

Federal Trade Commission



Internet Auction Consumer Protection

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About This Presentation

- The views expressed in this presentation are those of the speaker and not necessarily those of FTC, its staff, or any individual Commissioner.





FTC's Consumer Protection Mission

- The FTC is the nation's only general jurisdiction consumer protection agency.
- The FTC currently enforces more than 20 consumer protection statutes enacted by Congress and more than 30 regulations that address matters of vital importance to consumers.



Consumer
Protection





Civil Enforcement

- The FTC is a civil law enforcement agency.
- We enforce the law through either:
 - Internal administrative proceedings
 - Civil lawsuits directly in federal court





FTC Act



- The basic consumer protection statute enforced by the Commission is Section 5(a) of the FTC Act, which provides that “unfair and deceptive acts or practices in or affecting commerce are declared unlawful” (15 U.S.C. Sec. 45(a)(1)).
- The other statutes and regulations that we enforce relate back to this basic premise. They are specific examples of unfair and deceptive practices.





Deception

Courts have stated a practice is deceptive in violation of the FTC Act if there is:

1. **A representation, omission, or practice likely to mislead the consumer;**
2. **The consumer is acting reasonably under the circumstances; and**
3. **The representation, omission, or practice is material.**

Note the reference to “consumers” – the FTC prosecutes **consumer** deception.

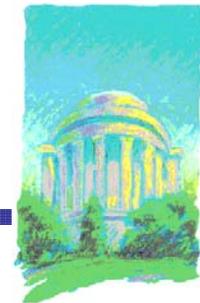




Unfairness



- An act or practice is unfair under Section 5 of the FTC Act if:
 1. It causes substantial injury to consumers,
 2. If the harm is not outweighed by any countervailing benefits, and
 3. If the harm is not reasonably avoidable.





Interpretation of Unfairness

- Unfairness allows the Commission to target egregious behavior harming consumers where there have been no deceptive statements.
- Internet conduct like pop-ups, spyware and mouse-trapping is often combated using the FTC's unfairness jurisdiction.





Some Types of Scams the FTC Targets

Telemarketing fraud



Internet fraud (Spam, **Internet Auction Fraud**)



Business opportunities and Work-at-home schemes



Bogus health products

Predatory lending & credit counseling schemes





Civil Enforcement by the FTC: How We Conduct Investigations



- FTC conducts its own investigations by its staff of attorneys and investigators.
- We conduct both open and covert investigations.
- Civil subpoena power allows us to get information from (some limitations by privacy rules):
 - Banks
 - Shipping companies
 - Telephone companies
 - Internet Service Providers





How We Conduct Investigations (Cont'd)



- We interview consumers and former employees, often obtaining sworn statements
- Asset search – we locate assets through wide range of databases
- Fraudulent solicitations – we obtain evidence from news outlets and internet searches





- Consumer Sentinel is a consumer fraud complaint database (www.consumer.gov/sentinel)
- Restricted portion of the site provides law enforcement immediate and secure access to consumer fraud-related complaints.
- Law enforcement membership in Consumer Sentinel is free and open to any federal, state or local law enforcement agencies in the U.S., Canada and Australia – currently over 960 members.



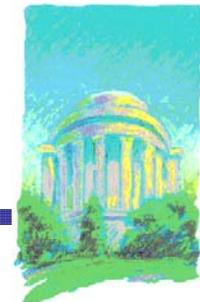


Federal Court Injunctive Action Goals:

- **To stop an ongoing scam**



- **To obtain redress for consumers.**





Federal Court Injunctive Action



Enforcement actions involving ongoing fraud may begin with a request for a Temporary Restraining Order that might include:

- **Asset freeze**
- **Temporary Receiver**
- **Repatriation of Funds from Off-Shore Locations**





Final Relief

- Permanent injunction against responsible individuals
 - Seek relief that will stop offending conduct and prevent future harm (“fencing in” relief)
 - At times, because of egregiousness conduct or because defendants are recidivists, we seek bans on certain activities
- Usually a requirement to disgorge profits or pay restitution (based on ability to pay).





Coordinating Parallel FTC and Criminal Actions



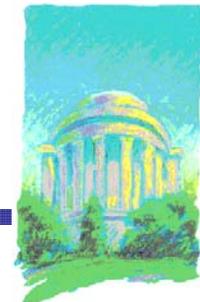
- Many FTC cases result in parallel or follow-up criminal prosecutions.
- Often coordinate filing of civil case with execution of a search warrant.
- We can share material we get from our civil investigations and litigation with criminal enforcers.





Internet Auction Fraud Complaints

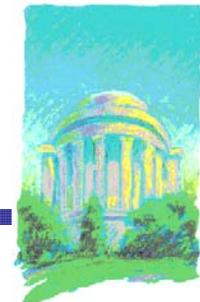
- Internet auctions are a venue for fraud artists
- The Numbers:
 - In 2004, Consumer Sentinel received 98,653 Auction Fraud complaints.
 - Auction Fraud complaints comprised about 25% of all fraud complaints, and just under 50% of Internet-related fraud complaints
- Most of the complaints involve sellers who fail to deliver the goods.





