FTC-Marketing Science Economic Conference on Marketing and Consumer Protection

Ginger Zhe Jin

Director

FTC Bureau of Economics

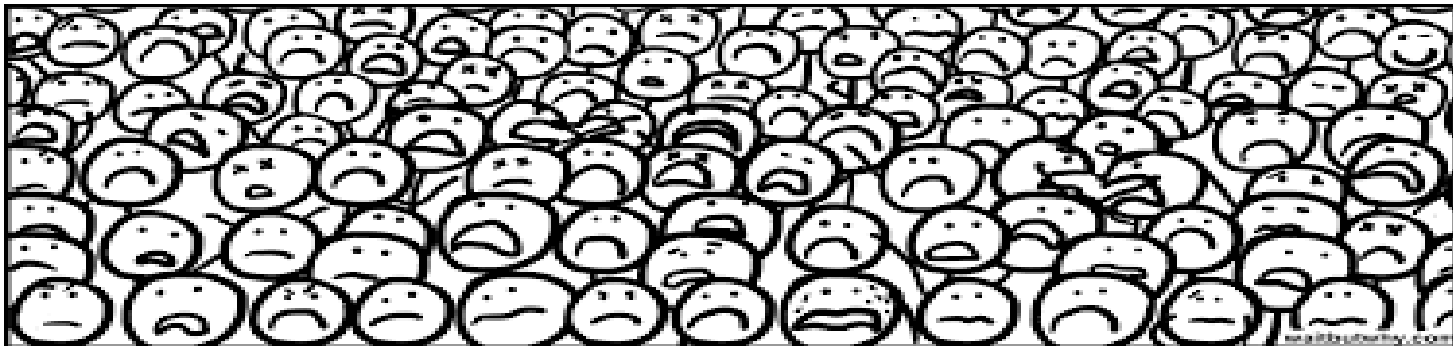Bureau of
Economics

Firm 1 ⟷ Firm 2

Competition & Antitrust

Consumer Protection

Main Functions of FTC

- **Law Enforcement**
  - Enforce 70+ laws against business practices that are anti-competitive, deceptive or unfair
  - Bring lawsuits in federal courts
  - Bring lawsuits in front of Administrative Law Judge
  - Commission hearings
  - Enforce final Commission orders
  - Redress harmed consumers
- **Rulemaking Authority**
  - Industry wide
- **Information Collector**
  - Watch out for new, problematic practices
  - Investigative research
  - Research and policy advocacy

Laws about consumer protection

Telemarketing and Consumer Fraud And Abuse Prevention Act (1994)

Credit Card Accountability Responsibility and Disclosure Act (2009)

Motor Vehicle Information and Cost Savings Act (1972)

Identity Theft Assumption and Deterrence Act (1998)

Patient Protection and Affordable Care Act (2009)

Restore Online Shopper's Confidence Act (2010)

Crimes Against Charitable Americans Act (2001)

Child ... Act (2006)

Do-not-call Registry Legislation (2003)

Petrol...

Unlawful Internet Gambling Enforcement Act (2006)

U.S. Safe Web Act (2006)

Truth ...

Legal Standard at FTC

- **1983 deception policy statement**
  - Likely to mislead the consumer acting reasonably in the circumstances to the consumer's detriment
- **1980 unfairness policy statement**
  - Substantial injury
  - Not reasonably avoidable by consumers
  - Not outweighed by countervailing benefits to consumers or competition

Examples

Challenges

Example 1: Nationwide fraud surveys

Survey: 2003, 2005, 2011, 2016

Report: Anderson (2004, 2007, 2013)

