safety of their tanning systems, saying people could “Slash [Their] Risk of Cancer” by tanning indoors, and “reverse the appearance of aging.” The company will pay \$2.95 million to provide full refunds to consumers. The average refund amount is over \$1,800. The FTC also challenged the sellers of Supple, a liquid supplement, alleging the company falsely advertised that their product provided complete relief from chronic and severe joint pain caused by arthritis and fibromyalgia and was scientifically proven to eliminate joint pain. The FTC said there was no solid scientific backing for their claims.

The Commission also continued to tackle unsubstantiated health claims on mobile platforms. In the case of Aura Labs, the FTC alleged that marketers of a mobile app designed to measure blood pressure deceived consumers with claims that their Instant Blood Pressure (IBP) app was just as accurate as a traditional around-the-arm blood pressure cuff. In reality, readings reported by the IBP app were significantly less accurate. The Commission alleged that the owner provided a positive review of the app, rating it “five stars” in app stores without disclosing his connection to the company.

Deceptive weight loss claims also continue to be an enforcement priority for the Commission. The FTC charged an affiliate marketing operation with sending millions of consumers spam emails with links to fake news sites with fictitious articles and phony endorsements to sell weight-loss products. In another case, marketers of green coffee bean extract weight-loss supplements, male enhancement products, and skin care products agreed to forfeit assets totaling approximately \$9.2 million, and have turned over a Ferrari to settle the FTC's court action.



In some instances, instead of bringing cases, the Commission sends warning letters to give businesses an opportunity to correct an issue. For example, in 2016 staff sent 10 warning letters to online marketers selling products including wristbands, patches, and stickers that purported to provide protection from the Zika virus. The letters warned that any Zika-related claims must be supported by competent and reliable scientific evidence in the form of well-controlled human clinical testing. FTC staff also sent 38 letters to eye doctors warning about possible violations of the Eyeglass Rule, which says patients have the right to get their prescriptions from their eye doctors at the end of eye exams, at no extra charge, and without having to ask for it.

Technology

Competition in technology sectors can be especially important to ensure that technological advances continue to drive innovation and growth in the economy, introducing more efficient products and processes into the marketplace, increasing quality, and decreasing prices. For instance, the Commission took action to preserve competition in the worldwide market for specially designed transistors used in auto ignition systems. The Commission also charged the world's largest maker of a high-performance polymer used to make medical implants with violating the antitrust laws by using long-term exclusive contracts to maintain its monopoly. The FTC alleged that Invibio, the first company to make the specialty product, maintained its 90 percent market share through anticompetitive tactics that impeded newcomers from effectively competing for customers.

On the consumer protection side, the Commission brought actions combating fraud across several novel platforms. The FTC and State of Florida took action against defendants who ran an international tech support scam that allegedly made consumers think malware or hackers had compromised their computers, and that the company was associated with or certified by Microsoft and Apple to fix their computers. The agency also took action against technology company Vulcan, which purchased a Google Chrome browser extension game used by more than 200,000 consumers, and replaced it with Vulcan's own extension, which purported to offer users unbiased recommendations of popular Android applications. What Vulcan's extension actually did, the FTC charged, was to install apps directly on the Android devices of consumers, bypass the permissions process in the Android operating system, and bombard people with ads.

The FTC remains focused on privacy and data security, especially in the mobile marketplace. One example of this is the FTC's continued scrutiny of the practice of using mobile applications to track consumers' movements without their consent. The agency alleged that digital advertising company Turn deceived consumers by tracking them online and through their mobile apps, even after consumers took steps to opt out of such tracking. In another case, the FTC charged that InMobi violated the Children's Online Privacy Protection Act (COPPA) Rule by deceptively tracking the locations of hundreds of millions of consumers, including children, without their knowledge or consent to serve them geo-targeted advertising. The FTC alleged that InMobi also violated COPPA by collecting this information from apps that were clearly directed at children, in spite of promising otherwise. The complaint noted that InMobi's software tracked location in thousands of child-directed apps with hundreds of millions of users without following the steps required by COPPA to get a parent or guardian's consent to collect and use a child's personal information. The company will pay \$950,000 in civil penalties.



Protecting data security and privacy beyond the mobile realm remains an agency priority. The operators of Toronto-based dating site Ashley Madison agreed to settle FTC and state charges that the company deceived consumers and failed to protect 36 million users' account and profile information in relation to a massive breach of their network. The FTC alleged that the company engaged in unfair security practices by failing to take reasonable steps to prevent unauthorized access to personal information on their network, causing substantial consumer harm. Another example is in the Practice Fusion settlement. The FTC alleged that Practice Fusion misled consumers by soliciting reviews for their doctors without disclosing adequately that these reviews would be publicly posted on the internet, resulting in the public disclosure of patients' sensitive personal and medical information. In a third case, the agency alleged that ASUSTeK Computer exposed consumers' sensitive personal information on the internet because of critical security flaws in its routers.

