



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**COMMISSION STATEMENT REGARDING
CRIMINAL REFERRAL AND PARTNERSHIP PROCESS
Commission File No. P094207**

November 18, 2021

The Federal Trade Commission, an agency with solely civil enforcement authority, is committed to building upon the successful work of our partnerships with federal, state, and local criminal law enforcement to continue deterring harmful criminal acts and practices. Criminal conduct can arise in a variety of investigations across both our consumer protection and competition missions. Consumer protection frauds and scams are one type of illegal conduct in which the American public suffers hundreds of millions of dollars in losses, warranting both civil and criminal enforcement efforts. Criminal antitrust violations, such as price-fixing, bid rigging, market allocation agreements, and other related criminal conduct can also inflict serious harm to competition in all markets.

The Commission has a strong tradition of collaborating with federal, international,¹ state and local law enforcement when FTC investigations uncover possible criminal conduct prohibited by federal or state law. These relationships include, but are not limited to, working with the Department of Justice, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, U.S. Attorneys' Offices, State Attorneys General, and local District Attorneys' and City Attorneys' offices. The Commission is determined to continue working collaboratively with criminal authorities to use all available tools to preserve competition in all markets and prevent unfair or deceptive acts or practices, including those that harm employees, independent contractors, and small businesses.

The Consumer Protection Bureau's work against frauds and scams has generated a steady stream of criminal referrals over the years. In 2003, the Bureau of Consumer Protection formed its Criminal Liaison Unit (CLU) to protect the public from defendants engaged in criminal conduct. That year, the program referred 36 matters to prosecutors. Building on this foundation, the program has spent nearly two decades forging relationships throughout the law enforcement community and developing strategies to support successful criminal prosecutions. To accomplish this goal, the program has developed a non-public library of criminal pleadings for prosecutors; established awards to recognize our best prosecution and investigation partners (the CLU and Shield Awards);² and provided trainings to FTC staff in criminal law.

In the last five years, FTC staff actively worked on 840 new formal requests for cooperation from our criminal law enforcement partners, including 363 federal, 422 state, and 55 local requests. Prosecutors relied on FTC information and support to charge 228 new defendants and obtained 283 new pleas or convictions. During this period, 173 defendants received prison sentences totaling more than 795 years.

¹ The FTC Act, as amended by the Safe Web Act, has an explicit international criminal referral provision. *See* 15 U.S.C. § 46(k)(1).

² *See CLU Awards*, FED. TRADE COMM'N, <https://www.ftc.gov/enforcement/criminal-liaison-unit/clu-awards> (last visited Nov. 16, 2021).

Notable recent examples regarding consumer protection include:³

- The FTC sued Uber for misrepresenting their privacy and security practices concerning consumers' and drivers' personal information, and obtained a final order in 2018.⁴ The FTC initially settled charges related to a data breach in 2014, but expanded the order's coverage when it found out about a data breach in 2016. During our investigation, the FTC worked closely with prosecutors in the Northern District of California, who then brought criminal charges against the company's former chief security officer for obstruction of justice.⁵ Those charges related to Uber's concealment of the 2016 data breach from the FTC during its investigation of the 2014 data breach. That prosecution is ongoing, and FTC staff continues to provide any assistance the prosecutors seek.
- In *FTC v. Moneygram*, the Commission sued Moneygram in 2009, entering a stipulated order requiring the payment of \$18 million and requiring it to have a comprehensive fraud program.⁶ In 2012, DOJ brought criminal charges for aiding and abetting wire fraud and failing to have an effective money laundering program.⁷ Moneygram pled guilty and entered a deferred prosecution agreement based on its correcting the problems alleged in the FTC complaint.
- In 2017, the FTC and DOJ jointly brought civil and criminal charges, respectively, against *Western Union* alleging consumer fraud, aiding and abetting wire fraud, and failing to have an effective anti-money laundering program.⁸ Western Union entered a global settlement that included a \$586 million judgment, a permanent injunction, and a deferred prosecution agreement.
- In *FTC v. ABC Hispana*, the Commission sued a telemarketing scheme with roots in Peru that targeted Spanish-speaking consumers to deceptively sell products for learning English and threatened to sue, arrest or jail consumers, or seize their homes, if they did not pay. These telemarketers pretended to be affiliated with the government and well-

³ These examples include both formal referrals and parallel civil and criminal investigations.

