

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION

Before the

SUBCOMMITTEE ON COMMERCE, MANUFACTURING, AND TRADE

of the

HOUSE ENERGY AND COMMERCE COMMITTEE

on

Elder Fraud and Consumer Protection Issues

Washington, DC
May 16, 2013

I. INTRODUCTION

Chairman Terry, Ranking Member Schakowsky, and Members of the Subcommittee, I am Charles Harwood, Acting Director of the Bureau of Consumer Protection of the Federal Trade Commission (“Commission” or “FTC”).¹ I appreciate the opportunity to present the Commission’s testimony on current fraud threats to older Americans,² emerging threats to baby boomers³ in the next several years, and the Commission’s work to protect consumers.

All consumers, including seniors, are potential targets for fraudsters, and combatting fraud is a critical component of the Commission’s consumer protection mission. Although seniors are not necessarily defrauded at greater rates than younger consumers, certain types of scams are likely to affect older Americans. Our efforts to recognize these scams and anticipate future areas of concern are more relevant than ever, because the population of older Americans is now greater than at any point in history and is growing quickly.⁴ The Commission accomplishes its mission through aggressive law enforcement and a vigorous, ongoing campaign to educate consumers on how to avoid scams.

This testimony describes the Commission’s law enforcement and policy initiatives to respond to the current threats to seniors, outlines some emerging threats, and lists some of the

¹ This written statement presents the views of the Federal Trade Commission. Oral statements and responses to questions reflect the views of the speaker and do not necessarily reflect the views of the Commission or any Commissioner.

² References in this testimony to “seniors” and “older Americans” mean the population 65 years and over, unless noted otherwise.

³ “Baby boomers” refers to people born from mid-1946 to 1964. Carrie A. Werner, U.S. Department of Commerce, U.S. Census Bureau, *The Older Population: 2010* (Nov. 2011), at note 6, available at www.census.gov/prod/cen2010/briefs/c2010br-09.pdf.

⁴ The U.S. Census Bureau reported that, in 2010, more people were 65 years or older than in any previous census, and that the population 65 years and older grew at a faster rate than the total population in the prior decade. Between 2000 and 2010, the total population increased by 9.7 percent, while the population 65 and older grew at a rate of 15.1 percent. See *supra* note 3, at 4.

FTC's consumer education and outreach efforts to combat these threats.

II. CURRENT THREATS

The current threats to seniors include the wide array of frauds that affect the American population broadly, ranging from illegal telemarketing and online scams to identity theft. The Commission has a strong commitment to monitoring the marketplace to understand the threats to consumers at large. To identify these threats, the Commission looks to our law enforcement experience, the complaints we collect directly from consumers, the empirical data we gather in the form of surveys, and our collaborative initiatives with law enforcement partners, consumer groups, industry, academics, and others.

A. Threats Generally

Virtually every law enforcement case the Commission brings affects seniors. While there are cases in which scammers may specifically target seniors, the FTC's law enforcement experience indicates that scammers are often indiscriminate in whose money they choose to take. Some of the scams the Commission prosecutes that affect older Americans include those involving: (1) sweepstakes, prize promotions, and lotteries;⁵ (2) timeshare sales and resales;⁶ (3) medical alert devices;⁷ (4) investments;⁸ (5) discount medical and prescription services;⁹

⁵ See *FTC v. National Awards Serv. Advisory, LLC*, No. CV-10-5418 (N.D. Cal. Nov. 30, 2010); *United States v. Bezeredi*, No. CV5-1739 (W.D. Wash. Oct. 17, 2005).

⁶ See *FTC v. Vacation Propy. Servs.*, No. 8:11-cv-00595 (M.D. Fla. Mar. 22, 2011).

