

Serving Communities of Color

A Staff Report on the Federal Trade Commission's
Efforts to Address Fraud and Consumer Issues
Affecting Communities of Color



Federal Trade Commission

October 2021



Serving Communities of Color

A Staff Report on the Federal Trade Commission's Efforts to Address Fraud and Consumer Issues Affecting Communities of Color

October 2021



FEDERAL TRADE COMMISSION

Acknowledgements

The primary drafters of this staff report are Joannie Wei, Midwest Region, Rosario Méndez, Division of Consumer and Business Education, and Kati Daffan, Patti Poss, and Rhonda Perkins, Division of Marketing Practices. This staff report reflects the work of staff throughout the Federal Trade Commission’s Bureau of Consumer Protection and its Regional Offices, as well as that of Dr. Devesh Raval, an Economist in the Bureau of Economics. Much of the work stems from the FTC’s Every Community Initiative, which currently includes the following members:

Heather Allen	Kate Moody
Faye Chen Barnouw	Kerry O’Brien
Margaret Burgess	Rhonda Perkins
Nick Coates	Patti Poss
Kristin Cohen	Lisa Rothfarb
Kati Daffan	Dan Salsburg
Maria Del Monaco	Matt Schiltz
Ami Dziekan	Maricela Segura
Robin Eichen	Gideon Sinasohn
Emma Fletcher	Bridget Small
Luis Gallegos	Annette Soberats
Seena Gressin	Laura Solis
Carolyn Hann	Claire Stewart
Karen Hobbs	Monica Vaca
Eddie Hynes	Delilah Vinzon
Adrienne Jenkins	Joannie Wei
Tara Koslov	Robin Wetherill
Ari Lazarus	Devin Willis
Jennifer Leach	Erika Wodinsky
Amber Lee	Nicole Worley
Karen Mandel	Emily Wu
Rosario Méndez	

The views expressed in this report are those of the authors and do not necessarily reflect the views of the Commission or any individual Commissioner.



Table of Contents

Acknowledgements	i
Executive Summary	1
I. Introduction	4
II. Law Enforcement Affecting Communities of Color	6
A. Automobile Buying Issues.....	7
B. For-Profit School Advertising	10
C. Student Loan Debt Relief	11
D. Marketing Prepaid Cards	12
E. Government Impersonators	12
F. Marketing for Inmate Services	14
G. Deceptive and Unsubstantiated Advertising Claims	15
H. Jobs and Money-Making Opportunities	16
I. Credit, Background Checks, and Access to Housing	20
J. Payday Loans and Debt Collection.....	21
III. Outreach and Education Initiatives to Communities of Color	23
A. Listening to Communities	23
B. Engaging Ethnic and Community Media	25
C. Connecting with Trusted Partners	27
D. Educating Through Storytelling	29
E. Serving Communities in Various Languages	30
F. Responding to the COVID-19 Pandemic	31
G. Making Reporting Channels More Accessible.....	34



IV. FTC Workshops and Industry Studies.....	35
A. Workshops.....	35
B. Industry Studies.....	38
C. Advocacy Work Related to the Equal Credit Opportunity Act.....	39
V. Research Relating to Communities of Color.....	40
A. Differences in the Prevalence of Fraud.....	40
B. Disparities in Consumer Reporting of Marketing Practices.....	41
1. Rates of Reporting.....	41
2. Types of Reports.....	43
3. Payment Methods Reported.....	45
C. Disparities in FTC Cases.....	46
VI. Looking Forward.....	47
Appendix A.....	50



Executive Summary

The Federal Trade Commission’s core mission is to protect all consumers from unfair and deceptive practices in the marketplace. What has become abundantly clear based on research and experience is that fraud, as well as certain other business practices, have a disproportionately negative impact on communities of color, as compared to White communities. The COVID-19 pandemic has only further exposed and exacerbated these disparities.

The FTC’s Every Community Initiative, created in 2014, has served to modernize and expand the agency’s work and to develop a strategic plan for addressing disparities and other issues affecting communities of color. In June 2016, the Federal Trade Commission issued the congressionally mandated report, *Combating Fraud in African American & Latino Communities: The FTC’s Comprehensive Strategic Plan* (hereinafter “2016 Report”), which detailed the agency’s strategy to reduce fraud in Black and Latino communities, summarizing the FTC’s relevant law enforcement work as well as its targeted consumer outreach and education initiatives.

During the five years since the issuance of the 2016 Report, the FTC has made extensive strides in addressing fraud in Black and Latino communities. It has also expanded its efforts to include other communities of color such as Asian American and Native American communities, and other non-fraud related consumer issues that also disproportionately affect communities of color. This report provides an update on the FTC’s progress, with a focus on law enforcement, outreach, engagement, and research.

The FTC engages in **aggressive law enforcement** to protect people in all communities across the country. Since 2016, the FTC has brought more than 25 actions where the agency could identify that the conduct either specifically targeted or disproportionately impacted communities of color. Case examples came from many areas that the FTC regulates.

