

Commissioner Julie Brill
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Thanks very much Karen. I am delighted to see so many of my old friends here tonight. As you know (and heard) I spent many years in two AG offices – Vermont and North Carolina. I brought the methods (hard work) and values (hard work) I learned in the states with me to D.C., and they guide me everyday.

In short, we speak the same language. Just four years ago, I would have been down there with you – probably thinking that there was no way this women could say anything that hadn't already been said during today's crowded slate of meetings – and wondering how obvious it would be if I snuck over to the bar for another glass of Pinot.

So I will try to keep my remarks brief.

Two years ago, when I addressed the Consumer Federation of America, I compared the state AGs, the FTC, and the CFPB to the storied 6-4-3 double play combination of Tinkers to Evers to Chance. Now, for those of you not steeped in early 20th century baseball trivia, Joe Tinker, Johnny Evers and Frank Chance were Chicago Cubs, back when the Cubs actually won championships.

In my analogy, the state AG offices were Joe Tinker, the shortstop with lightning fast reactions, a keen sense of the game, and the first to field the ball – in this case, consumer complaints about everything from home repair scams to deceptive telemarketers to shady mortgage servicers. The FTC was the second baseman Johnny Evers; we catch the toss from the AGs, following up on local consumer scams and complaints and stepping on the bag to get the out at the national level.

That left the CFPB as the first baseman, Frank Chance. I admit I fudged on this part of the metaphor. The CFPB was newly created at the time – just up from the minors, so to speak, and we hadn't really seen their game. There wasn't much to say.

Now we have been through a couple of winning seasons together, and I can comment more concretely on how we have divided up our responsibilities in the infield. Dodd-Frank gave the FTC and CFPB overlapping jurisdiction to enforce consumer protection laws governing many non-bank financial products and services, while transferring what little rulemaking authority the FTC had in the financial service arena to the CFPB.¹ Through our partnership, and with the CFPB's additional authority and resources, we have increased our enforcement reach and strengthened the protections we offer consumers. Working together, we are turning one out into two, game after game after game.

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

This is not an unexpected result. Long before the CFPB's rookie season, the FTC had a well-deserved reputation of being a team player when it came to our sister agencies. We have successfully coordinated with FDA in advertising, with HHS in privacy, with the banking agencies in financial services – even before Dodd Frank – and with the States in almost every area.

With the CFPB, we've established six working groups – on credit reporting, debt collecting, debt relief, mortgage assistance and credit repair, mortgage advertising, mortgage services, and online lending – so the lawyers at our two agencies can talk about cases and better coordinate. And this is just a start. I expect our relationship with the CFPB will continue to grow in depth and breadth in the coming months and years.

Though that is all I am going to say tonight about the teamwork between our two agencies, I would like to stay with the baseball analogy a bit longer. Sports seem to seep into every conversation this time of year anyway. We are either naming a top dog in golf, basketball, or hockey or starting a new season in baseball. And though my passion is for professional basketball – the world champion, soon-to-repeat Miami Heat to be exact – the rhetorical opportunities offered by that sport tend more to trash talk and rap, not really suitable for polite dinnertime conversation, or for illuminating the FTC's focus on financial services enforcement and policy.

Not so baseball – a sport that has long attracted writers, poets, and philosophers. And in the latter category, I can think of no one whose oeuvre is more appropriate to mine than Hall of Famer Yogi Berra, catcher, manager, and coach, mostly for my beloved New York Yankees.

So let's start with one of my favorite Yogi-isms: "The future is not what it used to be," Berra once said – an aphorism that sums up the situation in which many consumers find themselves these days. With the economic downturn, the mortgage crisis, and rising consumer debt, too many families are facing an uncertain economic future, and becoming easy prey for financial services scammers.

The bulk of the FTC's work on financial services is protecting these vulnerable consumers. I won't try to highlight all of what we do – we'd never get to dessert. Instead I'll touch on some of our recent activity in four areas near and dear to my heart: debt collection, payday lending, mortgage and debt relief, and mobile payments.

The FTC receives more consumer complaints about debt collectors than about any other single industry – almost 200,000 per year.² As a result, we devote significant enforcement, research, and education resources to this area.

In the last twelve months, we have brought cases against four debt collection outfits that we believe used deceptive or abusive tactics to intimidate consumers.³ We also have pursued

² See Press Release, FTC Releases Top 10 Complaint Categories for 2012 (Feb. 26, 2012), *available at* <http://www.ftc.gov/opa/2013/02/sentineltop.shtm>.

three “phantom debt” collectors and their associates,⁴ who we suspect run a sophisticated operation – including overseas call centers – collecting money that either wasn’t owed or is never applied to the consumers’ actual debts.