The FTC also has continued its efforts to stop illegal telemarketing. In one case, the Commission alleged that Consumer Education Group violated the Telemarketing Sales Rule by making illegal robocalls to consumers on the national DNC registry as part of a campaign to generate sales leads for third parties. Additionally, the FTC, in coordination with the Department of Justice, charged KFJ Marketing with making illegal robocalls promising consumers energy savings in an effort to generate leads to sell to solar panel installation companies.

Consumer Products and Services, and Manufactured Goods



The Commission works to preserve competition for purchases consumers make every day. For instance, the Commission required the divestiture of 81 stores to preserve supermarket competition in 46 towns in a merger that combined stores operating under the Stop & Shop, Giant, Martin's, Food Lion, and Hannaford banners. The Commission also charged 1-800 Contacts, the country's largest online retailer of contact lenses, with unlawfully orchestrating a web of anticompetitive agreements with rivals that suppress competition for certain online search advertising auctions, restricting advertising to consumers, and resulting in some consumers paying higher prices for contact lenses.

The FTC blocked the merger of Staples and Office Depot, a merger that was likely to increase the cost of consumable office supplies bought by some of the largest businesses in the United States. The parties abandoned their plans after the court's action.

The Commission also works to maintain competitive markets for manufactured goods. This year, the Commission took action to preserve competition for industrial gases, cement, and sodium chlorate, a chemical used to process paper products. The FTC also required the divestiture of eight plants in the merger of the country's first and second largest manufacturers of aluminum beverage cans. Finally, the FTC settled with a distributor of iron pipes alleged to have made illegal invitations to collude with rival manufacturers that also served as distributors in certain geographic regions.

This year, the Commission's focus on stopping deceptive and unfair marketing so consumers can make informed purchasing decisions resulted in the FTC's largest false advertising settlement in its history. Volkswagen Group of America agreed to spend up to \$10 billion to settle FTC charges that its "clean diesel" claims deceived consumers. Volkswagen is offering affected consumers all cash buybacks, no penalty lease terminations, or the possibility of a technical modification to the car and a separate cash payment for nearly 500,000 model year 2009-2015 2.0 liter diesel vehicles sold or leased in the U.S.



The agency's work challenging deceptive multi-level marketing claims resulted in another historic settlement. Herbalife agreed to fundamentally restructure its U.S. business operations so people are rewarded for what they sell, not how many people they recruit. The company also will pay \$200 million to compensate consumers to settle FTC charges that the company deceived consumers into believing they could earn substantial money selling diet, nutritional supplement, and personal care products. Vemma Nutrition Company, which sells health and wellness drinks through a network of distributors, agreed to end business practices the FTC alleged created a pyramid scheme.

The FTC also addressed deceptive endorsements in important cases this year. Lord & Taylor agreed to settle FTC charges that it did not make clear that a magazine article on its clothing launch was a paid promotion, and that it had paid 50 online fashion "influencers" to post Instagram pictures of themselves wearing the same dress. In another action, the FTC charged that Warner Bros. Home Entertainment failed to adequately disclose that it paid online "influencers" to post positive gameplay videos on YouTube and social media for the video game *Middle Earth: Shadow of Mordor*. The company settled.

In 2016, the FTC also challenged misleading education-related claims. In the agency's first enforcement action against an education lead generator, the FTC alleged the operators of Gigats.com ran a deceptive scheme to generate sales leads. Instead of "pre-screening" job applicants for employers, as it claimed, the company gathered information from applicants and steered them to "employment specialists" who tried to sign them up for education programs that were paying Gigats for leads. The FTC also filed suit against the operators of DeVry University, alleging its ads deceived people about the likelihood of students finding jobs in their fields of study and earning more than graduates with bachelor's degrees from other schools. DeVry and its parent company will pay \$100 million to students harmed by the university's conduct. Online distance education school Stratford Career Institute was charged with misleading consumers about its high school equivalency diploma program, which the agency alleges failed to meet the basic requirements set by most states.

Stopping Activities Related to Fraud

Because of the serious harm it causes to consumers, stopping fraud continues to be the FTC's largest consumer protection program.

The FTC's work on fraud in 2016 included many cases that helped protect different communities affected by fraud, including veterans and older consumers. For example, the FTC charged [Blue Saguario Marketing](#) and [another fraudulent telemarketing scheme](#) with tricking seniors and veterans into paying for worthless money-making opportunities purportedly connected to Amazon.com. Blue Saguario also lured consumers with a phony grants program. In the case of [DiscountMetalBrokers](#), the FTC alleged the company persuaded consumers to pay for gold and silver as investments, but often failed to deliver the goods. Many consumers lured in by this scheme used their retirement savings, paying anywhere from \$1,000 to \$300,000.

This year, the FTC also obtained its largest litigated judgment ever against operators of payday lending scheme [AMG Services](#). A federal court ordered the defendants to pay \$1.3 billion for deceiving consumers and illegally charging them undisclosed and inflated fees. In another case, a federal court imposed a \$43.1 million judgment against [Ideal Financial Solutions](#) and its subsidiaries, and a \$36.6 million judgment against Jared Mosher, for allegedly operating a massive scam that used consumers' information from payday loan applications to take money from their bank accounts without their knowledge or consent.