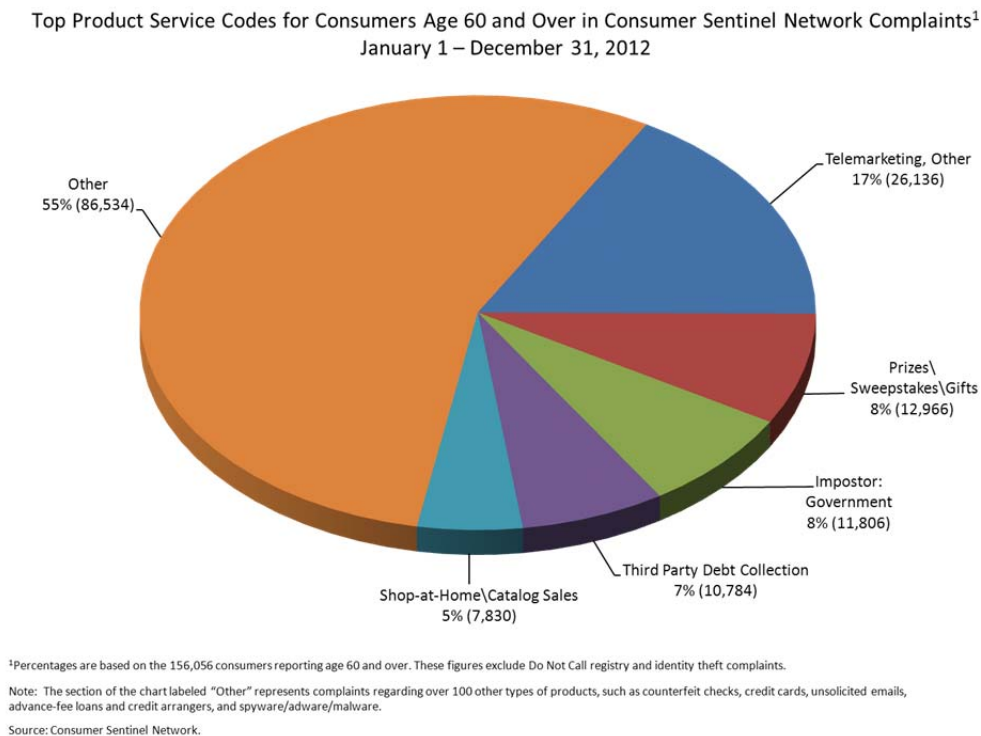
⁷ See *FTC v. Instant Response Sys.*, No. 1:13-cv-00976 (E.D.N.Y. Feb. 25, 2013).

⁸ See *FTC v. American Precious Metals, Inc.*, No. 0-11-cv-61072 (S.D. Fla. May 10, 2011); *FTC v. Premier Precious Metals, Inc.*, No. 12-cv-60504 (S.D. Fla. Mar. 20, 2012); *FTC v. Sterling Precious Metals, Inc.*, No.12-cv-80597 (S.D. Fla. June 4, 2012).

⁹ See *FTC v. 9107-4021 Québec (d/b/a Med Provisions)*, No. 1:08CV1051 (N.D. Ohio Apr. 24, 2008); *FTC v. 6554962 Canada Inc., dba Union Consumer Benefits*, No. 1:08-cv-02309 (N.D. Ill. Apr. 28, 2008).

(6) business opportunity or work-from-home programs;¹⁰ (7) bogus advance fee loans; and (8) charitable donations.¹¹

In addition, our Consumer Sentinel Complaint database, the online database of complaints maintained by the Commission, shows that for calendar year 2012, complainants age 60 and older complained primarily about telemarketing calls, government imposter scams, third-party debt collectors, prizes/sweepstakes/gifts scams, and shop-at-home sales.¹²



¹⁰ See *FTC v. The Tax Club*, No. 13-cv-210 (S.D.N.Y. Jan. 9, 2013); *FTC v. American Bus. Builders, LLC*, No. 13-CV-02368 (D. Ariz. Nov. 6, 2012); *FTC v. Real Wealth, Inc.*, No. 4:10-CV-00060 (W.D. Mo. Jan. 21, 2010).

¹¹ See *FTC v. Handicapped & Disabled Workshops, Inc.*, No. CV-08-0908 (D. Ariz. May 13, 2008); *FTC v. Helping Hands of Hope*, No. CV-08-0909 (D. Ariz. May 13, 2008).