Keith Anderson (2004): "Consumer Fraud in the US: An FTC Survey", FTC staff report.
Keith Anderson (2007): "Consumer Fraud in the US: The Second FTC Survey", FTC staff report.
Keith Anderson (2013): "Consumer Fraud in the US, 2011: The Third FTC Survey", FTC staff report.
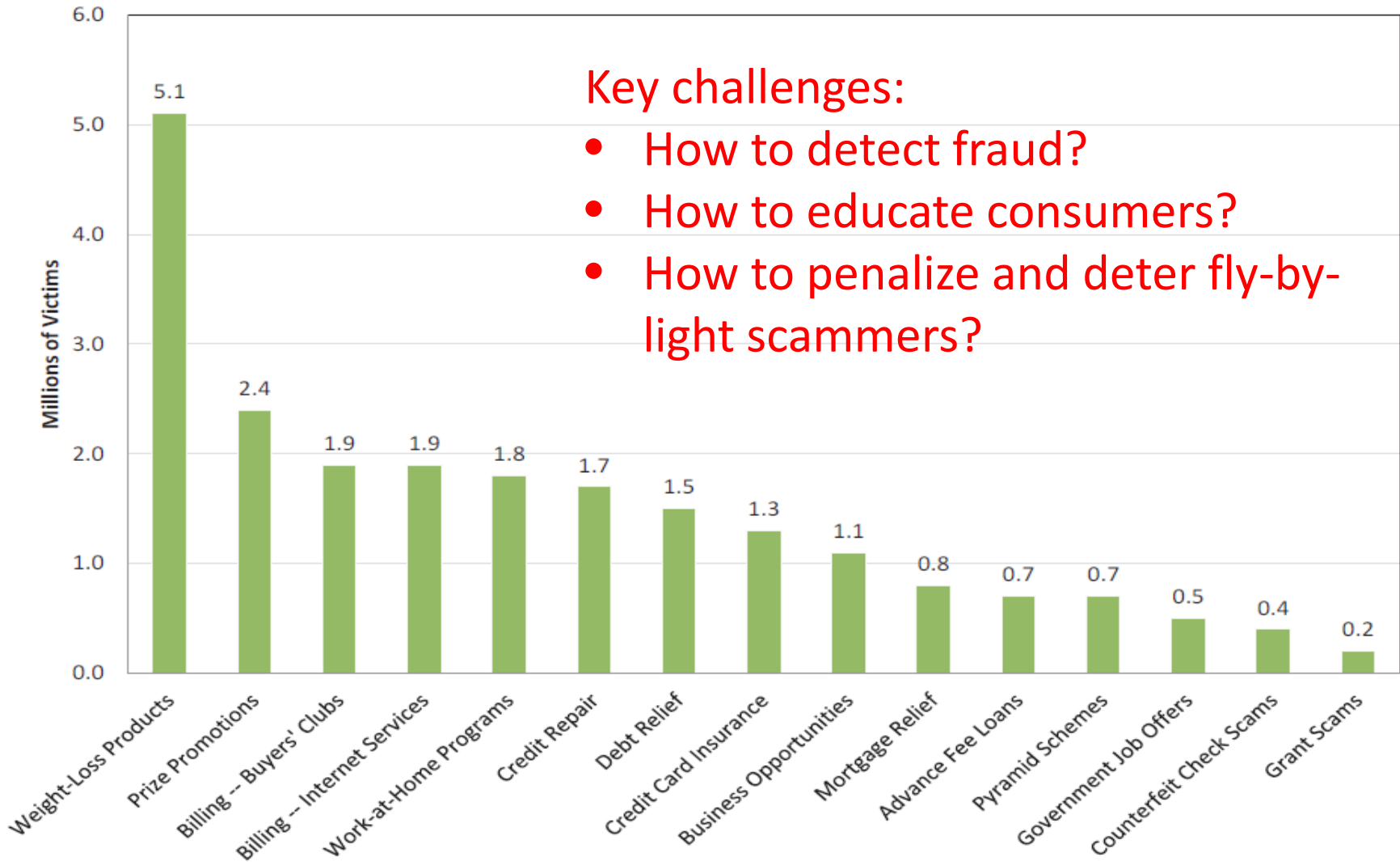
The 2011 fraud survey finds:

➢ 10.8% of U.S. adults
(or 25.6 million people)
were fraud victims.

➢ Total 37.8 million incidents of
fraud during 2011.

Most popular frauds in 2011

Figure 1. Specific Surveyed Frauds, by Number of Victims

Key challenges:
- How to detect fraud?
- How to educate consumers?
- How to penalize and deter fly-by-light scammers?

Example 2: Deceptive Advertising

FTC sues Volkswagen over 'deceptive' diesel claims

Nathan Bomey, USA TOD

On Tuesday, a federal consu

$10 billion for consumers over VW's false clean car claims

June 28, 2016

by Nat Wood

Associate Director, Consumer & Business Education, FTC

Under a partial settlement filed today by the FTC, Volkswagen is agreeing to provide up to $10 billion to owners and lessees of VW and Audi 2.0 liter diesel cars that it claimed had low levels of harmful emissions, but did not. It's the largest false advertising case in FTC history. Nearly 500,000 cars are affected.

Federal Trade Commiss

Example 3: Privacy Protection

- FTC alleges that Practice Fusion:
  - Collects patient evaluation of doctors since April 5, 2012
  - In April 2013, website went live with ~613,000 consumer reviews
  - Some include highly sensitive personal and health information
  - Privacy notice before April 2013 did not indicate public display of consumer reviews

- Settlement on June 17, 2016
  - 20-year cease and desist order

Example 4: Online Endorsement

- FTC alleges:
  - Sony Computer Entertainment America falsely claimed "game changing" technological features of its PS Vita handheld gaming console (late 2011 to early 2012)
  - Deutsche LA, Sony's ad agency, misled consumers by urging its employees to create awareness and excitement about the PS Vita on Twitter without disclosure of their connection

- Settlement in November 2014
  - Cease and desist order on both firms
  - Consumer redress: $25 cash / $50 credit to buyers that bought the console before June 1, 2012

Example 5: Multi-level Marketing

- FTC alleges that Herbalife:

  - Deceive consumers into believing substantial income from the MLM business opportunity (deception)

  - incentivize distributors to buy products and to recruit others to join and buy products so they could advance in the company's marketing program, rather than in response to actual consumer demand (unfairness)

- Settlement in July 2016 after 2-year investigation:

  - $200 million for consumer redress

  - Restructure its business from top to bottom

Ongoing Challenges

- How to detect potential violators (online and offline)?

- How to link consumer misperception to firm behavior?

- How to define and measure consumer harm and countervailing benefits, especially in a world of big data and connected things?

- Shall we discipline the firm and/or educate consumers?

- How to regulate a market when consumer knowledge and business practice are both evolving?

- How to engage in and learn from the research community?