The FTC also continues to crack down on debt collectors that use deceptive and abusive collection practices. The FTC and Illinois Attorney General took action against [Stark Law](#) for allegedly threatening and intimidating consumers to collect phantom payday loan "debts," and illegally providing portfolios of fake debt to other debt collectors — the FTC's first case alleging that practice.



The Commission also has gone after deceptive debt relief services, including three cases that were the FTC's first against student loan debt relief schemes. The FTC charged [Good Ebusiness](#) with falsely representing to financially distressed homeowners and student loan borrowers that it would help get their mortgages and student loans modified. The FTC and the State of Florida also took action against [Consumer Assistance Project and Student Aid Center](#), two operations charged with running phony student loan debt relief schemes. This year the agency also issued a list of [Banned Mortgage Relief and Debt Relief Companies and People](#), which includes operations whose behavior was so egregious that the FTC asked the courts to permanently ban the company or person from the industry.

Imposter scams also remained on the FTC's radar. The FTC charged [D&S Marketing Solutions](#) with bilking at least \$1.3 million from newly opened small businesses by pretending to be a federal government agency. [DOTAuthority](#) allegedly tricked small commercial trucking businesses into paying them for federal and state motor carrier registrations by impersonating government transportation agencies. [OMICS Group](#), the publisher of hundreds of purported online academic journals, was charged with deceiving academics and researchers about the nature of its publications and hiding publication fees.

Enforcing Orders

The Commission remains focused on its order enforcement program, which complements its litigation. The program includes civil contempt actions, the criminal liaison program, and collection proceedings to obtain payment of judgments.

This past year, three Dallas area auto dealers, collectively known as [Southwest Kia](#), have agreed to pay an \$85,000 civil penalty to settle Commission charges that they violated an administrative order barring them from deceptively advertising the cost of buying or leasing a car. Under another settlement, the [Billing Services Group](#) will pay \$5.2 million to resolve agency allegations that it violated a court order that settled earlier FTC charges of phone bill cramming. A federal court found [BlueHippo](#) and its CEO Joseph Rensin in contempt of a 2008 order prohibiting operation of a deceptive computer-

financing scheme. The FTC first charged the defendants with contempt in 2009, alleging that they had flouted the 2008 order by contracting with thousands of consumers to finance new computers, but in most instances failing to provide the computers and failing to disclose key aspects of their refund policy. The court found that the defendants violated the 2008 order, but awarded consumer redress of only \$609,000. In a successful appeal, the agency secured an additional \$13.4 million to refund consumers this year.

When the FTC partners with criminal authorities to promote prosecution of consumer frauds, our Criminal Liaison Unit (CLU) provides them with evidence and information that builds strong criminal fraud cases and assists in the trial and conviction of FTC defendants and their associates. In 2016, prosecutors relied on FTC information and support to charge 103 criminal defendants and secure dozens of convictions, with an average prison sentence of 3.7 years. For example, a defendant in the FTC's Nelson Gamble & Associates case, is now serving a sentence of more than seven years for his role in a scam that misrepresented debt relief services to consumers and charged them undisclosed up-front fees.

In 2016, the FTC actively pursued the collection of outstanding judgments. A federal court judge approved an order lifting the partial suspension of a \$200,000 judgment imposed in an original order settling charges against Vito Glazers, a defendant in the 2014 CPATank text spam case. The Commission's evidence demonstrated that Glazers failed to disclose nearly \$448,000 in assets he withdrew from a bank account five months before signing the financial disclosure. Accordingly, the order lifts the partial suspension against Glazers and requires him to pay the outstanding \$180,000 within seven days.



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Policy

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

[Advocacy Comments](#)

[Amicus Briefs](#)

[Congressional Testimony](#)

[Workshops and Public Forums](#)

[Reports](#)

[Enforcement Policy Statements](#)

[International Engagement](#)

Advocacy Comments

The Commission continues to provide guidance and recommendations to government bodies and lawmakers on how to incorporate competition principles into proposed laws, regulations, or policies. The majority of this year's competition advocacy comments concerned occupational licensing issues, with many focused on scope of practice and supervision regulations for health care professionals. Staff filed comments regarding advanced practice registered nurses ([West Virginia](#), [U.S. Department of Veterans Affairs](#)), physician assistants ([Iowa](#)), denturists ([Kentucky](#)), dental hygienists ([Georgia](#)), and optometrists ([Massachusetts](#), [Puerto Rico](#)). Staff also wrote four comments concerning restrictions on telehealth services, including three to licensing boards in Delaware ([occupational therapy](#), [dietetics/nutrition](#), [audiologists](#)) and one to the [Alaska](#) legislature. Another comment discussed the potential benefits of allowing the use of interactive websites that generate legal documents, and of excluding such services from the statutory definition of the practice of law ([North Carolina](#)).



