

## FTC Open Commission Meeting - January 20th, 2022

Lina M. Khan:

Good afternoon. This meeting will come to order. We are meeting in open session today to consider items before the commission. As usual, we'll begin today by hearing from the public on any relevant items they wish to bring to our attention. I'll turn it over to Lindsay Kryzak to facilitate this portion of the meeting.

Lindsay Kryzak:

Thank you, Chair Khan. Before we begin, please note that the FTC is recording this event, which may be maintained, used, and disclosed to the extent authorized or required by applicable law, regulation or order. And it may be made available in whole or in part in the public record in accordance with the commission's rules. Each member of the public will be given two minutes today to address the commission. Our first speaker is Ingeeta Jatelperia. Ingeeta? Ingeeta, I think you're still on mute.

Ingeeta Jatelperia:

Unmute, right?

Lindsay Kryzak:

Yep. We can hear you. Thanks.

Ingeeta Jatelperia:

Can you hear me? I cannot hear you guys.

Lindsay Kryzak:

We can hear you. Go ahead. Thanks Ingeeta.

Ingeeta Jatelperia:

Hi, my name is Ingeeta Jatelperia and I'm a 7/11 franchisee. I'm here to talk about the new accounting system called ASI2 maintenance cost and gasoline price. Accounting and bookkeeping, 7/11 does all the accounting and we are supposed to maintain a minimum balance so we do not go below equity. If we do go below equity, the franchisee has to pay to 7/11. The new ASI2 two system is not capable to handle the accounting system. And so there are consistent errors such as bill backs from vendors, credit from promotion and vendors are not posted. Inconsistencies in recording daily sales and purchases. Inconsistency in retail and cost. All these leads to inventory variation and lost profit for franchisees. Even though on many occasions, SEI has agreed that new software is causing inaccuracies, they are scheduling quarterly audits, which will result in many franchisees losing their business.

Ingeeta Jatelperia:

It is impossible for a franchisee to prove themselves innocent. 7/11 does not share cost of theft or loss. Maintenance charges, 7/11 owns the equipment and franchisees leases from 7/11. 7/11 negotiates maintenance charges with the service provider on behalf of franchisees and franchisees pay maintenance charges accordingly. Any new equipment in under manufacturer warranty, but franchisee will still pay for maintenance charges from day one. There is a built in conflict of interest in this arrangement as 7/11 makes no capital investment in existing store while still has been actively acquiring

other companies such as Sunoco and Speedway. 7/11 totally controls and dictates gasoline prices and franchises have zero input. Every morning, 7/11 sends a new gas price and franchisees are required to change the prices immediately. Are forced or place a breach and termination of the franchise agreement. On many occasions, stores are priced way above the market and which recent acquisition of Speedway and Sunoco, 7/11 has a monopoly over gas prices in many areas. This is not good for the consumers and will drive gas prices higher.

Ingeeta Jatelperia:

Hope to get a chance to talk about the control they have from purchasing to selling a store in the next meeting. 7/11 is a huge corporation and affects millions of consumers. And for that reason, a financial audit should be conducted on this corporation.

Lindsay Kryzak:

Thank you Ingeeta. Our next speaker is KP Patel. KP?

KP Patel:

Good morning. My name is KP Patel. I'm a second generation hotelier here from Santa Cruz, California. Nearly two years ago, into the pandemic, many American small businesses continue to face challenges and disruptions on multiple fronts. The lodging industry was among the first to feel the economic fallout as people stopped traveling. And current forecast suggest that it will not fully recover until 2024 at the soonest. Unfortunately, any collaborative relationship between franchises and franchisees has become a thing of the past. Franchisers seem intent on returning to pre pandemic practices despite ongoing market disruptions that prevent franchisees from returning to pre pandemic levels of service.

KP Patel:

Hoteliers are concerned because their businesses cannot hire enough workers or get the supplies they need to operate and are being held to unrealistic standards and being unfairly penalized. Franchisers are doubling down on their anti-competitive business practice that cut into the owners' already thin profit margins, just so they can increase their profits through kickbacks. Owners are forced to buy more expensive products that do little to advance brand awareness and reputation or enhance customer service experience. These anti-competitive practices hurt franchisees, their employees and the consumer, all with the purpose of increasing the franchisers' profits. In September a petition was filed with the FTC, requesting it to investigate the franchise industry. Two hotel brands were listed and would be a representative of our industry. I asked to act on the request to use FTC's authority and move forward with a 6(b) study of the industry. Thank you.