- **Auto buying** cases, for example, involved defendants who allegedly: discriminated – blatantly so – against Black and Latino car buyers; falsified information on the applications and contracts of Navajo people; and targeted the Latino community with deceptive ads in Spanish.
- **For-profit colleges** allegedly targeted Latinos – along with military consumers – with ads and lead generation that created false impressions about those colleges and possible job opportunities. And still more defendants allegedly targeted Spanish speakers with false promises of student loan forgiveness – and illegal upfront fees. Case data for several other **student loan debt relief** cases also showed a significant, disproportionate impact on Black communities.
- Scammers often gain credibility by posing as someone official. For example, one defendant marketed **prepaid cards** to Black and Latino customers, allegedly saying their cards were like Visa or MasterCard – when, really, people either could not use the cards or lost all the money they loaded on them. Defendants who allegedly **pretended to be the government** – or affiliated



with it – marketed bogus immigration form preparation services and language courses to Spanish speakers.

- According to the FTC, marketers capitalized on health concerns during the pandemic to push unproven products and services claimed to prevent, treat, or cure COVID-19, including products advertised to Spanish-, Korean-, and Vietnamese-speaking communities.
- Scammers also take advantage of people’s entrepreneurial spirit and their need to earn a living. So-called **business “opportunities” and pyramid schemes** allegedly made false promises about earning potential, either targeting the Latino community directly or with conduct that had a disproportionate impact on communities of color.
- Law violations related to debt, credit, and credit reporting can also disproportionately affect communities of color. Those include payday lending, credit and consumer reporting accuracy, tenant screening, and housing – all of which are areas where the FTC has brought numerous enforcement actions over the past five years.

Outreach is an integral part of the FTC’s work to protect consumers in all communities. The FTC has grown its **outreach efforts to reach communities of color** by listening to and working with trusted sources in those communities to deliver consumer protection messages in an effective way. The FTC has:

- **Convened community partners, government agencies, and other stakeholders** across the country, **including ethnic media**, to build and strengthen partnerships, learn about consumer protection issues communities are facing across the country, and encourage networking and further collaboration among the partners and with the FTC.
- **Worked with national groups** like the NAACP, the Legal Services Corporation, and the National Association of Consumer Advocates, among others, to reach communities of color, **but also with local organizations** like faith-based groups, housing organizations, libraries, Tribal governments, and others across the country, including Puerto Rico.
- **Created consumer education materials in multiple formats and languages**, including Spanish, Chinese, Korean, Tagalog, and Russian, among others, and worked with partners to get these resources into the hands of people that need information in their language.
- **Responded quickly to the impact of the COVID-19 pandemic** by creating educational materials in multiple formats and languages to alert people to scams and offer helpful information to those affected financially by the national emergency.

The FTC also has conducted numerous **workshops and industry studies** to explore consumer protection issues across a variety of topics, many of which impact communities of color. These workshops covered changing consumer demographics; restrictions imposed by manufacturers on the



reparability of products; accuracy in consumer reporting; digital “dark patterns;” how social media and video streaming services collect, use, and present data; and how broadband companies collect, use, and disclose information. The FTC also has engaged in **advocacy work** related to the Equal Credit Opportunity Act (“ECOA”) to protect communities of color in credit transactions. In addition, the FTC has issued business guidance to highlight that the use of racially-biased algorithms could be an unfair practice under the FTC Act.

The FTC has updated **research related to communities of color** that further informs the FTC’s work to protect consumers. New analysis of the consumer reports in the FTC’s Consumer Sentinel Network shows disparities in the reporting rates from Black, Latino, and White communities.

- Communities with **different demographic populations filed reports at different rates** – predominantly Black communities filed consumer reports at a higher rate than predominantly White or Latino communities.
- Communities with different demographic populations reported **different types of concerns at different rates**.
 - People living in majority Black communities filed higher percentages of reports than majority White communities related to credit bureaus, banks and lenders, used auto issues, and debt collection.
 - People living in majority Latino communities filed higher percentages of reports than majority White communities about credit bureaus, banks and lenders, debt collection, auto issues, and business opportunities.
- Analysis of **reports filed by different demographic populations has shown differences in the payment method used by those communities**. People living in majority Black and Latino communities filed a higher percentage of reports that included paying with debit cards, cash, crypto currency, and money orders – payment methods with fewer fraud protections – than majority White communities. In contrast, people living in majority Black and Latino communities filed a lower percentage of reports involving payment by credit card – a payment method with more fraud protection – than majority White communities.
- Analysis of **data from some FTC cases has revealed disparities in the communities that were impacted by fraud and other consumer issues**. In cases involving payday loan applications, student debt relief programs, and certain business opportunities, the largest number of affected consumers resided in predominantly Black communities.

Despite the agency’s efforts, there is much work left to do. The FTC will continue to prioritize this work and dedicate the resources necessary in this area, including by expanding the FTC’s efforts related to surveillance, algorithmic bias, and other emerging issues that may disproportionately affect communities of color.



I. Introduction

The FTC’s consumer protection mission is to protect people from all corners of the country from unfair and deceptive business practices. The FTC has always worked for all consumers, but research and experience make clear that fraud and other unlawful practices can target, or have a disproportionate negative impact on, communities of color. Fulfilling the agency’s mission requires an understanding of the ways such communities are affected, and a comprehensive plan to meet the needs of the diverse U.S. population.

In 2014, as the FTC celebrated its centennial anniversary and assessed its readiness to meet the challenges of the future, it launched the Every Community Initiative to modernize, expand, and bring together under a cohesive strategic vision the agency’s work to address the disproportionate impact of fraud and other practices on communities of color. The FTC has assessed these issues and developed more sophisticated strategies to combat consumer problems for these communities, with a focus on law enforcement, outreach and education, and research to accomplish its goals.¹

The Every Community Initiative focuses on a number of communities and population segments, including Black Americans, Latinos, Asian Americans, Native Americans, older adults, lower-income communities, veterans and service members, immigrant groups, students, women, LGBTQ+ people, the disability community, minority-owned small businesses, rural communities, children in foster care, incarcerated and re-entry populations, and others. As one key example, the Initiative collaborates with legal services providers on consumer protection issues facing low-income consumers, connecting them with FTC resources and helping the FTC learn about the issues affecting their clients.