¹² Data from Consumer Sentinel Network. In calendar year 2012, the Consumer Sentinel Network received 1,692,363 complaints (excluding identity theft and do-not-call complaints). In 37% of those complaints (or 629,165), consumers reported their age. For information regarding the Consumer Sentinel Network, see <http://www.ftc.gov/sentinel/index.shtm>.

B. Specific Threats for Seniors

Although many scams affect seniors, this testimony will highlight two especially pernicious scams the Commission has recently taken efforts to combat, as well as threats to seniors from identity theft.

1. Work from Home Scams

In difficult economic times, many struggling Americans who cannot work outside the home due to physical, family, or other constraints look for ways to supplement their fixed incomes through honest work. Those conditions spell “opportunity” for con-artists who stand ready to ensnare them.

The Commission’s case against Real Wealth, Inc. illustrates how the Commission can take quick action to shut down these scams and provide redress to consumers. AARP’s Legal Counsel for the Elderly, a legal services office based in Washington, DC, alerted us about Real Wealth, and our investigation quickly led us into federal district court to seek an emergency order to shut down the company’s deceptive practices. We alleged that Real Wealth engaged in a mass mail campaign promoting programs that would ostensibly allow consumers to make money by stuffing envelopes, addressing postcards, or engaging in other work from home. Some of the mailers appeared to target older consumers – one ad featured the photograph of an elderly man, while the caption touted earnings of \$350 per week for simply mailing 30 postcards every day. The promise was illusory: there were no jobs that paid this steady income, and consumers, in the aggregate, lost more than \$10.4 million. Following litigation, the Commission won a \$10.4 million judgment against Real Wealth and its owner, Lance Murkin. In just the last month, the Commission has sent redress checks to 50,000 consumers injured by the Real Wealth scam.¹³

¹³ *FTC v. Real Wealth, Inc.*, No. 4:10-CV-00060 (W.D. Mo. Jan. 21, 2010).

Further, the Commission included with the refund checks information about AARP's Fraud Fighter Call Center—where trained volunteers counsel older consumers one-on-one on how to recognize and avoid fraud. Thus, Real Wealth's victims were alerted to the opportunity to obtain this assistance.

2. Prize Promotion and Lottery Scams

Evidence indicates that seniors are more at risk for scams involving prize promotions than younger consumers. The Commission's Bureau of Economics just issued its third Fraud Report, which examined consumer experiences involving fraud. According to the Report, consumers in each of the age groups 55 to 64, 65 to 74, and 75 and older were in fact less likely to have been victims of several frauds we monitor than those between ages 45 to 54. This positive news, however, is countered by the Report's finding that older Americans are more likely to be targeted in prize promotion scams.¹⁴

The Commission has taken law enforcement action against prize promotion and lottery scam perpetrators, and has sought to cut off their source of funds. Prize promotion scammers often rely on money transfer services, such as Western Union and MoneyGram, or reloadable prepaid card services, such as Green Dot,¹⁵ to perpetrate their scams. It is important for us not only to pursue the bad actors who commit the underlying fraud, but also to ensure that the money transfer businesses used by these fraudsters are appropriately monitoring for fraud and protecting consumers. This is precisely what we have accomplished in our settlement with MoneyGram,

¹⁴ The FTC's fraud survey found that consumers between 65 and 74 years of age were more likely to be victims of fraudulent prize promotions. FTC Bureau of Economics Staff Report, *Consumer Fraud in the United States, 2011* (April 2013) at 58-59.

¹⁵ Western Union, MoneyGram, and Green Dot provide the consumer complaints they collect to the FTC, for inclusion in the Consumer Sentinel Database.

which paid \$18 million in consumer redress to settle the FTC's charges that it had allowed its money transfer system to be used by fraudulent telemarketers to bilk U.S. consumers out of tens of millions of dollars.¹⁶

To address the serious concerns involving the impact of prize promotion and lottery scams on older consumers, the Commission also entered into an innovative pilot program with the AARP Foundation in February 2012.¹⁷ As part of the program, the FTC partnered with the AARP Foundation to refer for individual peer counseling consumers over the age of 60 who have called the FTC's Consumer Response Center to complain that they had been victims of certain frauds, including lottery, prize promotion, and family emergency¹⁸ scams. Last year, the AARP Foundation peer counselors successfully assisted 760 people¹⁹ referred by the FTC, and more than 20 percent of consumers who provided details about the scams they encountered specifically mentioned sending money to Jamaica in connection with well-publicized lottery/sweepstake scams.