In addition, in January of this year, we announced the results of the first of its kind study: we looked at nine of the nation’s largest companies that buy and then collect outstanding consumer debt.⁵ The debt buyers we examined collectively purchased (for pennies on the dollar) nearly ninety million consumer accounts with a face value of \$143 billion – as Yogi Berra said, “A nickel ain’t worth a dime anymore.” Proceeds from these sales have helped creditors, allowing them to provide more credit to consumers. However, we also found that debt buying raises significant consumer protection red flags.

According to the results of our study, consumers each year dispute an estimated one million or more debts that debt buyers attempt to collect. And debt buyers verify only about half of these, meaning that buyers either could not verify or did not attempt to verify about 500,000 debts. Our report also noted that, at the time of purchase, debt buyers did not obtain from creditors important information about whether the purchased debts had been disputed or verified in the past. In fact, most contracts between creditors and debt buyers state that creditors do not warrant that the information they provide to buyers about debts is accurate.

Our findings should play an important role for state legislators and other policy makers who are considering appropriate reforms in the debt buyer industry.

Debt buyers are not the only part of this rapidly morphing industry that could use examination and reform. Debt collectors now use all manner of technology – cell phones, social media, and email. But the Fair Debt Collection Practices Act that governs their activities was passed in the 70s⁶ – around the same time Yogi Berra, then a coach with the Yankees, was receiving congratulations on consecutive World Series wins via land line, snail mail, and telegram. Obviously, we need to keep up with new uses of new technology in the debt collection area, whether through amendments to the FDCPA, rulemaking, or enforcement.

The FTC is also involved in the other side of consumer debt – the issuing of loans, particularly payday lending. In recent years, we have brought a number of cases addressing abuses in this area, including misrepresenting loan costs and illegally garnishing consumers’ wages.

³ See Press Release, FTC Continues Vigorous Enforcement of Fair Debt Collection Practices Act (Feb. 13, 2013), available at <http://www.ftc.gov/opa/2013/02/cfpb.shtm>.

⁴ *Id.*

⁵ FED. TRADE COMM’N REPORT, THE STRUCTURE AND PRACTICES OF THE DEBT BUYING INDUSTRY (2013).

⁶ 15 U.S.C. §§ 1692-1692p (2006 & Supp. IV 2010).

We are currently litigating two cases involving defendants who claim affiliations with Native American tribes: *AMG* and *Lakota Cash*.⁷ In both instances, the payday lenders have claimed immunity from state enforcement actions, and *AMG* has also claimed immunity from FTC jurisdiction. We expect the *AMG* court to rule that federal statutes such as the FTC Act apply to tribes and tribal businesses,⁸ just as other courts have found for other federal statutes. We recently learned that the defendants in *Lakota Cash* were suing consumers in tribal court in South Dakota – a court far from where most of those consumers reside. We amended our complaint to address our concerns that this practice is deceptive and unfair to the case. We know that payday lending is an issue of deep concern to many of our state partners, and we work with them sharing information and strategies.

Like payday loan swindles, scams involving bogus mortgage assistance and other debt-relief proliferate during tough economic times. In the last few years, we've seen an avalanche of such shady operators, and the FTC and many of you have taken swift action to shut a good number of them down.

Unfortunately, there are always new debt relief cons popping up – the perfect embodiment of “déjà vu all over again”. One particularly pernicious debt relief scam involved the illegal robocaller “Rachel from Cardholder Services,” who has become the FTC’s public enemy number one.

Many of you are familiar with Rachel. You may have even received a call from her during which she promised a supposedly easy way to save money. While I’m sure none of you pressed a number to be connected to a live operator, those who did heard promises of significant reductions in their credit card interest rate – to as low as 6%, or even 0% – which would allow them to pay off their balances two or three times faster. Of course there was a catch – the promise of the low rate came at a cost of an illegal upfront fee as high as \$3,000. The consumers who paid found that promise as cold and empty as Yankee stadium on a December evening.

Late last year, the FTC, working together with our state partners in Arizona, Arkansas, and Florida, led a joint law enforcement action against these illegal and unwanted debt relief robocalls.⁹

In another example of our aggressive – and creative – efforts to combat illegal robocalling, last year, we announced a “Robocall Challenge,” and offered a \$50,000 prize to whoever came up with the most innovative way to block illegal robocalls on landlines and

⁷ See Press Release, FTC Action Halts Allegedly Illegal Tactics of Payday Lending Operation That Attempted to Garnish Consumers’ Paychecks (Sept. 12, 2012), available at <http://www.ftc.gov/opa/2011/09/payday.shtm>; and see Press Release, FTC Charges Payday Lending Scheme with Piling Inflated Fees on Borrowers and Making Unlawful Threats when Collecting (Apr. 2, 2012), available at <http://www.ftc.gov/opa/2012/04/amg.shtm>.