⁴ Fed. Trade Comm'n Press Release, *Uber Agrees to Expanded Settlement with FTC Related to Privacy, Security Claims* (Apr. 12, 2018), <https://www.ftc.gov/news-events/press-releases/2018/04/uber-agrees-expanded-settlement-ftc-related-privacy-security>.

⁵ Dep't of Just., Press Release, *Former Chief Security Officer for Uber Charged with Obstruction of Justice* (Aug. 20, 2020), <https://www.justice.gov/usao-ndca/pr/former-chief-security-officer-uber-charged-obstruction-justice>.

⁶ Fed. Trade Comm'n, Press Release, *MoneyGram to Pay \$18 Million to Settle FTC Charges That it Allowed its Money Transfer System To Be Used for Fraud* (Oct. 20, 2009), <https://www.ftc.gov/news-events/press-releases/2009/10/moneygram-pay-18-million-settle-ftc-charges-it-allowed-its-money>.

⁷ Dep't of Just., Press Release, *Moneygram International Inc. Admits Anti-Money Laundering and Wire Fraud Violations, Forfeits \$100 Million in Deferred Prosecution* (Nov. 9, 2012), <https://www.justice.gov/opa/pr/moneygram-international-inc-admits-anti-money-laundering-and-wire-fraud-violations-forfeits>.

⁸ Fed. Trade Comm'n, Press Release, *Western Union Admits Anti-Money Laundering Violations and Settles Consumer Fraud Charges, Forfeits \$586 Million in Settlement with FTC and Justice Department* (Jan. 19, 2017), <https://www.ftc.gov/news-events/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles>; Dep't of Just., Press Release, *Western Union Admits Anti-Money Laundering and Consumer Fraud Violations, Forfeits \$586 Million in Settlement with Justice Department and Federal Trade Commission* (Jan. 19, 2017), <https://www.justice.gov/opa/pr/western-union-admits-anti-money-laundering-and-consumer-fraud-violations-forfeits-586-million>.

known companies such as Walmart.⁹ The FTC obtained a \$6.3 million judgment and banned the defendants from any future telemarketing.¹⁰ The U.S. Department of Justice also charged seven individuals with fraud and extradited them to the United States. Five of these defendants received sentences as high as 110 months (or more than nine years) earlier this year. The remaining two are scheduled for trial in early 2022.¹¹

- In *FTC v. First Time Credit Solution Corp.*, the Commission sued an operation that marketed bogus credit repair services (primarily to Spanish-speaking consumers). Our complaint alleged the defendants claimed to be affiliated with or licensed by the FTC and falsely promised they could remove negative information from consumers' credit reports. Under a stipulated settlement order, the defendants were banned from offering credit repair services and subject to a \$2.4 million judgment that was partially suspended as to all but one of the individual defendants based on inability to pay.¹² The Los Angeles County District Attorney's Office then prosecuted three individuals behind this scheme, including the owner of the business who, in 2018, was sentenced to ten years in prison.¹³
- In the underlying case of *FTC v. Dayton Family Productions*, which involved motion picture investments, the FTC obtained a permanent injunction against a defendant named Glen Burke. That injunction prohibited him from engaging in telemarketing and from making material misrepresentations about any product or service.¹⁴ Despite this order, Glen Burke and his associates engaged in prize promotion schemes. In an FTC-initiated action, Burke was held in civil contempt for violating the original injunction prohibiting these activities and ordered to pay approximately \$20 million.¹⁵ The FTC referred this matter to the Department of Justice, which prosecuted Burke and a co-defendant for fraud and charged Burke with criminal contempt for violating the original injunction obtained by the Commission. In 2018, Burke was sentenced to 87 months (more than seven years).¹⁶

⁹ Fed. Trade Comm'n, Press Release, FTC Obtains Court Order Halting Telemarketing Scheme that Preyed on Spanish Speaking Consumers (Apr. 19, 2017), <https://www.ftc.gov/news-events/press-releases/2017/04/ftc-obtains-court-order-halting-telemarketing-scheme-preyed>.