Further, the Commission continues its law enforcement activities, engages in dialogue with the money transfer and reloadable prepaid card industry, and conducts consumer education

¹⁶ *FTC v. MoneyGram Int'l, Inc.*, No. 1:09-cv-06576 (N.D. Ill. Oct. 19, 2009). The FTC charged that MoneyGram agents helped fraudulent telemarketers and other wrongdoers who tricked U.S. consumers, many of whom were seniors, into wiring money within the U.S. and to Canada after these consumers were falsely told they had won a lottery, were hired for a secret shopper program or were guaranteed loans. To settle the FTC's charges, in addition to paying \$18 million in consumer redress, MoneyGram, the second-largest money transfer service in the U.S., implemented an anti-fraud and agent-monitoring program and agreed to provide fraud warnings to consumers to help them spot scams and save their money.

¹⁷ This partnership began as a one-year pilot, but has now been extended.

¹⁸ Family Emergency (also known as "grandparent") scammers pose as relatives or friends, calling or sending messages urging the consumer to wire money because the supposed friend or relative needs cash to help with an emergency.

¹⁹ The AARP peer counselors provide one-on-one advice and guidance to consumers to help them avoid fraud in the future. The Foundation was able to reach approximately 50% of those consumers referred by the FTC. The consumers from whom they gathered data reported having lost approximately \$10.6 million.

to curb fraud in this area.²⁰

3. Identity Theft

In addition to identifying and combatting frauds that affect seniors, the Commission also recognizes their potential vulnerability to identity theft. Millions of consumers are victimized by identity thieves each year, and consumers spend substantial resources to repair the damage.

In 2012, and for the past 12 years, identity theft was the number one complaint category in the Consumer Sentinel Network.²¹ Nineteen percent of those who complained about identity theft (and provided their age) reported being over the age of 60. While the FTC cannot extrapolate from this figure to the U.S. population at large, it nonetheless shows that tens of thousands of consumers 60 years and older self report that they have fallen victim to identity theft scams.

The Commission is actively studying how identity theft affects older Americans and the unique challenges facing these victims. Just last week, on May 7, the Commission held a workshop to collect information about the extent to which seniors are vulnerable to identity theft, the prevalence with which seniors are targeted by identity thieves, and the various types of identity theft schemes, such as tax, Medicare, and nursing home related identity theft. The workshop also discussed best practices for educating older consumers and their families about these issues. The Commission has invited public comment on these issues, and as we learn more, the Commission will share its findings with the Elder Justice Coordinating Council and

²⁰ See also *FTC v. National Awards Serv. Advisory, LLC*, No. CV-10-5418 (N.D. Cal. Nov. 30, 2010); *United States v. Bezeredi*, No. CV5-1739 (W.D. Wash. Oct. 17, 2005).

²¹ *FTC Consumer Sentinel Network Data Book for January – December 2012*, (Feb. 2013), at 3, available at <http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2012.pdf>.

other law enforcement partners.²²

III. THREATS LIKELY TO INCREASE AS THE RESULT OF SHIFTS IN DEMOGRAPHICS

In addition to combatting current threats to consumers, the Commission keeps a careful watch on how known threats may evolve and examines the marketplace for emerging threats.