In June 2016, the FTC issued a congressionally mandated report, *Combating Fraud in African American & Latino Communities: The FTC’s Comprehensive Strategic Plan* (hereinafter “2016 Report”).² The report summarized the FTC’s work to protect consumers in these communities, including descriptions of relevant law enforcement and outreach efforts. As discussed in Section II, the report recognized that fraud can disproportionately affect Black³ and Latino communities. The report laid out a comprehensive strategy to reduce fraud in these communities – a strategy grounded in prevention, law enforcement, and consumer outreach and education. The report included, among other things, key recommendations to:

¹ The Every Community Initiative team consists of staff throughout the Bureau of Consumer Protection and the Regional offices, with the Bureau of Economics contributing heavily to the research work. A representative of the Bureau of Competition has recently joined the Initiative.

² The full report can be found at <https://www.ftc.gov/system/files/documents/reports/combating-fraud-african-american-latino-communities-ftcs-comprehensive-strategic-plan-federal-trade/160615fraudreport.pdf>.

³ The 2016 congressional report used the term “African American” but this update will use the term “Black” to more accurately refer to the intended community in its entirety. *See, e.g.*, National Association of Black Journalists Style Guide (June 2020), available at <https://www.nabj.org/page/styleguide> (“Not all black people are African Americans (if they were born outside of the United States). . . . In a story in which race is relevant and there is no stated preference for an individual or individuals, use black because it is an accurate description of race.”). This report also uses the term “Latino” rather than “Hispanic,” although many of the research, reports, and cases referenced may use the term Hispanic.



- Continue to bring law enforcement actions that shut down frauds affecting Black and Latino communities;
- Maximize the availability and accessibility of the FTC’s education materials to Black and Latino communities, including making materials widely available in both English and Spanish;
- Expand the FTC’s efforts to work with state, local, and community partners and diverse media outlets to share FTC education information with Black and Latino communities; and
- Conduct additional research to identify and target frauds affecting Black and Latino communities.

The FTC has made extensive efforts to reach those goals. The FTC has brought numerous cases that have a direct or indirect impact on communities of color; created additional education materials and campaigns to reach a broader audience; organized or participated in hundreds of outreach events to reach these communities, which has resulted in more partnerships with trusted community advocates; and conducted research and held workshops and listening sessions to better understand disparities in the marketplace for people from different communities. In addition, since the start of the pandemic, the FTC has made it a top priority to combat the negative effects of the COVID-19 pandemic on consumers.⁴

The pandemic has had a disproportionate impact on communities of color, exacerbating health and financial stressors. Scammers prey on people’s fears about cures and treatments, as well as their financial struggles.⁵ Moreover, research shows that Black,⁶ Latino, and Native American⁷ households have been disproportionately impacted by the coronavirus pandemic, both in terms of illness and death from the virus, and other serious issues like problems with financial security, jobs, health care, housing, transportation, caregiving, and well-being.⁸ The majority of these households report “serious financial problems,” with issues ranging from “depleting their savings to serious problems paying for food and rent.”⁹ These households also face problems with internet connectivity, which can impact employment and schoolwork.¹⁰ Reports show that the Latino community, in particular, has faced large losses in

⁴ See generally, FTC Staff Report, *Protecting Consumers During the COVID-19 Pandemic: A Year in Review* (Apr. 2021), available at https://www.ftc.gov/system/files/documents/reports/protecting-consumers-during-covid-19-pandemic-year-review/covid_staff_report_final_419_0.pdf (hereinafter “FTC COVID-19 Report”).

⁵ See, e.g., FTC Consumer Alert, *Coronavirus: Scammers follow the headlines* (Feb. 10, 2020), available at <https://www.consumer.ftc.gov/blog/2020/02/coronavirus-scammers-follow-headlines>.

⁶ NIH, *The Disproportional Impact of COVID-19 on African Americans* (Dec. 2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7762908/>.

⁷ University of Boston, the COVID Racial Data Tracker, *COVID is affecting Black, Indigenous, Latinx, and other people of color the most* (Mar. 2021), available at <https://covidtracking.com/race>.

⁸ NPR et al., *The Impact of Coronavirus on Households, by Race/Ethnicity* at 1 (Sept. 2020), available at <https://drive.google.com/file/d/1XoV6pqzvtg4E9YQeLRTvHaWAIN-s830/view>.

⁹ *Id.* at 2.

¹⁰ *Id.*



employment, due perhaps to the impact of the pandemic on the service industry.¹¹ Growing evidence shows a disproportionate impact on Asian Americans as well, as compared to their White¹² peers, in many of these same categories.¹³ These disparities mean that scams and other harmful practices perpetrated on communities of color can have an outsized impact on people who are already suffering some of the worst effects of a global crisis.