The FTC also continued to oppose efforts by state legislators and regulators to secure antitrust immunity for anticompetitive health care collaborations. Staff submitted comments in [Tennessee](#) and [Virginia](#) regarding the applications of Mountain States Health Alliance and Wellmont Health System for Certificates of Public Advantage that purportedly would allow them to merge, providing immunity from federal antitrust law. Staff also sent comments to legislators in [Alabama](#) and [West Virginia](#) regarding similar attempts to shield anticompetitive health care collaborations from federal antitrust law.

Finally, staff sent competition advocacy comments to the [South Carolina](#) legislature supporting the repeal of certificate of need laws and to the [Federal Energy Regulatory Commission \(FERC\)](#) regarding electricity regulation.

On the consumer protection front, Commission staff wrote four comments concerning privacy and data security. Two comments went to the Federal Communications Commission (FCC). The first, from Commission staff and authorized by a unanimous Commission vote, offered constructive criticism of the FCC's proposed privacy requirements for [broadband internet providers](#). The second, from the BCP Bureau Director, discussed the privacy enforcement implications of the

proposed [set-top box rule](#). Additional privacy and data security comments went to the [National Highway Traffic Safety Administration \(NHTSA\)](#) regarding revisions to the Federal Automated Vehicles Policy, and to the [National Telecommunications and Information Administration \(NTIA\)](#) regarding its study of the internet of things. Commission staff also commented to the FCC regarding [debt collection robocalls](#).

Amicus Briefs

The Commission authorized staff to file eight amicus briefs in 2016 in cases in which the agency believed that its experience and expertise would be useful to the court.

Many of the amicus briefs involved cases affecting various aspects of pharmaceutical markets. Several matters involved reverse payment settlements. In February, the Commission filed an amicus brief in [In Re Nexium](#), asking the First Circuit to distinguish between an antitrust violation and antitrust standing. The court adopted that distinction in its opinion. In March, the Commission filed an amicus brief in the Third Circuit [Wellbutrin](#) reverse payment case.

In October, the Commission filed a brief asking the Third Circuit to grant rehearing in [Mylan v. Warner Chilcott \(Doryx\)](#), a case involving product hopping, in which it filed an amicus brief last year.

Two cases involved the application of the *Noerr-Pennington* doctrine. In March, the Commission filed a supplemental brief in the Third Circuit [Effexor](#) matter discussing applicability, or lack thereof, of *Noerr* doctrine to private settlements of lawsuits. In November, the Commission filed a brief in the First Circuit in [Amphastar v. Momenta](#) underscoring that *Noerr* doctrine does not apply to petitioning before a private standard-setting organization.

In non-pharmaceutical antitrust cases, the Commission filed a brief in September in the Fifth Circuit [Teladoc v. Texas Medical Board](#) addressing both the appealability and merits of a lower court order rejecting the defendant's state action defense. In October 2016, the Commission joined with the Department of Justice in the Supreme Court's [Visa v. Osborne](#) case, which involved concerted action under Section 1 of the Sherman Act.

On the consumer protection side, the Commission filed one brief in the D.C. Circuit involving the Fair Credit Reporting Act. The June brief in [Rivera v. JP Morgan Chase](#), filed with the Consumer Financial Protection Bureau (CFPB), concerned the statute of limitations on private lawsuits under the Act.

Congressional Testimony



Congressional committees frequently ask FTC Commissioners and staff to testify about the agency's activities and to share its expertise on salient issues in consumer protection and competition. In 2016, the FTC testified before Congress on [consumer privacy](#), [the pet medication industry](#), [fraud affecting seniors](#), agency enforcement of [consumer protection](#) and [antitrust laws](#), [occupational licensing](#), and [international antitrust enforcement](#). The Commission also testified on [agency processes and potential reform](#).

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 informative and often groundbreaking discussions of the challenges posed by current issues.

The FTC hosted two policy workshops this year to explore cutting-edge distribution issues in two different industries. In January 2016, the FTC hosted a workshop to examine [state regulation of automobile sales](#). Experts discussed the

competitive implications of these regulations, how they may affect new entrants into automobile manufacturing, and how the industry might better serve consumers. In June 2016, the FTC hosted a workshop on [solar distributed generation \(DG\)](#), which primarily involves solar panels installed on individual homes. Experts discussed the development of the solar industry and solar panel technology, current approaches to compensating owners of solar panels for the power they produce, and potential consumer confusion when purchasing rooftop solar panels.



The FTC continued to host conferences as part of its [Start with Security](#) initiative. At an event in [Seattle](#), experts provided insights to startups and other small companies about securing the software and products they develop. The workshop focused on building a security culture, integrating security into development, and the business case for security. Another Start with Security conference in [Chicago](#) brought together technologists who shared practical tips and strategies for implementing effective data security with businesses, including security considerations when interacting with third parties.