A. Fraud Relating to Healthcare

Decades of aggressive anti-fraud law enforcement have taught us that scammers capitalize on confusion in the marketplace and consumers' fear of losing needed benefits. In particular, we know from experience that any publicized changes in Medicare present ripe conditions for unscrupulous telemarketers. For example, in two recent cases, the Commission sued companies for allegedly peddling phony prescription drug discount products; threatening consumers that their failure to sign up for these services would cause the consumers to lose their Medicare benefits; misrepresenting that they were from the Social Security Administration, Medicare, or the consumer's bank in order to obtain the consumer's bank account information; and charging consumers hundreds of dollars and either delivering nothing or worthless discount cards.²³ In another action, we alleged that the defendants capitalized specifically on healthcare reform, inserting a clip of the President discussing his health care reform initiative into their own

²² The Elder Justice Coordinating Council was convened by the Secretary of the Department of Health and Human Services ("DHHS") in accordance with the Elder Justice Act of 2009. The Council is made up of heads of federal departments and other government entities, including the FTC, identified as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation. The Council's mission is to develop recommendations to the DHHS Secretary for the coordination of activities relating to elder abuse, neglect, and exploitation, and other crimes against elders. See <http://www.ltombudsman.org/sites/default/files/norc/elder-justice-coordinating-council-factsheet.pdf>.

²³ *FTC v. 9107-4021 Québec (d/b/a Med Provisions)*, No. 1:08CV1051 (N.D. Ohio Apr. 24, 2008); *FTC v. 6554962 Canada Inc., dba Union Consumer Benefits*, No. 1:08-cv-02309 (N.D. Ill. Apr. 28, 2008).

deceptive television commercials for their purported health insurance product.²⁴

The Commission has also sued other entities engaged in deceptive practices in the healthcare marketplace for seniors. For example, earlier this year, the Commission obtained settlements in two cases alleging deception in the sale of online placement services for senior care facilities.²⁵ In another case, the Commission alleged that CVS Caremark Corporation misrepresented the prices of certain Medicare Part D prescription drugs to seniors.²⁶ The deceptive claims, according to our complaint, caused many seniors and disabled consumers to pay significantly more for their prescription drugs than they expected and pushed them into the “donut hole”²⁷ sooner than they anticipated or planned.

The Commission anticipates that as the Affordable Care Act (“ACA”) is implemented, scammers will exploit changes in Medicare to sow confusion and trick consumers into paying for worthless products or providing their financial account information. In fact, in February of this year, the Commission saw a marked increase in complaints about Medicare imposters relative to prior months. These consumer complaints, while not necessarily indicative of a trend, are nonetheless cause for concern. The Commission recently issued a warning to consumers about scammers who offer to send out national medical cards or otherwise use the ACA as a hook to collect personal and financial information.²⁸ The FTC will remain vigilant in policing these scams and distributing information on how to avoid them.

²⁴ See *FTC v. Health Care One, LLC*, No. 8:10-cv-01161 (C.D. Cal. Aug. 3, 2010).

²⁵ *In the Matter of CarePatrol, Inc.*, Docket No. C-4379 (Dec. 3, 2012); *In the Matter of ABCSP Inc.*, Docket No. C-4378 (Dec. 3, 2012).

²⁶ *In the Matter of CVS Caremark Corporation*, Docket No. C-4357 (May 3, 2012).

²⁷ “Donut Hole” refers to the coverage gap where none of the Medicare holder’s drug costs are reimbursed.

B. Internet Fraud

When the Commission considers emerging threats, we think about the shifting characteristics of the different demographic groups fraud affects. For example, a Pew Study shows that the number of adults over 65 who use the Internet is increasing rapidly.²⁹ With online usage may come more exposure to fraudulent offers online. This may include scams that purport to be collecting financial account data for inexpensive trial products and then deceptively enroll consumers into programs with recurring monthly charges,³⁰ or malware scams that purport to alert consumers to alleged viruses on their computers that can be fixed for a fee.³¹ The Commission will remain watchful on how Internet scams affect aging baby boomers in coming years.

IV. COMBATTING FRAUD THROUGH CONSUMER EDUCATION AND OUTREACH

In addition to aggressive law enforcement, education is an equally essential tool in our consumer protection and fraud prevention work. The Commission's education and outreach program reaches tens of millions of people a year, mostly through our website where consumers can access print, video, and audio information³² (and through media coverage of our work). The FTC is widely known for its plain language information on dozens of issues, including those that

²⁸ See FTC Alert: Scammers Out to Trick Consumers Using the Supreme Court's Affordable Care Act Ruling, available at <http://www.ftc.gov/opa/2012/07/aca.shtm>.