The FTC recognizes that continuing to tackle these many issues will require strategic and creative use of its resources, and the agency is committed to this work. This report provides an update about the FTC’s efforts since the 2016 Report and includes a broader view of the types of consumer issues under the FTC’s jurisdiction – beyond fraud and scams. Finally, the report concludes with a roadmap for action and recommendations going forward.¹⁴

II. Law Enforcement Affecting Communities of Color

Aggressive law enforcement is a key component of the FTC’s efforts to protect communities of color.¹⁵ Most FTC cases involve schemes affecting a wide range of communities. In some cases, the population affected by a case is obvious, such as when the defendant advertised in Spanish. Identifying

¹¹ *Latinos Face Disproportionate Health and Economic Impacts From COVID-19*, Center for American Progress (Mar. 2021), available at <https://www.americanprogress.org/issues/economy/reports/2021/03/05/496733/latinos-face-disproportionate-health-economic-impacts-covid-19/>.

¹² The FTC will capitalize “white” in this report when referring to race and ethnicity. This conforms with the recommendation of the National Association of Black Journalist’s (“NABJ”) Style Guide, see *NABJ Statement on Capitalizing Black and Other Racial Identifiers* (June 2020), available at <https://www.nabj.org/page/styleguide>, as well as the guidance from numerous other organizations. See, e.g., The Diversity Style Guide, available at <https://www.diversitystyleguide.com/>; Ann Thuy Nguyen et al., *Recognizing Race in Language: Why We Capitalize “Black” and “White,”* Center for the Study of Social Policy (Mar. 23, 2020), available at <https://cssp.org/2020/03/recognizing-race-in-language-why-we-capitalize-black-and-white/>; see Kristen Mack et al., *Capitalizing Black and White: Grammatical Justice and Equity*, MacArthur Foundation (Aug. 26, 2020), available at <https://www.macfound.org/press/perspectives/capitalizing-black-and-white-grammatical-justice-and-equity>; Kwame Anthony Appiah, *The Case for Capitalizing the B in Black*, The Atlantic (June 18, 2020), available at <https://www.theatlantic.com/ideas/archive/2020/06/time-to-capitalize-blackand-white/613159/>; WashPost PR Blog, *The Washington Post announces writing style changes for racial and ethnic identifiers* (July 29, 2020), available at <https://www.washingtonpost.com/pr/2020/07/29/washington-post-announces-writing-style-changes-racial-ethnic-identifiers/>.

¹³ Matthew K. Chin et al., *Asian American Subgroups and the COVID-19 Experience: What We Know and Still Don’t Know*, Health Affairs Blog (May 24, 2021), available at <https://www.healthaffairs.org/doi/10.1377/hblog20210519.651079/full/>.

¹⁴ This work supports the agency’s broader work to implement the *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (Jan. 20, 2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

¹⁵ When staff identifies unfair or deceptive acts or practices that harm consumers, or violations of rules promulgated by the FTC, the FTC often sues the actors in federal district court seeking injunctive and monetary relief, though the ability to obtain monetary relief pursuant to Section 13(b) of the FTC Act was recently limited by the Supreme Court in *AMG Capital Mgmt., LLC v. FTC*, 141 S.Ct. 1341 (Apr. 2021). The agency also can bring cases through the administrative process. In some circumstances, the DOJ files cases on the FTC’s behalf for rule violations or to secure civil penalties for violations of FTC administrative orders.



cases affecting certain communities of color, when the marketing language is in English, is more difficult. Deliberate efforts are necessary to ensure the FTC’s law enforcement efforts are responsive to the needs of diverse communities the agency serves in this country. To this end, the FTC has developed targeting and tracking tools to help identify potential case leads. These efforts, combined with the research and community engagement described in this report, have resulted in the filing of a variety of enforcement actions affecting communities of color. Below is a summary of more than 25 FTC enforcement actions since June 2016 that directly or indirectly combatted practices harmful to communities of color.

A. Automobile Buying Issues

For many consumers, buying a car is one of the most expensive purchases they make – and one of the most essential. The FTC has brought numerous cases alleging deceptive practices in the sale of cars.¹⁶ Research indicates that consumers of color experience discrimination in the sale and financing of cars, and often pay higher prices as a result.¹⁷ As described more fully below, FTC cases have challenged discrimination, unfair practices, and deception in the sale of cars to specific demographic communities.

FTC cases have challenged discrimination, unfair practices, and deception in the sale of cars to specific demographic communities.

In *Bronx Honda*,¹⁸ the FTC alleged that the company and its general manager discriminated against Black and Latino car buyers. The defendants were accused of violating the ECOA when arranging financing for customers by charging the average Black and Latino borrowers about \$163 and \$211 more in interest, respectively, than similarly situated non-Latino White borrowers. The defendants allegedly told employees that these groups should be targeted due to their limited education, and not to try the same practices with non-Latino White customers. The FTC also alleged that Bronx Honda advertised vehicles for sale at a specific price but failed to honor those prices, targeting those ads to

¹⁶ See, e.g., *In the Matter of CarMax, Inc.*, No. C-4605 (FTC filed Mar. 22, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3202/carmax-inc-matter>; *In the Matter of Asbury Automotive Group, Inc.*, No. C-4606 (FTC filed Mar. 22, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3103/asbury-automotive-group-inc-matter-0>; *In the Matter of West-Herr Automotive Group, Inc.*, No. C-4607 (FTC filed Mar. 22, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3105/west-herr-automotive-group-inc-matter-0>; *FTC v. Norm Reeves, Inc.*, No. 8:17-cv-01942 (C.D. Cal. filed Nov. 3, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/c-4436/norm-reeves>; *In the Matter of Traffic Jam Events, LLC*, No. 9395 (FTC filed Aug. 7, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/x200041-2023127/traffic-jam-events-llc-matter>.