Lindsay Kryzak:

Thank you, KP. Our next speaker is Rick Lane. Rick?

Rick Lane:

Thank you. My name is Rick Lane and I advise online child safety organizations. There are two critical online child safety issues that I would like to discuss. ICANN Stark Whois GDPR problem and the FinTech Child Privacy Protection gap. The FTC has long been a strong advocate within a ICANN's multi stakeholder process and in Congress for open and accurate Whois domain name registration data, information that is fundamental to protecting consumer privacy, promoting lawful commerce, ensuring public safety and protecting our national security. In 2018, registries and registrars like Verisign,

GoDaddy and Namecheap, increasingly began restricting access to Whois data based on an over application of the EU's GDPR. Yet, after almost five years of trying to fix the Whois problem, ICANN has failed, as was made abundantly clear in ICANN's Whois presentation earlier this week. The time has come for the FTC to work with Congress to immediately pass legislation to once again, make Whois information available for legitimate purposes. We can no longer put the ICANN multi-stakeholder process over the health, safety and cybersecurity of the American people.

Rick Lane:

No area of consumer protection is more important than establishing responsible policies to protect children in the marketplace. This is especially true in the area of market dominant digital payment apps and debit cards that target children and collect and exploit a shocking amount of their data. The privacy space between COPPA and Gramm-Leach-Bliley creates a FinTech child privacy protecting gap, an existing law where young consumers who are using digital financial payment apps or debit cards can have their purchase history sold to data brokers unless their parents have proactively opted out their child from the selling of such data. This gap is especially harmful as we move towards a cashless society, a trend accelerated by the pandemic. Children today are more frequently engaging in financial transactions with digital wallets and debit cards, both online and in stores. Unfortunately, some operators of financial applications targeting children may be exploiting this gap to use or sell the data of the kids they are currently courting for their services. Thank you.

Lindsay Kryzak:

Thank you, Rick. And thank you to today's speakers. Chair Khan?

Lina M. Khan:

Thanks so much Lindsay, and thanks to each of our public speakers for your remarks. So for today's meeting, we have a staff presentation on the agency's identity theft program and the resources that are available to consumers who have been affected by identity theft. Identity theft today is pervasive. In 2021, the agency received over 1.3 million reports of identity theft from consumers, double from 2019. Identity theft represents by far the largest category of consumer complaints received by the FTC, comprising 29% of all consumer complaints we received in 2020. Federal data showed that as many as 23 million Americans, or nearly one in 11 Americans aged 16 or older, have reported being victims to identity theft in the prior year leading up to the survey, accumulating financial losses of more than \$5 billion.

Lina M. Khan:

Data also suggests that Americans who have had their identity stolen often don't receive the relief that they need. A recent CFPB analysis showed that in 2021, consumers submitted nearly 700,000 and complaints regarding the three major credit bureaus to whom consumers are frequently reporting identity theft. And of those cases, the credit bureaus resolved less than 2% of covered cases. The COVID-19 pandemic has also created an environment rife for criminal actors to steal the consumer's identity and harm those already hit hardest by the pandemic, robbing Americans of desperately needed relief, including unemployment insurance, paycheck protection program loans, and other benefits. Of the 1.3 million identity theft reports received by the agency in 2020, close to 400,000 came from those whose identity was misused to apply for a government benefit, representing a remarkable nearly 3000% increase from 2019. This pervasive COVID fraud has prompted the Justice Department to establish the COVID 19 Fraud Enforcement Task Force and led the White House to launch the initiative on identity

theft prevention and public benefits, reflecting a whole of government effort toward combating identity theft.

Lina M. Khan:

In the 1998 Identity Theft In Assumption Deterrence Act, Congress charged the FTC with establishing the federal government's central repository for logging identity theft complaints, providing identity theft victims with informational resources and referring complaints to appropriate authorities, including the national credit reporting agencies or law enforcement agencies. In the more than 20 years since, the commission has created substantial consumer and business educational resources around identity theft, including establishing [IdentityTheft.gov](https://www.identitytheft.gov), which staff will be discussing in their presentation today.