¹⁰ Fed. Trade Comm'n, Press Release, FTC Obtains Court Order Against Telemarketing Scheme that Preyed on Spanish-Speaking Consumers (Aug. 31, 2017), <https://www.ftc.gov/news-events/press-releases/2017/08/ftc-obtains-court-order-against-telemarketing-scheme-preyed>.

¹¹ Dep't of Just., Press Release, Peruvian National Sentenced to Over 9 Years in Prison for Defrauding Thousands of Spanish-Speaking U.S. Immigrants (Sept. 21, 2021), <https://www.justice.gov/opa/pr/peruvian-national-sentenced-over-9-years-prison-defrauding-thousands-spanish-speaking-us>.

¹² Fed. Trade Comm'n, Press Release, Operators of Bogus Credit Repair Scheme Settle FTC Charges (Aug. 4, 2015), <https://www.ftc.gov/news-events/press-releases/2015/08/operators-bogus-credit-repair-scheme-settle-ftc-charges>.

¹³ Los Angeles County District Attorney's Office, Press Release, Credit Repair Business Owner Sentenced in ID Theft Case (July 23, 2018), <https://web.archive.org/web/20191108141004/http://da.lacounty.gov/media/news/credit-repair-business-owner-sentenced-id-theft-case>.

¹⁴ Fed. Trade Comm'n, Press Release, At FTC's Request, Court Halts Repeat Offenders Most Recent Scam (Mar. 13, 2013), <https://www.ftc.gov/news-events/press-releases/2013/03/ftcs-request-court-halts-repeat-offenders-most-recent-scam>.

¹⁵ *FTC v. Dayton Family Productions*, No. 2:97-cv-00750; (9C) (Oct. 20, 2017); [Dkt. 22] (Findings of Fact and Conclusions of Law) (Mar. 16, 2016); *id.*, [Dkt. 217] (9C Mem. Op. at 2 n.1) (June 11, 2015); [Dkt. 203] (Order) (Sept. 27, 2013); Answering Brief of The Fed. Trade Comm'n, *Federal Trade Commission v. Glen Burke* (9th Cir. 2016).

¹⁶ Dep't of Just., Press Release, Las Vegas Resident Sentenced In Multimillion Dollar Prize Promotion Scams

- In *FTC v. Midway Industries*, the Commission sued an office supply business for billing nonprofits, businesses, and municipalities for office and cleaning supplies they never ordered. A stipulated order prohibited the defendants from engaging in similar practices. The settlement orders imposed suspended judgments ranging from \$44 million to \$58 million. The U.S. Attorney's Office for the District of Maryland prosecuted nine individuals behind the scheme, and in 2018, those criminal defendants received sentences as high as 135 months (more than 11 years).¹⁷
- In *FTC & State of New York v. 4 Star Resolution*, the Commission, together with the New York Attorney General's Office, sued a debt collection operation that used abusive and deceptive tactics to pressure consumers into making payments on supposed debts. The settlement orders in this case banned the defendants from the debt collection business and imposed judgments ranging from \$18 million to \$30 million that were partially suspended based on inability to pay.¹⁸ The Commission then referred the matter to the U.S. Attorney's Office for the Southern District of New York, which charged 14 individuals behind this scheme. At the time, according to DOJ, the case was the largest debt collection scheme to be criminally prosecuted. From 2016 through 2017, the criminal defendants received sentences as high as 100 months (more than eight years).¹⁹