Internet Auction Fraud Complaint Trends

- **SECOND CHANCE OFFERS:** Sellers or persons posing as sellers contact the losing bidders after the auction closes to offer a second chance to buy the goods.
- **FALSE IDENTITIES:**
 - Use of multiple false user or screen names and email addresses to prevent identification.
 - Multiple mail drops opened under other false names to avoid detection.
- **FAKE THIRD-PARTY ESCROW SERVICES:** purport to be an independent third party to hold a buyer's money in trust but are in reality controlled by the buyer or seller, are used by both buyers and sellers to defraud.
- **SHILLS:** Sellers use "shills" to bid on their items to drive up the price of the items.





FTC Internet Auction Fraud Program

- Consumer Education – Minimize risks of Internet auction fraud to consumers by educating on best practices and trends
- Investigation and Prosecution of Cases
 - FTC civil cases
 - Referrals to and training for criminal and civil Federal, State, and Local Law Enforcement
- Industry Partnership – Work with Internet auction operators and payment providers to adopt meaningful consumer protection measures and obtain investigative assistance





Internet Auction Consumer Education

- Protect passwords and other personal information to prevent identity theft
- Use safe methods of payment
- Learn when protections offered by auction operators or payment providers apply
- Investigate the seller
 - Feedback, BBB, contact seller by phone, etc.
- Read carefully the product description and the terms of sale





Prosecution of Auction Fraud Cases

Most difficult issue: Who and where are the fraud artists?

- Follow the Money – trace checks or wire transfers
- Obtain Information from Auction Web Sites
 - Registration information provided by the seller
 - IP addresses used by the seller
 - A list of all auctions conducted by the seller
 - Feedback and other communication of seller

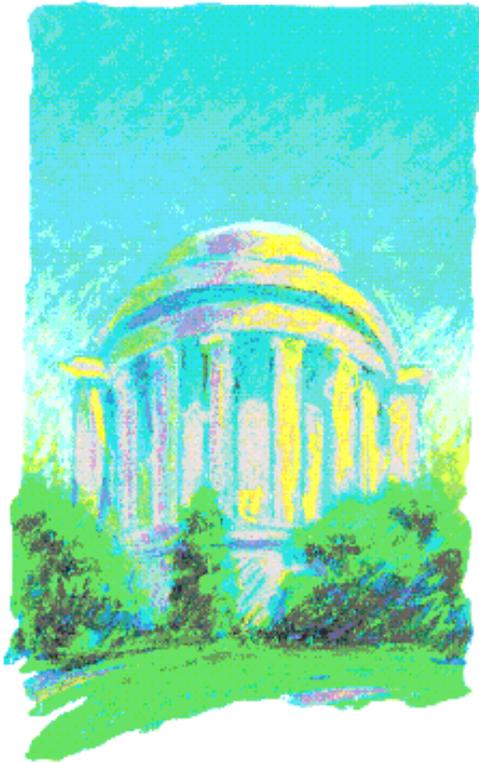




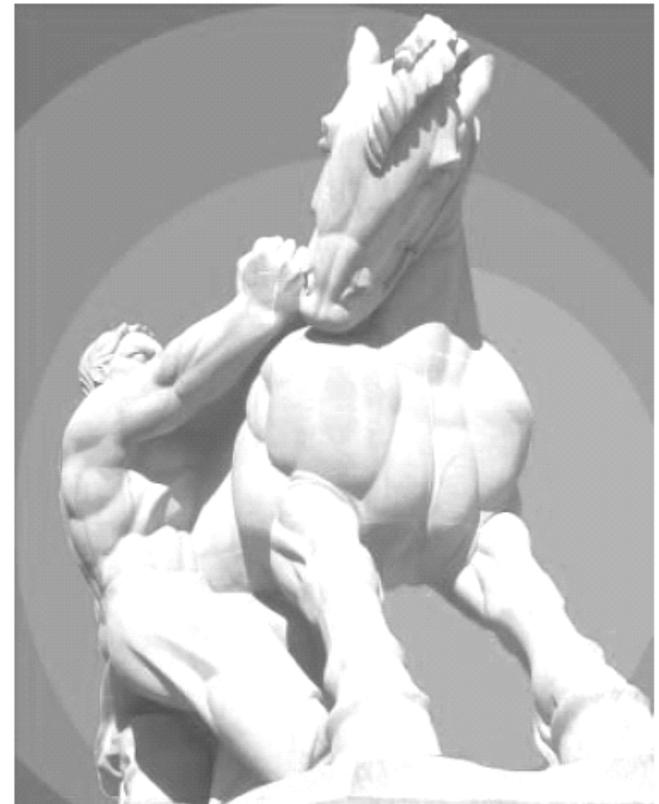
FTC Assistance to Other Law Enforcement

- Provide Consumer Sentinel complaints concerning Internet auction fraud artists operating in a particular jurisdiction.
- Connect law enforcement personnel who are interested in the same targets.
- Supply sample pleadings and press releases
- Assist with obtaining consumer declarations and testimony





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