In 2016, the Commission also hosted several workshops in its [Fall Technology Series](#), including one to explore ransomware, another to discuss the advent of Smart TVs, and a third to develop best practices for transparency and accountability issues in commercial and private drone use. The agency also started its Fin Tech Series in June by discussing [marketplace lending](#), and in October, the FTC hosted a second forum on [crowdfunding and peer-to-peer payment systems](#).

Reports

Commission and staff reports continue to shed light on a range of important topics. In November 2016, the FTC issued its [report on internet and app-based “sharing economy” platforms](#) used by millions of Americans. The report summarizes a June 2015 FTC public workshop and highlights a number of competitive benefits and potential challenges posed by disruptive business models in markets such as for-hire-transportation and short-term lodging.

In October 2016, reflecting the Commission’s longstanding interest in issues at the intersection of competition and patent law and policy, the FTC issued its [report on patent assertion entities \(PAEs\)](#). PAEs are businesses that acquire patents from third parties and then try to make money by licensing or suing accused infringers. The Commission used its authority under Section 6(b) of the FTC Act to collect non-public information regarding PAE acquisition, licensing, and organizational behavior. In its subsequent report, the FTC described two types of PAEs that use distinctly different business models — focusing either on litigation or portfolio acquisition — and offered tailored recommendations to alleviate potential litigation abuses by PAEs.



The Commission issued a report on the growing use of [big data](#), which outlines a number of questions for businesses to consider to help ensure that their use of big data analytics, while producing many benefits for consumers, avoids outcomes that may be exclusionary or discriminatory. The agency also issued a [report to Congress](#) describing the agency’s substantial work on fraud prevention, law enforcement, and consumer outreach and education in African American and Latino communities, and outlining a strategy to build on this prior work.

Enforcement Policy Statements

The FTC and the Department of Justice (DOJ) jointly issued updated [Antitrust Guidelines for the Licensing of Intellectual Property](#) that explain how the federal antitrust agencies evaluate licensing and related activities involving patents, copyrights, trade secrets, and know-how. These revisions update the agencies’ 1995 IP Licensing Guidelines, and reaffirm key principles that offer a sensible and balanced approach to the agencies’ analysis of the licensing of intellectual property rights.

On the consumer protection side, the [FTC issued its Enforcement Policy Statement Regarding Marketing Claims for Over-the-Counter Homeopathic Drugs](#). The statement explains that the FTC will hold efficacy and safety claims for OTC homeopathic drugs to the same standard as other products making similar claims. Specifically, companies must have competent and reliable scientific evidence for health-related claims, including claims that a product can treat specific conditions. The statement describes the type of scientific evidence that the Commission requires of companies making such claims for their products.

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 recent joint FTC and DOJ release of the [Antitrust Guidelines for International Enforcement Cooperation](#) reflects the agencies' commitment to provide guidance to businesses engaged in international activities. These guidelines update the 1995 Antitrust Enforcement Guidelines for International Operations, and reflect the agencies' commitment to working with foreign authorities on enforcement and policy matters. The revisions describe the current practices and methods of analysis the agencies employ when determining whether to initiate and how to conduct investigations of, or enforcement actions against, conduct or transactions with an international dimension. In addition to addressing the agencies' international enforcement policy and related tools, the updated guidelines include a new chapter on international cooperation.



The FTC's international competition program continued to promote cooperation with competition agencies around the world throughout 2016. In May, the FTC and the Department of Justice signed [an antitrust cooperation agreement](#) with Peru's National Institute for the Defense of Competition and the Protection of Intellectual Property to promote increased cooperation and communication among the competition agencies. This is the agencies' fifteenth bilateral antitrust cooperation arrangement, which, together with OECD and ICN multilateral instruments, help facilitate the agencies' enforcement cooperation. In fiscal year 2016, the FTC cooperated with competition agencies around the world in 46 investigations, including with multiple agencies on the

[Staples/ Office Depot merger](#), [Ball Corporation's acquisition of Rexam PLC](#), and [Teva/Allergan](#).

In addition, the FTC worked with counterpart agencies to promote convergence toward sound competition policy and procedures. Over the past year, the FTC held senior-level meetings with key counterparts, including agencies in Canada, China, the European Union, Japan, and Korea, on issues including procedural fairness in antitrust investigations, the role of competition enforcement and advocacy in promoting innovation, and antitrust enforcement involving intellectual property. Notably, in 2016, the FTC was selected to co-chair the ICN's Merger Working Group, where it leads efforts to promote procedural and substantive convergence in the design and operation of merger review regimes, including through the development of Recommended Practices reflecting international best practice. The FTC also worked with U.S. government colleagues in intergovernmental fora that address competition-related issues, and 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 transparency of competition laws and policies.