¹⁷ John W. Van Alst, *Time to Stop Racing Cars: The Role of Race and Ethnicity in Buying and Using a Car*, National Consumer Law Center (Apr. 2019), available at https://www.nclc.org/images/pdf/car_sales/report-time-to-stop-racing-cars-april2019.pdf; see also Lisa Rice & Erich Schwartz Jr., *Discrimination When Buying a Car: How The Color of Your Skin Can Affect Your Car-Shopping Experience*, National Fair Housing Alliance (Jan. 2018), available at <https://nationalfairhousing.org/wp-content/uploads/2018/01/Discrimination-When-Buying-a-Car-FINAL-1-11-2018.pdf>.

¹⁸ *FTC v. Liberty Chevrolet*, No. 1:20-cv-03945 (S.D.N.Y. filed May 21, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/162-3238/bronx-honda>.



predominantly Black or Latino neighborhoods. To settle these and other alleged violations, the defendants paid \$1.5 million, which was returned to consumers as redress.

In *Tate's Auto*,¹⁹ the FTC alleged that a group of four auto dealerships and their owner falsified consumers' income on vehicle financing applications, falsified consumers' down payment information on financing applications and contracts, and disseminated deceptive ads offering vehicles for sale, financing, and lease. Many of Tate's Auto's customers were citizens of the Navajo Nation, and Tate's Auto frequently ran radio and print ads in Navajo media. The FTC settled with the auto dealerships in August 2020, requiring them to cease operations and obtaining a suspended monetary judgment²⁰ of \$7,203,227. In July 2021, the FTC settled with the individual defendant, prohibiting him from making misrepresentations and falsifying financial information in connection with selling vehicles, and obtaining \$450,000 for consumer redress.

The FTC has brought actions against other auto dealers alleged to have engaged in deceptive advertising, including Spanish-language advertising. In *Sage Auto Group*,²¹ the FTC alleged the defendants made enticing claims about key terms – such as the sales price, monthly payment amount, and down payment amount – in Spanish, and other languages, but hid additional material terms in English. The FTC further alleged that the defendants subjected consumers, particularly non-English speakers and individuals with poor credit, to deceptive, misleading, and unfair practices when offering add-on products and services or when arranging financing. To settle the FTC's charges, the defendants paid \$3.6 million to return to consumers.

An analysis of the full list of consumers contacted for redress²² in this case by Dr. Devesh Raval, an economist in the FTC's Bureau of Economics, showed that consumers affected were 539% more likely to live in a majority Latino zip code compared to the general population.

An analysis of the full list of consumers contacted for redress in this case . . . showed that consumers affected were 539% more likely to live in a majority Latino zip code compared to the general population.

In *Cowboy Toyota*,²³ the FTC alleged that an auto dealer placed illegal Spanish-language ads in a Spanish-language newspaper. These ads, said the FTC, prominently touted the availability of deals for

¹⁹ *FTC v. Tate's Auto Ctr.*, No. 3:18-cv-08176 (D. Ariz. filed July 31, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/162-3207/tates-auto-center>.

²⁰ Due to the bankruptcy of the auto dealerships, the FTC's judgment is for general unsecured claims against the dealerships in their bankruptcy proceedings. The settlement order prohibits the bankruptcy trustee from challenging the FTC's claims, which are deemed allowed in the individual bankruptcy proceedings.

²¹ *FTC v. Universal City Nissan, Inc.*, No. 2:16-cv-07329 (C.D. Cal. filed Sept. 29, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3008/universal-city-nissan-inc-et-al>.

²² During the course of an investigation or litigation, the FTC may gain access to the list of consumers who purchased a defendant's goods or services, *i.e.*, the "customer database." In cases where the FTC is able to refund money to consumers, this database often is a valuable tool in locating consumers.

²³ *In the Matter of Cowboy AG LLC*, No. 1723009 (FTC filed Jan. 4, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3009/cowboy-ag-llc-matter>.



consumers with bad credit, but included fine print disclaimers written in English that contradicted the prominent claims. The defendant dealer agreed to a settlement order that, among other things, prohibits future misrepresentations regarding cost and availability of vehicles, requires accurate representations of any qualifications or restrictions on a consumer’s ability to obtain offered financing or leasing terms, and requires clear and conspicuous disclosure of all financing and leasing terms in advertisements. The order also required the disclosures to be made in the same language the representations are made — a standard requirement of FTC orders.

Advertisement from *Cowboy Toyota* Complaint and Corresponding Fine Print Disclaimer²⁴



In *Southwest Kia*,²⁵ the U.S. Department of Justice (“DOJ”), acting on behalf of the FTC, alleged that the dealer made claims in Spanish-language ads without properly disclosing the terms necessary to understand the offer, in violation of a prior consent order between the company and the FTC. The company paid a civil penalty of \$85,000 to resolve the charges.

²⁴ See *supra* note 23, Complaint, ¶¶ 8, 11, & Exhibit A, available at https://www.ftc.gov/system/files/documents/cases/cowboy_complaint_.pdf and https://www.ftc.gov/system/files/documents/cases/cowboy_exhibit_a_0.pdf (translation: Deals available to individuals with bad credit without requiring a down payment, a Social Security number, or a driver’s license).

²⁵ *United States v. New World Auto Imports, Inc.*, No. 3:16-cv-02401 (N.D. Tex. filed Aug. 18, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3165/new-world-auto-imports-inc-dba-southwest-kia-et-al-matter>.