Lina M. Khan:

The agency has also pursued enforcement actions to protect Americans from identity theft, bringing since 2002 over 80 cases against companies that have engaged in unfair or deceptive practices to inadequately protect consumer's personal data, practices that may facilitate identity theft. That includes a \$575 million settlement with Equifax over its failure to secure users' private information, a failure that enabled a massive data breach affecting 147 million Americans. It also includes a \$100 million settlement with LifeLock, the popular identity theft service over a violations of a previous FTC order requiring it to protect its own users.

Lina M. Khan:

As identity theft continues to grow and run rampant, the FTC continues to consider additional ways we can boost our work to protect Americans. At last month's open commission meeting, the commission voted to initiate a rulemaking aimed at combating impersonation fraud, in response to sharp spikes in the number of scammers impersonating businesses and government aid agencies in order to steal consumers' identities. This rule making serves as one of the most significant anti-fraud initiatives in decades, and could potentially allow the commission to seek stronger relief for harmed consumers. I encourage all interested members of the public to share their experience by filing comments in our docket.

Lina M. Khan:

Finally, on the heels of the commission's November policy statement, redoubling our commitment to referring the criminal conduct we uncover to the appropriate law enforcement agencies, the FTC is committed to collaborating with our partners to ensure that those responsible for identity theft are held responsible. I want to commend staff for their diligent effort to protect Americans from the pervasive threat of identity theft, particularly during the COVID-19 pandemic. Those efforts continue during Identity Theft Awareness Week, slated this year for January 31st through February 4th. During this week, the FTC and our federal nonprofit partners will host a series of virtual webinars and other events centered on identifying resources for consumers and staff will further expand on these efforts.

Lina M. Khan:

We're fortunate today to have Kelly Slaughter, an investigator from our Southwest Regional Office. Kelle is currently on detail as the identity theft program manager in the Bureau of Consumer Protection's Division of Privacy and Identity Protection. I've been so impressed by the role that investigators play in our work and am so excited to have Kelle here with us to present. Kelle will share background on the

FTC's identity theft program, the recent trends that consumers have reported, the resources available to consumers, as well as our upcoming initiatives on identity theft. So Kelle, I will turn it over to you.

Kelle Slaughter:

Thank you, Chair Khan and Commissioners Phillips, Slaughter and Wilson. I appreciate the opportunity to talk to you today about some of our work to help people to avoid and recover from identity theft. As you know, identity theft happens when a thief uses someone's personal or financial information without their permission. That means thieves may be illegally borrowing money or getting credit in someone else's name. It costs time and money to fix these problems, not to mention the emotional toll that identity theft can take. To address the issue, the Federal Trade Commission [inaudible] set of resources to empower people to spot, avoid, and report identity theft. IdentityTheft.gov is the cornerstone of these resources and has taken in more than 4.3 million reports since its inception in January, 2016. Together, the Divisions of Consumer and Business Education, Consumer Response and Operations, and Privacy and Identity Protection created the site in response to an executive order from President Barack Obama. In fact, that team was a finalist for a 2017 Service to America medal. Next slide please.

Kelle Slaughter:

So what are reports to FTC telling us? In 2021, the FTC received 1.3 million identity theft reports for the year, compared to nearly 1.4 million identity theft reports in 2020. As you can see, the numbers are holding relatively, and this is a consistently large problem for people in the US. Next slide, please.

Kelle Slaughter:

Here's how the reports are broken down over the last year. This is a very typical year for the distribution of reports with credit card fraud in the top position at 25% of the reports. You can see government benefits fraud at 17% in 2021. This marks a significant change from 2020 when data showed that government benefits fraud spiked to 25% of identity thefts reported to the FTC. That surge had a great deal to do with imposters filing false unemployment benefits claims using stolen identities. It peaked in 2020 as scammers set their sites on the billions of dollars in federal funds meant to help people in financial distress. Next slide please.