The Federal Trade Commission also routinely works with international law enforcement partners, including criminal authorities, through cross-border partnerships and networks. For example, FTC staff participate in the Toronto Strategic Partnership, a network of Canada and U.S. based law enforcement agencies that work together to combat cross-border fraud through information sharing and investigative assistance. In 2017, the FTC and Canadian authorities cooperated to investigate a Canada-based matter involving deceptive telemarketing. The target of the investigation, Terrence Croteau, was the subject of prior FTC and criminal enforcement actions involving a business directory scheme.²⁰ In June 2021, the Canada Competition Bureau announced multiple criminal charges against Croteau for his involvement in alleged deceptive telemarketing and false or misleading statements to get Canadian businesses to sign up for listings in online directories.²¹

Targeting Elderly Victims (Mar. 12, 2018), <https://www.justice.gov/usao-nv/pr/las-vegas-resident-sentenced-multimillion-dollar-prize-promotion-scams-targeting-elderly>.

¹⁷ Dep't of Just., Press Release, Executive of \$50 Million Mail Fraud Scheme Sentenced to Over 11 Years in Federal Prison (Sept. 5, 2018), <https://www.justice.gov/usao-md/pr/executive-50-million-mail-fraud-scheme-sentenced-over-11-years-federal-prison>.

¹⁸ Fed. Trade Comm'n, Press Release, FTC and New York Attorney General Settlements Ban Abusive Debt Collectors from the Debt Collection Business and from Buying or Selling Debt (Mar. 22, 2018), <https://www.ftc.gov/news-events/press-releases/2018/03/ftc-new-york-attorney-general-settlements-ban-abusive-debt>.

¹⁹ Dep't of Just., Press Release, Owner And CEO Of Debt Collection Company Sentenced To 100 Months In Prison For Orchestrating \$31 Million Debt Collection Scheme (Apr. 20, 2017), <https://www.justice.gov/usao-sdny/pr/owner-and-ceo-debt-collection-company-sentenced-100-months-prison-orchestrating-31>.

²⁰ See *FTC v. 4049705 Canada Inc., et al.*, No. 1:04-cv-4694 (N.D. Ill. July 19, 2004); see also *Cases and Proceedings, 4049705 Canada Inc., et al.*, FED. TRADE COMM'N, <https://www.ftc.gov/enforcement/cases-proceedings/042-3110/4049705-canada-inc-et-al> (last visited Nov. 18, 2021).

²¹ See Competition Bur. Can., Press Release, Multiple criminal charges laid in online business directories case (June 14, 2021), <https://www.canada.ca/en/competition-bureau/news/2021/06/multiple-criminal-charges-laid-in-online-business-directories-case.html>.

The agency also offers training for all law enforcement partners, including criminal authorities, in utilizing the agency's Consumer Sentinel database.²² Consumer Sentinel is a unique investigative cyber tool that gives law enforcement access to millions of reports from consumers regarding potential violations of law. The database draws complaints not only from the FTC's online reporting portal—www.reportfraud.ftc.gov—but 45 other contributors, including federal agencies and 25 states, all North American Better Business Bureaus, and businesses like Microsoft's CyberCrime Center, Western Union, MoneyGram, and more. Any law enforcement partner may request access to the database, and the agency maintains an ongoing schedule of online training programs so that investigators from federal, state and local law enforcement may be able to more fully utilize the crucial information in Consumer Sentinel.

More than 2800 federal, state, local and international law enforcement users now have access to Consumer Sentinel. Recognizing Consumer Sentinel's significant value, the FTC has continuously invested in the system, including most recently to introduce new functionality that allows investigators to run pinpoint searches to identify frauds in highly localized areas, down to zip codes, permitting even local criminal authorities to search for reports of law enforcement violations in their area. Recently, an IRS agent who had been trained on Consumer Sentinel was able to utilize its features to assist in a criminal investigation into an individual who was accused of laundering funds from a lottery fraud that targeted the elderly.²³

Competition investigations have also produced evidence of potential criminal conduct, which have led to referrals to appropriate law enforcement partners. During the last five years, the FTC has made more than a dozen referrals that relate to non-public matters. While the Commission is not at liberty to discuss specifics of the referrals, the potential criminal activities impact a wide range of industries and involve several types of conduct, including concerted refusals to deal, non-compete agreements, market allocation, and price-fixing.