B. For-Profit School Advertising

Research shows that communities of color are disproportionately represented at for-profit colleges,²⁶ and the FTC has alleged problematic advertising practices by for-profit colleges that involved – and at times targeted – students in these communities. In *University of Phoenix*,²⁷ the FTC alleged that the defendants relied on deceptive advertising to attract students, including specific ads that targeted Latino consumers, as well as members of the military.

The companies' ads featured employers such as Microsoft, Twitter, Adobe, and Yahoo!, giving the false impression that the school worked with those companies to create job opportunities for its students and tailored its curriculum for such jobs. Under a settlement, the defendants were required to pay \$50 million in cash and cancel \$141 million in debts owed to the school by students who were harmed by the deceptive ads. Dr. Raval analyzed the customer database in this case and determined that consumers affected were 64% more likely to live in a majority Black zip code compared to the general population.²⁸



In *Career Education Corporation*,²⁹ the FTC alleged that the defendants used an illegal and deceptive scheme to lure consumers to their post-secondary and vocational schools, including by using lead generators that posed online as official U.S. military recruiters or as job-finding services. Some of the defendants' marketing targeted certain demographics, such as military or Spanish-speaking consumers. Under a settlement, the defendants were required to pay \$30 million and launch a system to review all materials that lead generators use to market defendants' schools, among other relief. The FTC recently sent payments totaling nearly \$30 million to more than 8,000 people in this case.³⁰

²⁶ Dyvonne Body, *Worse Off Than When They Enrolled: The Consequence of For-Profit Colleges for People of Color*, Aspen Institute (Mar. 19, 2019), available at <https://www.aspeninstitute.org/blog-posts/worse-off-than-when-they-enrolled-the-consequence-of-for-profit-colleges-for-people-of-color>.

²⁷ *FTC v. The University of Phoenix, Inc.*, No. 2:19-cv-05772 (D. Ariz. filed Dec. 10, 2019), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3231/university-phoenix-inc>.

²⁸ In another case, *DeVry University*, Dr. Raval found that the people affected were over 92% more likely to live in a Black majority zip code compared to the general population. *FTC v. DeVry Educ. Grp, Inc.*, No. 2:16-cv-00579 (C.D. Cal. filed Jan. 27, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3278/devry-university>. The FTC alleged that the defendants' ads deceptively touted high employment success rates and income levels upon graduation.

²⁹ *FTC v. Career Educ. Corp.*, No. 1:19-cv-05739 (N.D. Ill. Filed Aug. 27, 2019), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3264/career-education-corporation>.

³⁰ See Press Release, FTC, *FTC Sends Nearly \$30 Million in Refunds to People Tricked into Enrolling by School Operator's Lead Generators* (June 2021), available at <https://www.ftc.gov/news-events/press-releases/2021/06/ftc-sends-nearly-30-million-refunds-people-tricked-enrolling>.

C. Student Loan Debt Relief

Since 2016, the FTC has brought sixteen enforcement actions against student loan debt relief operations and led a joint effort that included 36 legal actions by the FTC, along with eleven states and the District of Columbia. Analysis of the customer data in student debt relief cases filed by the FTC reveals the substantial effects of these schemes on communities of color.³¹ Dr. Raval matched

the zip code information of consumers affected in two FTC cases, *EZ Docs Prep* and *Strategic Student Solutions*, to the U.S. Census Bureau demographic information and found that “communities with a 100% Black population were affected by these cases [had] a 190% higher rate of victimization [in these two cases] than 0% Black communities”³² Further analysis of the customer databases for four student loan debt relief cases, *Strategic Student Solutions*,³³ *Manhattan Beach Venture*,³⁴ *Student Debt Relief Group*,³⁵ and *American Student Loan Consolidators*,³⁶ revealed that the people affected in the cases were over 196%, 170%, 130%, and 116% more likely to live in a Black majority zip code compared to the general population. FTC staff provided assistance to the California Department of Justice’s parallel investigation of *Manhattan Beach Venture* and in 2020 the two individual defendants in the case, as well as three other individuals involved, were arrested and criminally charged.³⁷

In another recent case, *Student Debt Doctor*,³⁸ the FTC alleged the defendants falsely promised loan forgiveness to consumers and charged an illegal upfront fee. Using social media, e-mail, and

Further analysis of the customer databases for four student loan debt relief cases . . . revealed that the people affected in the cases were over 196%, 170%, 130%, and 116% more likely to live in a Black majority zip code compared to the general population.

³¹ See Devesh Raval, *Who is Victimized by Fraud? Evidence from Consumer Protection Cases*, Journal of Consumer Policy at 10-11, 19-20, 31-32, 36, 46 (June 2, 2020), available at <https://deveshraval.github.io/victim.pdf>. Other research has demonstrated disparities related to student debt in communities of color. See Sarah Sattelmeyer & Jon Remedios, *Race and Financial Security Play Central Roles in Student Loan Repayment*, Pew (Dec. 15, 2020), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/12/15/race-and-financial-security-play-central-roles-in-student-loan-repayment>; Melanie Hanson, *Student Loan Debt by Race*, Educatordata.org (updated July 10, 2021), available at <https://educationdata.org/student-loan-debt-by-race>.

³² Raval, *Who is Victimized by Fraud?*, *supra* note 31 at 19-20.

³³ *FTC v. Strategic Student Solutions LLC*, No. 9:17-cv-80619-WPD (S.D. Fla. filed May 15, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/162-3239/strategic-student-solutions-llc>. Dr. Raval analyzed this case in two different research papers.