²⁹ See Pew Research Center, Pew Internet & American Life Project, *Older Adults and Internet Use*, (June 2012) at 4 and 6-7, available at http://www.pewinternet.org/~media/Files/Reports/2012/PIP_Older_adults_and_internet_use.pdf. According to the Report, from August 2008 to April 2012, the number of adults over 65 who use the Internet increased from 38% to 53%. However, as of April 2012, only 34% of adults 76 and older were online.

³⁰ See *FTC v. Jeremy Johnson*, No. 2:10-cv-02203 (D. Nev. Dec. 21, 2010).

³¹ See *FTC v. Pecon Software, Ltd.*, No. 12-cv-7186 (S.D.N.Y. Sept. 24, 2012).

³² Consumer information can be found in English at consumer.ftc.gov and in Spanish at consumidor.ftc.gov.

affect older consumers – for example, family emergency (“grandparent”) scams³³ as well as scams related to prize offers,³⁴ sweepstakes and lotteries,³⁵ reverse mortgages,³⁶ health,³⁷ government imposters,³⁸ money wiring,³⁹ work-at-home programs,⁴⁰ and telemarketing.⁴¹

The Commission offers information for the general population and for specific demographic groups, such as people in mid-life and older, and disseminates the information through an informal network of partners that include other government agencies; state and local law enforcement organizations; and community resources, such as libraries, school systems, and advocacy organizations.

The most recent example of our partnership with other agencies is the Senior Identity Theft Workshop held on May 7. The workshop included speakers from the Social Security Administration, the Consumer Financial Protection Bureau, the Internal Revenue Service, and

³³ See FTC Consumer Information, Family Emergency Scams, *available at* <http://www.consumer.ftc.gov/articles/0204-family-emergency-scams>.

³⁴ See FTC Consumer Information, Prize Offers, *available at* <http://www.consumer.ftc.gov/articles/0199-prize-offers>.

³⁵ See Jamaican Fraudsters Targeting U.S. Consumers, *available at* <http://www.consumer.ftc.gov/articles/0119-jamaican-fraudsters-targeting-us-consumers>.

³⁶ See FTC Consumer Information, Reverse Mortgages, *available at* <http://www.consumer.ftc.gov/articles/0192-reverse-mortgages>.

³⁷ See FTC Consumer Information, Miracle Health Claims, *available at* <http://www.consumer.ftc.gov/articles/0167-miracle-health-claims>.

³⁸ See FTC Consumer Information, Government Imposter Scams, *available at* <http://www.consumer.ftc.gov/articles/0048-government-imposter-scams>.

³⁹ See FTC Consumer Information, Using Money Transfer Services, *available at* <http://www.consumer.ftc.gov/articles/0090-using-money-transfer-services>.

⁴⁰ See FTC Consumer Information, Work-at-Home Businesses, *available at* <http://www.consumer.ftc.gov/articles/0175-work-home-businesses>.

⁴¹ See FTC Consumer Video, Hang Up on Fraudulent Telemarketing, *available at* <http://www.consumer.ftc.gov/media/video-0036-hang-fraudulent-telemarketing>.

the U.S. Department of Health and Human Services. The Commission is also currently working with the Department of Veterans Affairs on Military Consumer Protection Day, which is July 17, to provide financial protection information to veterans and service members.

In addition to our current broad-based outreach efforts, the Commission is planning a new campaign that will focus on delivering fraud awareness tips to mid-life and older consumers. In preparation, we are talking to activities directors and other professionals in facilities where boomers and seniors live and visit, for guidance on the kinds of information that people find useful, the messengers they trust, and the delivery mechanisms they are likely to pay attention to. Ultimately, the Commission expects to provide these professionals with fraud awareness materials and activities they can tailor to -- and share with -- their own particular community.

V. CONCLUSION

The Commission will continue to play a central role in the battle to protect seniors from fraud and related threats, and looks forward to working with you on this important issue.