In the consumer protection area, the FTC cooperated on enforcement-related mutual assistance with foreign agencies or multilateral organizations in 53 matters. One highlight was the FTC's successful collaboration with the Office of the Privacy Commissioner of Canada and the Australian Information Commissioner in investigating a massive data breach and other deceptive practices of Toronto-based adult dating website [AshleyMadison.com](#), which had members in nearly 50 countries. The Australian and Canadian agencies contributed to the FTC's investigation and reached their own [settlements](#) with the company. To facilitate cooperation, the FTC relied on key provisions of the U.S. SAFE WEB Act that allow the FTC to share information with foreign counterparts to combat deceptive and unfair practices that cross national borders.

Another area of international concern involves Indian call centers, which continue to be the source of a variety of frauds. In addition to enforcement, the FTC has organized multiple stakeholder meetings, including three in India, to develop and pursue a coordinated and multi-pronged approach to this threat. The collaboration led to a four-city law enforcement training aimed at developing Indian law enforcement's capacity to arrest and prosecute the India-based individuals who perpetrate these frauds. In the fall, Indian police shut down a massive telemarketing fraud ring operating outside Mumbai, arresting 70 people and questioning hundreds more. The operation had allegedly targeted U.S. consumers with an IRS impersonation scam that defrauded consumers of tens of millions of dollars. Shortly after the Indian police action, the U.S. Department of Justice unsealed an indictment charging 61 individuals with involvement in a transnational telemarketing fraud scheme operating out of a network of call centers in India that bilked U.S. consumers out of hundreds of millions of dollars using the IRS and other government imposter scams. Following these actions, the number of IRS imposter scams being reported to the FTC plummeted.

To strengthen cross-border cooperation further, the FTC also entered into two new memoranda of understanding to facilitate sharing information and intelligence about unsolicited messaging and calls, especially concerning fraudulent and malicious activities, with the Canadian Radio-television Commission and with 10 international counterparts. The agencies are members of the Unsolicited Communications Enforcement Network.



In the policy arena, the FTC played a leading role in revising the OECD's Recommendation on Consumer Protection in E-Commerce, issued in April, to address new developments in e-commerce, including mobile applications, digital content, and peer platform marketplaces. In addition to reinforcing core principles, the new guidelines call for governments and businesses to develop minimum levels of consumer protection across payment mechanisms and implement privacy and data security practices for consumer data.

The FTC, alongside the Department of Commerce and other U.S. agencies, developed a new EU-U.S. Privacy Shield Framework for transatlantic data transfers. In July, the European Commission issued an "adequacy decision" authorizing data transfers pursuant to the Framework. This enhanced Framework protects consumers' privacy and security through an agreed set of Privacy Shield Principles and gives the FTC a significant role in enforcing these commercial privacy promises pursuant to Section 5 of the FTC Act. The Framework replaces the U.S.-EU Safe Harbor Program. The FTC has committed to vigorous enforcement of the new Framework and continues to expect companies to comply with their ongoing obligations with respect to data previously transferred under the Safe Harbor Framework. The FTC also participated in developing the Swiss-U.S. Privacy Shield Framework, and made similar enforcement commitments.

Finally, the FTC has continued its technical assistance program in which it shares its experience with competition and consumer protection agencies around the world, conducting 59 programs for officials from 107 countries. Through its International Fellows Program, the FTC brought 16 fellows to the FTC from five competition and three consumer protection agencies to work alongside FTC staff on antitrust and consumer protection enforcement matters.



ftc.gov



FEDERAL TRADE COMMISSION

PROTECTING AMERICA'S CONSUMERS

Annual Highlights 2016

Education

Education and policy work complement enforcement in promoting competition and protecting consumers. The FTC helps businesses understand their rights and legal responsibilities, and alerts consumers about how to avoid fraud and other consumer-related problems. The FTC's consumer and business education materials are free and in the public domain. Thousands of organizations share them with their communities and business networks.

[Introduction](#)

[Military](#)

[IdentityTheft.gov](#)

[Imposters](#)

[Business Outreach](#)

Introduction

In 2016, the agency published 31 blog posts through its Competition Matters blog. Popular topics included [partial interest acquisitions](#), [trends in reverse payment agreements between branded and generic firms](#), [merger remedies](#), and [premerger notification requirements for foreign entities](#). The FTC also joined with the Department of Justice to publish [guidance for human resource professionals to explain how the antitrust laws apply to job markets](#). The guidance makes clear that all workers are entitled to the benefit of competition for their services, and that companies should avoid reaching agreements with competing employers that would fix wages or other terms of employment, or prevent them from competing for workers.

In 2016, the Bureau of Consumer Protection published 199 blog posts for consumers in English, 141 blog posts for consumers in Spanish, and 141 blog posts for businesspeople and attorneys. The most-read blog posts were about [scammers pushing people to pay with iTunes gift cards](#), [scammers faking caller ID information](#), [the FTC's settlement with VW](#), and [IRS imposter](#) scams. Nearly 210,000 people subscribe to the English and Spanish consumer blogs and almost 59,000 subscribe to the business blog. In 2016, consumers and businesspeople ordered more than 15 million print publications and viewed 58 million pages of information online.