⁸ Federal Trade Commission Act, 15 U.S.C. §§ 41-58 (2006).

⁹ See Press Release, FTC Leads Joint Law Enforcement Effort Against Companies That Allegedly Made Deceptive “Cardholder Services” Robocalls (Nov. 1, 2012), available at <http://www.ftc.gov/opa/2012/11/robocalls.shtm>.

mobile phones. We had nearly 800 entries, and last month we announced two winners who will share the prize for their separate software.¹⁰ I am sure once these product are on the market, I won't be the only one standing in line to buy them.

And when I get to the head of that line, chances are – instead of whipping out cash or a credit card – I'll pay for my purchase with my phone. Mobile payments are the newest innovation in financial services to take off, and why not? Mobile payments offer lower transaction costs and convenience to both consumers and merchants, and enhanced access to the marketplace to low-income and under-banked communities.

At the FTC, we see it as our job to protect and inform consumers in this growing mobile marketplace, so it can continue to thrive. Earlier this year we issued a report that highlights three key issues facing consumers and companies as they adopt mobile payment services.¹¹

First, there are gaps and inconsistencies in protections if something goes wrong with a mobile payment. Consumers fund mobile purchases using a variety of sources, from credit cards to prepaid debit cards to charges placed on their mobile phone bills. Each of these funding methods has a different process for disputing unauthorized charges, with varying levels of consumer protection. This creates a potentially confusing landscape for consumers trying to decide which mobile payment system to use and how to fund these payments.

As Yogi Berra said: "If you don't know where you're going, you might end up some place else."

The second concern we identified in our mobile payments report is security. Mobile technology can provide greater safeguards than other forms of payment because of new fraud detection and mitigation tools. However, some providers may not implement these.

And the third concern is privacy, which, as many of you know, is near and dear to my heart. Mobile devices collect a rich profile of information about consumers – complete with accounts, geo-location, searches the consumer conducts, and now, with mobile payments, the consumers' purchases. There are serious questions about who is getting all of this data.

Our report encourages industry to develop more consistent protections for billing errors, to adopt strong measures to ensure security throughout the mobile payment process, and to hone in on how to address concerns about the collection and use of the rich data potentially available through mobile payment systems.

On the law enforcement side, the FTC, and many of you, have begun to focus on mobile cramming – in which third parties place unauthorized charges onto consumers' mobile phone

¹⁰ See Press Release, FTC Announces Robocall Challenge Winners (Apr. 2, 2013), *available at* <http://www.ftc.gov/opa/2013/04/robocall.shtm>.

¹¹ FED. TRADE COMM'N REPORT, PAPER, PLASTIC... OR MOBILE? AN FTC WORKSHOP ON MOBILE PAYMENTS (2013).

bills. We brought our first mobile cramming case two weeks ago,¹² and are investigating other operations. On May 8, the FTC will host a roundtable discussion on mobile cramming with consumer advocates, industry leaders, and government regulators.¹³

Yogi Berra described baseball as “ninety percent mental and the other half is physical.” If that’s the case, then, in the area of financial services, consumer protection is ninety percent consumer education, and the other half is everything else we do. The FTC has developed a multitude of award-winning consumer education brochures, videos and web pages for a wide variety of consumer audiences: students, parents and teachers, entrepreneurs, job hunters, homeowners, seniors, caregivers, military service members, and people with low literacy. I highly recommend them to you. And the best news of all is that you can co-brand them, steal their content, whatever you like. You can also customize our videos for your state and place them on your website. All of this is free, and I assure you I am not Rachel, and this is not a scam. We have information for you about the kinds of videos and other materials we offer. Take a sheet and then call us – we’ll be happy to get you started.

Consumers navigating the financial services market in these times of rapid technological innovation and rocky economic recovery need all the protection and education we can serve up. They are in a world in which they are “overwhelming underdogs,” as Yogi Berra called the 1969 Mets. But the FTC is committed – as are all of you – to helping consumers get the benefits of the increasingly online and mobile financial world without falling victim to the scammers and thieves who follow them there. And sometimes, with a good team on their side, even “overwhelming underdogs” win the World Series. Just ask the 1969 Mets.

¹² See Press Release, FTC Files Its First Case Against Mobile Phone "Cramming" (Apr. 17, 2013), available at <http://www.ftc.gov/opa/2013/04/wisemedia.shtm>.

¹³ See Press Release, FTC to Host Mobile Cramming Roundtable May 8 (Mar. 8, 2013), available at <http://www.ftc.gov/opa/2013/03/mobilecramming.shtm>.