Kelle Slaughter:

An even more interesting picture emerges when we look at reports by age. This chart shows that identity theft is universal, but also affects each generation differently. There's often a focus on older adults as targets of fraud and identity theft. But here, you can see that folks of all ages are affected, not just older people. And our outreach efforts are designed with that in mind, reaching people across the spectrum to help empower them to spot, avoid and report identity theft. Next slide please.

Kelle Slaughter:

As I mentioned earlier, IdentityTheft.gov was designed to change the way people report and recover from identity theft. This interactive site is based on the idea that recovering from identity theft is easier with a plan. And in a nutshell, that's what IdentityTheft.gov does. It gives people a plan with a step by step guidance to recover from identity theft. It is easy for people to report. They simply click get started and follow the prompts to enter details of how their identity was stolen or misused. The site then uses the information to create customized tools each person needs to recover. Next slide please.

Kelle Slaughter:

IdentityTheft.gov, available both in English and Spanish, is the government's one stop shop and offers recovery plans for more than 30 types of identity theft. When people turn to IdentityTheft.gov for help, their individual recovery plan streamlines, what was once a fusing complex process. Of course, it's still work, but people now have a playbook to guide them. IdentityTheft.gov also streamlines the reporting process in another important way. Because of a joint initiative between the FTC and the IRS, people can use IdentityTheft.gov to report tax identity theft directly to the IRS. In fact, it is the only way for people to file an IRS identity theft affidavit online. And more importantly, it speeds the process for the IRS to start resolving tax identity theft cases. Next slide please.

Kelle Slaughter:

IdentityTheft.gov also gives people another important piece to their recovery, an identity theft report. People can use this one statement instead of a police report in most cases, and can send it to credit bureaus to prove identity theft. These reports are also made available to law enforcement nationwide through Consumer Sentinel Network. Next slide, please.

Kelle Slaughter:

Even after someone has their identity theft report, this site still has more to offer. People can create an account to track their progress navigating through recovery. Their personalized recovery plan comes with a checklist and follow up reminders, as well as prefilled letters and forms they'll need to file. We encourage anyone who gets a free account to keep checking back to use all of the resources available, including updating their report with new information as they uncover it. Since it's launch, people have created more than 2.9 million IdentityTheft.gov accounts, which is about 67% of all reports. Next slide, please.

Kelle Slaughter:

Finally, one of the great strengths of FTC's identity theft program is the network of partnerships we've built. We've partnered with law enforcement, legal services organizations, and other community based organizations to get the word out, drive reporting, and resolve problems that have come up. For example, we partnered with the Department of Labor on identity theft related to unemployment benefits as those reports began to climb. Together, we evaluated the trend, developed and distributed consumer education, and established a recovery process to address the growing concern. In addition, the identity theft team, with important input from the Division of Financial Practices, also partnered with the Small Business Administration to create and distribute guidance for small business owners. In this case, it was related to scams around the paycheck protection program and other SBA pandemic related loans.

Kelle Slaughter:

We also leverage partnerships with large and small community based organizations, such as AARP and the identity Theft Resource Center. These kinds of organizations help us to get the word out about identity theft and guide people to IdentityTheft.gov when it's needed. In fact, both AARP and ITRC are partners in the upcoming Identity Theft Awareness Week, which runs from January 31st through February 4th this year. We'll be hosting a series of events to discuss how to spot, avoid and recover from identity theft. We even have an early bird webinar on January 25th, featuring experts from the FTC and the Department of Veterans Affairs, talking about identity theft and privacy concerns that affect veterans and their families. Next slide, please.

Kelle Slaughter:

We hope everyone watching this meeting today will join the FTC for this year's Identity Theft Awareness Week with events including even more webinars, podcasts and Twitter chats. Find the full listing and more ways to join us at [FTC.gov/idtheftweek](https://www.ftc.gov/idtheftweek).

Kelle Slaughter:

In closing, I want to thank you, Chair Khan, and Commissioners Phillips, Slaughter and Wilson for the opportunity to share the work of BCP's identity theft program and the team that makes it all happen.