³⁴ *FTC v. Manhattan Beach Venture LLC*, No. 2:19-cv-7849 (C.D. Cal. filed Sept. 11, 2019), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3041/manhattan-beach-venture-llc-et-al>.

³⁵ *FTC v. M&T Fin. Grp.*, No. 2:17-cv-06855-ODW(PLAx) (C.D. Cal. filed Sept. 18, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3065/mt-financial-group-student-debt-relief-group>.

³⁶ *FTC v. Am. Student Loan Consols., LLC*, No. 0:17-cv-61862-DPG (S.D. Fla. Sept. 25, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3076/american-student-loan-consolidators>.

³⁷ Press Release, California Department of Justice, *Attorney General Becerra Announces Arrest, Charges Against Five Individuals for Student Loan Scam and Related Security and Computer Crimes*, available at <https://oag.ca.gov/news/press-releases/attorney-general-becerra-announces-arrest-charges-against-five-individuals> (Mar. 4, 2020.)

³⁸ *FTC v. Student Debt Doctor*, No. 0:17-cv-61937 (S.D. Fla. filed Oct. 2, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3055/student-debt-doctor-llc>.



telemarketing, the defendants promoted their services across the United States, including in Puerto Rico, in English and Spanish. The settlement in this matter bans the defendants from the debt relief industry. It also includes a partially suspended \$13 million judgment and requires the defendants to pay approximately \$2.2 million.

D. Marketing Prepaid Cards

Prepaid cards are cards preloaded with funds that act as a debit or credit card but are not linked to any financial account. For households that do not have a traditional bank account, prepaid cards are an important tool for critical financial services such as transferring funds, making deposits, writing checks, and making online or other purchases. In November 2016, the FTC sued *NetSpend*,³⁹ alleging that the company marketed reloadable prepaid payment cards to “unbanked” or “underbanked” consumers, and deceived consumers about access to funds they loaded onto the cards. The complaint alleged that NetSpend marketed specific products to groups such as “African Americans who are either unbanked or underbanked,” as well as Spanish-speaking consumers (through Spanish-language ads). The complaint also noted that NetSpend’s customers included “low-income consumers” and those “facing financial uncertainty.” Many consumers allegedly found that, after loading substantial sums onto NetSpend’s prepaid cards, they were unable to activate the cards, and their balances were then depleted by NetSpend-imposed “inactivity” fees. NetSpend agreed to settle the FTC’s charges by providing monetary relief, which was required to amount to no less than \$53 million. Redress checks have been sent to nearly half a million consumers as a result of the settlement.⁴⁰

E. Government Impersonators

Government impersonator scams are some of the top frauds reported to the FTC, and communities of color can be specifically targeted. In *American Immigration Center*,⁴¹ the FTC charged that the defendants operated a myriad of websites, deceptively designed to look like U.S. government websites – with URLs such as *usimmigration.us*, *us-immigration.com*, *uscitizenship.info*, and *usimmigrationcitizenship.com* – that offered immigration and naturalization form preparation services for a fee. The complaint alleged that consumers who searched online for terms such as “USCIS,” “INS,” or “US Immigration” and clicked on defendants’ search advertisements were then directed to these websites, which displayed government-related images, such as the American flag and the U.S. Capitol. The FTC alleged that thousands of consumers paid the defendants’ fees ranging from \$120 to \$300, believing that they were paying the applicable government agency filing fees for their applications – but in reality, the defendants kept the fees. The FTC’s complaint also noted that the forms consumers received were available for free on the USCIS website. The settlement order in the case bars the

³⁹ *FTC v. NetSpend Corp.*, No. 1:16-cv-04203 (N.D. Ga. filed Nov. 10, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/netspend-corporation>.

⁴⁰ See Press Release, FTC, *FTC Returns more than \$10 million to NetSpend Customers* (Sept. 2018), available at <https://www.ftc.gov/news-events/press-releases/2018/09/ftc-returns-more-10-million-netspend-customers>.

⁴¹ *FTC v. Forms Direct, Inc.*, No. 3:18-cv-06294 (N.D. Cal. filed Oct. 16, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3272/american-immigration-center>.



defendants from implying an affiliation with the government and requires them to clearly and conspicuously disclose the opposite – that they are not affiliated with the government – and that consumers must separately submit their completed immigration applications to the government and pay applicable government filing fees. The order also imposes a \$2.2 million judgment, which the FTC used to redress consumers.

Portion of a website from *American Immigration Center* Complaint⁴²



In 2017, the FTC alleged that the defendants in *ABC Hispana Inc.*⁴³ operated a nationwide telemarketing scheme that targeted Spanish-speaking consumers with deceptive and abusive tactics to sell them products for learning English. Using telemarketers in Peru, the defendants allegedly made unsolicited calls to consumers, typically conducted in Spanish, and falsely represented that they were affiliated with the government or a *centro de ayuda* (“help center”), well-known companies such as Walmart, or a Spanish-language radio station. The FTC charged that the defendants falsely told people they were specifically selected for a language course, would receive personal instruction for a highly discounted price, or that they had won a tablet and only needed to pay for shipping or taxes. If consumers declined the sales pitch or cancelled early, the telemarketers allegedly said they were lawyers or government officials and told consumers that they must immediately pay defendants or they could face lawsuits, arrest, incarceration, referral to law enforcement authorities, losing their home, damage to credit, and other serious consequences. The court issued a default judgment against the defendants that imposes a \$6.3 million monetary judgment and bans the defendants from telemarketing and prohibits them from future misrepresentations. Through the FTC’s Criminal Liaison Unit,⁴⁴ the FTC referred this case to the DOJ and in 2020, five Peruvian nationals connected to the operation were extradited to the

⁴² See *id.*, FTC’s Complaint, Attachment A, available at https://www.ftc.gov/system/files/documents/cases/152_3272_american_immigration_center_attachment_a_to_complaint.pdf.