Military

This year, the FTC unveiled a mobile-friendly financial readiness tool at [Military.Consumer.gov](#) to help members of the military community navigate personal financial decisions in light of the unique challenges they face, such as frequent relocations and deployment. The site includes a new [toolkit](#) that provides personal financial managers, counselors, command, and others in the military community practical financial tips they can share with servicemembers. The toolkit also includes slides and talking points to use in programming or counseling for servicemembers and military families. The toolkit resources are in the public domain so individuals and



organizations can share them with friends, family, colleagues, and customers, or use the information in newsletters or on social media sites.

The FTC also released a [new video](#) that tells the first-person story of a veteran's debt collection experience — and the legal assistance that helped him recover — and continued hosting Twitter chats and giving presentations to people working with servicemembers and veterans.

IdentityTheft.gov



For the first time, identity theft victims can now go online and get a free, personalized identity theft recovery plan as a result of [significant enhancements](#) to the FTC's [IdentityTheft.gov](#) website. The new 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 then get a personalized guide to recovery that helps streamline many of the steps involved.

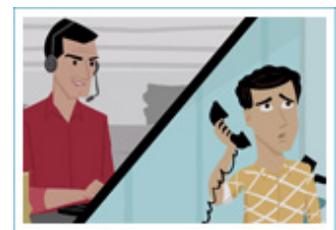
Nearly 400,000 people used [IdentityTheft.gov](#) to report the crime in its first 11 months of operation. [IdentityTheft.gov](#) received the 2016 "Impacter Dynamite" Igniting Innovation

Award from the American Council for Technology and Industry Advisory Council, and the 2016 Grand ClearMark Award from the Center for Plain Language.

The FTC also released two new videos. [What To Do After a Data Breach](#) shows consumers what they can do if they get a notice saying their personal information was exposed in a data breach. [IdentityTheft.gov Helps You Report and Recover from Identity Theft](#) helps consumers whose personal information has been used by someone else — to open new accounts, make purchases, or get benefits — to report it at [IdentityTheft.gov](#) and get a free personal recovery plan. The agency also created new and revised publications that covered topics including identity theft, [data breaches](#), [identity theft affecting military personnel and families](#), and [child identity theft](#). All of these publications are available in bulk, free of charge, at [FTC.gov/bulkorder](#).

Imposters

Imposter scams are one of the most common categories of consumer complaints received by the FTC, so education and outreach on imposters continues to be a priority for the agency. Education efforts this year included the creation of [ftc.gov/imposters](#), where consumers can find articles and new videos in English and Spanish on spotting and avoiding four types of common imposter scams: IRS imposters, romance scammers, tech support scammers, and family emergency scammers. The FTC also published 22 blogs on imposter scams, and added new imposter scam articles to its [Pass It On campaign](#), which is tailored to people age 65+ and provides information about fraud and encourages readers to share the information with a friend.



Business Outreach

The FTC engages in extensive business and consumer education on data security to help businesses protect the data in their care, and understand what practices may run afoul of the FTC Act. In 2016, the FTC filled orders for 478,300 free printed publications for businesses on data security. The agency provides general business education about security issues, as well as specific guidance on emerging threats, such as ransomware.

The FTC also offers user-friendly guidance to help companies of all sizes improve their data security practices and comply with the FTC Act. For example, in November the FTC released an update to [Protecting Personal Information: A Guide for Business](#). The FTC first published this guide in 2007, and has updated it periodically ever since. In the fall, the FTC released

Data Breach Response: A Guide for Business, which outlines steps businesses should follow when they experience a data breach. The Guide, and a related video, include descriptions of immediate steps companies should take, such as taking breached systems offline, securing any physical areas potentially related to the breach, and notifying consumers. The Guide includes a model data breach notification letter businesses can use to get started.

In 2016, the FTC, NIST, and the SBA offered a series of six webinars on small business cybersecurity, reaching thousands of small businesses across the country. The webinars discussed the Start with Security principles for small businesses and covered “10 cyber mistakes you can’t afford to make.” In conjunction with the National Cyber Security Alliance and the Council of Better Business Bureaus, the FTC participated in at least nine cybersecurity events for small businesses across the country, including in Nebraska, North Carolina, Colorado, California, Michigan, and Virginia. In addition, the FTC conducted webinars and participated in events sponsored by other organizations, including associations for advertisers and retail leaders and the ABA.