Back in the early 1990's, a referral from the FTC examining documents in a merger investigation helped spawn a series of DOJ indictments and resulting plea agreements in the commercial explosives industry.²⁴ More recently, in *FTC v. Reckitt Benckiser Group plc* and *FTC v. Indivior, Inc.*,²⁵ the Commission charged two companies, Reckitt and its former subsidiary, Indivior, with violating the antitrust laws through a deceptive scheme to thwart lower-priced generic competition to their branded opioid addiction treatment Suboxone. During the FTC's investigation, the U.S. Department of Justice opened a criminal investigation involving closely related conduct, and the FTC put its civil investigation on hold. An FTC attorney who had been working on the agency's investigation was detailed to assist DOJ with its criminal investigation. The DOJ's case ultimately resulted in a \$1.4 billion settlement and non-

²² See *Consumer Sentinel Network*, FED. TRADE COMM'N, <https://www.ftc.gov/enforcement/consumer-sentinel-network> (last visited Nov. 9, 2021).

²³ Dep't of Just. Press Release, *Woman Sentenced to 24 Months for Laundering Funds from Lottery Fraud Scheme Targeting the Elderly*, (Apr. 29, 2021), https://www.justice.gov/usao-az/pr/woman-sentenced-24-months-laundering-funds-lottery-fraud-scheme-targeting-elderly?utm_source=govdelivery.

²⁴ See *Antitrust Division Selected Criminal Cases April 1, 1996 through September 30, 1999*, DEP'T OF JUST., <https://www.justice.gov/atr/selected-criminal-cases-antitrust-division> (updated June 25, 2015) (collecting commercial explosives price-fixing criminal matters, totaling guilty pleas by 14 corporations and 3 individual and total fines of nearly \$40 million).

²⁵ Fed. Trade Comm'n, Press Release, *Reckitt Benckiser Group plc to Pay \$50 Million to Consumers, Settling FTC Charges that the Company Illegally Maintained a Monopoly over the Opioid Addiction Treatment Suboxone* (July 11, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/reckitt-benckiser-group-plc-pay-50-million-consumers-settling-ftc>.

prosecution agreement with Reckitt, guilty pleas from two former Indivior executives and an Indivior subsidiary, and a civil settlement with Indivior.²⁶ As part of the orders resolving the FTC’s charges, Reckitt agreed to pay \$50 million in equitable monetary relief and Indivior agreed to pay \$10 million. The FTC has now returned the \$60 million to consumers who were harmed by Reckitt’s and Indivior’s conduct.

In *FTC v. Bristol-Myers Squibb Company*,²⁷ the Commission charged BMS with violating the reporting requirements of the Medicare Modernization Act (MMA) and violating the terms of a 2003 FTC consent decree arising from the investigation into a possible anticompetitive “pay-for-delay” agreement between BMS and Apotex, a generic pharmaceutical company. After FTC staff received conflicting sworn statements from BMS and Apotex about the terms of their agreement, the FTC opened a non-public investigation and informed the U.S. Department of Justice about the conflicting declarations. DOJ, upon investigation, filed criminal charges against BMS and one of its former vice presidents. BMS eventually pled guilty to two counts of perjury and paid \$1 million in fines under the MMA (the maximum penalty available for the two counts).²⁸ The BMS executive also pled guilty to making a false statement to the government and was fined and sentenced to two years of probation. The Commission then sued BMS for violating the 2003 consent order and the MMA and sought civil penalties. BMS settled with the FTC, paying \$2.1 million in civil penalties, the maximum statutory penalty available at the time.