Lina M. Khan:

Thanks so much Kelle for that very useful presentation and for your ongoing contributions to our ID theft program. I'd also like to thank Karen Hobbs, Seena Gressin and June Chang from the Bureau of Consumer Protection's Division of Consumer and Business Education and Maria Mayo, Amy [Jokan] and Paul Witt from the Division of Consumer Response and Operation for your terrific work and contributions. I'll now open the floor to my fellow commissioners to share their thoughts and insights, starting with Commissioner Phillips.

Noah Joshua Phillips:

Thank you, Madam Chair. And thanks Kelle for that great presentation. I thought it did a great job highlighting, among many other great things, well, one not so great, that millions of Americans are affected by identity theft and fraud, but also that the FTC has a really consumer friendly resource that people can go to, where they can register their complaints and get guidance on how themselves to respond. There's important work that we do, but there's also really important work that they do. I'll echo the chair in thanking not only you, but Amy, Seena, and June, also Paul Whit, Karen, Maria and Jennifer Leach for all of the excellent work that all of you do to educate consumers about identity theft. Our websites [FTC.gov](https://www.ftc.gov), and [IdentityTheft.gov](https://www.IdentityTheft.gov) have resources to help consumers to protect themselves from identity theft and to provide guidance on what steps they can take.

Noah Joshua Phillips:

This is our seventh open meeting, and I really enjoyed the opportunity to hear from members of the public. I'm impressed by the level of public engagement, given that we only provide about a week's notice. I support giving more notice in the hopes that we get more input from the public going forward. But thanks again to the chair and the staff and my colleagues.

Lina M. Khan:

Thanks Commissioner Phillips. Commissioner Slaughter?

Rebecca Kelly Slaughter:

Thank you, Madam Chair. Excuse me. And I want to echo both yours and Commissioner Phillips' thanks to the staff, especially Kelle for that great presentation. I don't have a lot to add, but I will share this anecdote because I think people often feel like identity theft either happens to someone else or it's something that's really embarrassing when it happens to you. I spent some time over the holiday this year counseling a close friend, whose very smart, very responsible mother fell victim to a utility scam. And even though she had that spidey sense that something was off, she still gave out her information. And then after the fact, went and said, "Oh no, what do I do now?" And I actually was able to point her

to our website and all the different steps that she could take to come up with a recovery plan for herself.

Rebecca Kelly Slaughter:

But I think it's an important thing to realize that this is something that, as Kelle's slides well indicated, happens to everybody. We want to keep it from happening. And a lot of the work that Kelly and the rest of the team are doing is important to do that, but when it does happen, we want to be able to help people solve the problem that they have. So I really appreciate you highlighting those resources, Kelle, and I look forward to continuing to work with you and the other folks on the team. I'll echo the thanks to Karen and Seena, June, Jennifer, Maria, Amy, and Paul for all their hard work and looking forward to building on this work moving forward.

Lina M. Khan:

Thanks so much, Commissioner Slaughter. Commissioner Wilson?

Christine Wilson:

Thank you so much, Chair Khan for recognizing FTC staff's longstanding efforts to protect consumers from identity theft, your remarks and today's presentation highlight the incredible work of our employees who have helped countless consumers over the course of at least two decades to navigate harms related to identity theft. Our identity theft program also provides yet another example of how this small agency, with its limited budget, contributes in very meaningful ways to the protection of consumers in America on a daily basis. I would like to echo my fellow commissioners in thanks to Kelle, both for today's presentation and for her excellent work as the FTC's identity theft program manager. Thanks also to Amy, Seena, and Paul for their work on this issue. And I'd like to extend my gratitude to managers Maria, Karen, and Jennifer for their leadership in this space.

Christine Wilson:

Identity theft is a harmful practice that too many American face, but our dedicated staff will continue their important work in partnership with a network of government and private sector organizations to reduce the impact of identity theft on consumers. I applaud leadership of Chair Khan for following and the bipartisan footsteps of her predecessors, including Chairman Pitofsky, Muris and Majoras. I would like to close by congratulating Chair Khan on the smooth rollout of the request for information on the merger guidelines. I look forward to reviewing the responses that our stakeholders provide. Thank you.

Lina M. Khan:

Thanks so much Commissioner Wilson. And I want to thank again, the members of the public and my fellow commissioners for their comments. This concludes the official agency business of the commission and this meeting is now adjourned. Hope everybody has a good rest of your day.