ftc.gov

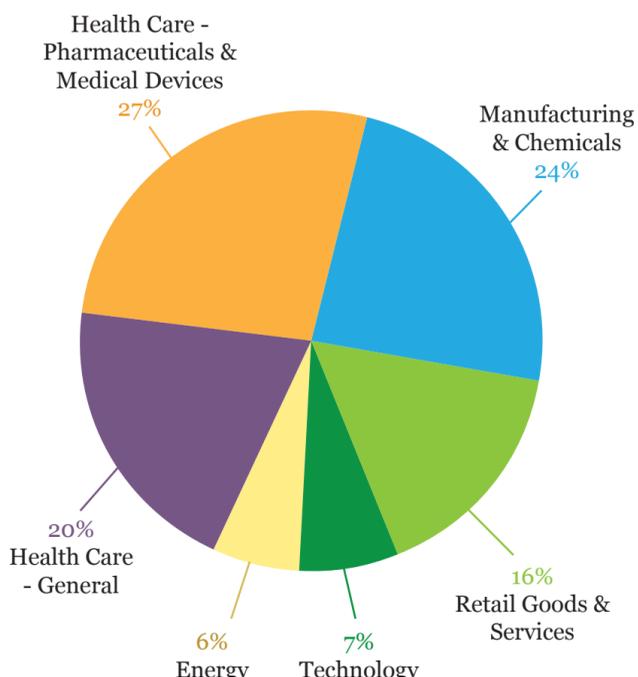
COMPETITION

ANTITRUST ENFORCEMENT

Merger Consent Orders	15
Filed Merger Cases	1
Abandoned Transactions	2
Non-Merger Actions	5
Civil Penalty Actions	2

ENFORCEMENT ACTIONS BY SECTOR

FISCAL YEARS 2012-2016



POLICY INITIATIVES

Workshops	4
Reports	9
Advocacy & Amicus Briefs	20

CONSUMER PROTECTION

ACTIONS FILED

Administrative	19
Federal	45
Civil Penalty	6

ORDERS OBTAINED

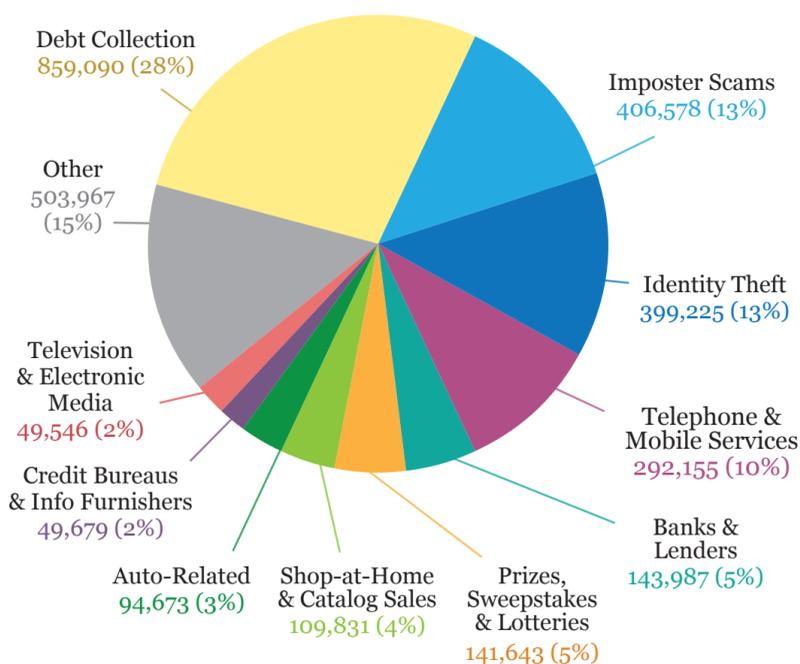
Administrative	21
Redress, Disgorgement, & Permanent Injunction	117
Civil Penalty	12
Civil Contempt	3

POLICY INITIATIVES

Workshops & Conferences	16
Rulemakings Completed	7
Reports	10

CONSUMER COMPLAINTS

*DOES NOT INCLUDE DO NOT CALL COMPLAINTS



3,050,374 TOTAL COMPLAINTS*

MONETARY RELIEF

TOTAL AMOUNT OF REDRESS & DISGORGEMENT*

\$11.98 billion

TOTAL AMOUNT OF CIVIL PENALTIES*

\$5.61 million

5,390,282 consumers received **\$160 MILLION** in redress directly from the FTC

TOP 5 REDRESS JUDGMENTS*

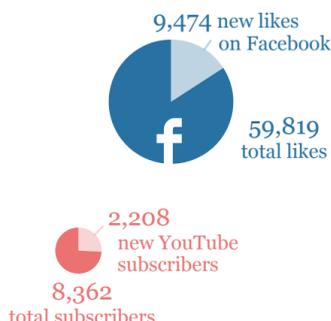
Volkswagen	\$10.03 BILLION
AMG Services	\$1.29 BILLION
Herbalife	\$200 MILLION
DeVry University	\$100 MILLION
AuraVie	\$74.07 MILLION

TOP 5 CIVIL PENALTY CASES*

Sprint ASL Program	\$2.95 MILLION
InMobi Pte Ltd.	\$950,000
Fayez Sarofim	\$720,000
Caledonia Investments	\$480,000
Caribbean Cruise Line/ Pacific Telecom Communication Group	\$209,000

* Does not include amounts suspended by the court based on inability to pay; any default judgments are included.

OUTREACH



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FTC to study #mobile device industry's security update practices: <https://www.ftc.gov/news-events/press-releases/2016/05/ftc-study-mobile-device-industrys-security-update-practices>

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