In 2018, the FTC settled civil charges alleging that a Texas company, Your Therapy Source, its owner, and Neeraj Jindal, the former owner of a competing staffing company Integrity Home Therapy, colluded to reduce pay rates for therapists and invited other competitors to collude on those rates.²⁹ Thereafter, the DOJ indicted Mr. Jindal and John Rodgers, clinical director of Integrity Home Therapy, alleging they conspired to fix prices by lowering rates paid to certain health-care workers and then conspired to obstruct the FTC investigation of their conduct.³⁰

Going forward, the Commission will continue to prioritize the referral of criminal conduct and take steps to facilitate uptake of those cases by appropriate authorities. The Commission will also leverage best practices garnered from the Bureau of Consumer Protection’s CLU program to enhance criminal referrals related to antitrust investigations.

²⁶ Dep’t of Just., Press Release, Justice Department Obtains \$1.4 Billion from Reckitt Benckiser Group in Largest Recovery in a Case Concerning an Opioid Drug in United States History (July 11, 2019), <https://www.justice.gov/opa/pr/justice-department-obtains-14-billion-reckitt-benckiser-group-largest-recovery-case>.

²⁷ Fed. Trade Comm’n, Press Release, Bristol-Myers Squibb to Pay \$2.1 Million Penalty for Failure to Disclose Agreement Involving Substantial Payments to Delay Entry of a Generic Version of the Drug Plavix (Mar. 31, 2009), <https://www.ftc.gov/news-events/press-releases/2009/03/bristol-myers-squibb-pay-21-million-penalty-failure-disclose>.

²⁸ See Plea Agreement and Information, *United States v. Bristol-Myers Squibb Company*, Crim. No. 07-140 (D.D.C. May 30, 2007).

²⁹ Fed. Trade Comm’n, Press Release, Therapist Staffing Company and Two Owners Settle Charges that They Colluded on rates Paid to Physical Therapists in Dallas/Fort Worth Area (July 31, 2018), <https://www.ftc.gov/news-events/press-releases/2018/07/therapist-staffing-company-two-owners-settle-charges-they>.

³⁰ Dep’t of Just., Press Release, Second Individual Charges with Fixing Wages for Health Care Workers and Obstructing FTC Investigation (Apr. 19, 2021), <https://www.justice.gov/opa/pr/second-individual-charged-fixing-wages-health-care-workers-and-obstructing-ftc-investigation>.

First, the Commission will continue to support cross-agency efforts and refine best practices to ensure that criminal law violations are identified by our staff and promptly referred to criminal enforcers. In this regard, it should be noted that the list of criminal referrals above includes not just smaller firms, but also large corporations. The Commission is committed to ensuring that the criminal referral process holds all actors accountable.

Second, the Commission will convene regular meetings with federal, state, and local criminal authorities to facilitate coordination among those partners across all of our enforcement areas so that the appropriate law enforcement partners have the opportunity to take up the cases we refer. We will use these meetings to identify “best practices” so that even better coordination will result from communications and referrals.

Third, the Commission commits to continue offering trainings for all law enforcement partners on the Consumer Sentinel database system, so that they are able to fully utilize this source of key leads for potential criminal investigations.

Finally, the Commission will also return to publicly reporting on its criminal referral efforts at regular intervals to strengthen public understanding of this important work and highlight criminal prosecutions. The Commission will begin issuing regular public reports on its work detailing the number of referrals, the general nature of the alleged conduct involved, and, when appropriate, more detailed information concerning criminal enforcement actions that stem from Commission actions and investigations. The reports will include both consumer protection and competition matters, as applicable, resulting in criminal referral.

Taken together, this focused commitment to making criminal referrals and these steps towards increased partnership and greater public reporting will be central to improving the effectiveness of civil and criminal enforcement actions. The Commission is committed to using all of its tools to make sure that, when it discovers potentially criminal conduct, competition is preserved in all markets, and consumers are protected from deceptive or unfair acts, including practices that harm the workforce and businesses.