⁴³ *FTC v. ABC Hispana, Inc.*, No. 5:17-cv-00252-JGB-DTB (C.D. Cal. filed Feb. 13, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3108/abc-hispana-inc-et-al>. A legal services group in Washington, D.C., AYUDA, informed the FTC about the defendants’ illegal practices.

⁴⁴ The FTC’s Criminal Liaison Unit helps prosecutors bring more criminal consumer fraud cases. See <https://www.ftc.gov/enforcement/criminal-liaison-unit>.

United States and faced a 55-count indictment of conspiracy, mail fraud, wire fraud, and extortion.⁴⁵ Two more were extradited in 2021, and five of the Peruvian defendants recently pleaded guilty and face maximum penalties of 20 years in prison.⁴⁶

F. Marketing for Inmate Services

The FTC has filed two recent cases which are currently pending in federal court concerning deceptive marketing of products to incarcerated individuals and their families and friends. These are cases that disproportionately impact people of color. Data from the DOJ shows that while the imprisonment rate of Black Americans has decreased, there is still a significant difference in the proportion of people of color who are incarcerated as compared to those who are White.⁴⁷

In *Inmate Call*,⁴⁸ the FTC alleges that the defendants used false advertisements to sell nonexistent inmate calling plans to friends and family members of incarcerated individuals. The FTC's complaint alleges that the defendants' advertisements falsely promised unlimited minutes and impersonated telecommunications companies contracted to provide calling services to jails and prisons.

In *Inmate Magazine Service*,⁴⁹ the FTC and the Florida Office of the Attorney General charged the defendants with deceptively selling magazine subscription services to inmates and the family members of inmates trying to send reading materials to loved ones serving time. The complaint alleges that the defendants collected full payment of fees for magazine subscriptions upfront, but then pocketed those payments and either never delivered, or delivered the products far later than promised, with no notification to consumers and no chance for them to cancel or get refunds as required by law. A

⁴⁵ Press Release, DOJ, *Five Peruvians Extradited For Overseeing Call Centers That Threatened and Defrauded Spanish-Speaking U.S. Consumers* (Oct. 27, 2020), available at <https://www.justice.gov/opa/pr/five-peruvians-extradited-overseeing-call-centers-threatened-and-defrauded-spanish-speaking>.

⁴⁶ Press Release, DOJ, *Three Peruvian Nationals Plead Guilty to Conspiring to Defraud Thousands of Spanish-Speaking U.S. Residents* (May 14, 2021), available at <https://www.justice.gov/opa/pr/three-peruvian-nationals-plead-guilty-conspiring-defraud-thousands-spanish-speaking-us>; see also Press Release, DOJ, *Peruvian National Sentenced to 90 Months in Prison for Conspiring to Defraud Thousands of Spanish-Speaking Immigrants* (July 9, 2021), available at <https://www.justice.gov/opa/pr/peruvian-national-sentenced-90-months-prison-conspiring-defraud-thousands-spanish-speaking>.

⁴⁷ In 2018, the imprisonment rate of Black males was 5.8 times that of White males, while the imprisonment rate of Black females was 1.8 times the rate of White females. E. Ann Carson, *Prisoners in 2018*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at 1 (Apr. 2020), available at <https://www.bjs.gov/content/pub/pdf/p18.pdf>. In 2018, Black Americans represented 33% of the sentenced prison population, nearly triple their 12% share of the U.S. adult population. Whites accounted for 30% of prisoners, about half of their 63% share of the adult population. Latinos accounted for 23% of inmates, compared with 16% of the adult population. See John Gramlich, *Black imprisonment rate in the U.S. has fallen by a third since 2006*, Pew Research Center (May 6, 2020), available at <https://www.pewresearch.org/fact-tank/2020/05/06/share-of-black-white-hispanic-americans-in-prison-2018-vs-2006/>.

⁴⁸ *FTC v. Disruption Theory LLC*, No. C20-6919VC (N.D. Cal. filed Oct. 5, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/192-3156/disruption-theory-llc-inmate-call>. The FTC alleged, “[b]ecause a disproportionate number of incarcerated individuals are from communities of color or lower-income communities, many of the consumers harmed by [the d]efendants’ practices are likely from these communities.” See *id.*, *Complaint* ¶ 15, available at https://www.ftc.gov/system/files/documents/cases/complaint_-_inmate_call.pdf.

⁴⁹ *FTC v. Inmate Magazine Serv., Inc.*, No. 3:21cv294-TKW-HTC (N.D. Fla. filed Feb. 16, 2021), available at <https://www.ftc.gov/enforcement/cases-proceedings/202-3089/inmate-magazine-service-inc>.



settlement in this matter with the owner and operator of Inmate Magazine Service bans him from selling or marketing magazine subscriptions. It also includes a partially suspended \$2.2 million judgment and requires the defendant to turn over nine different bank accounts used for the scheme.

G. Deceptive and Unsubstantiated Advertising Claims

The FTC has identified cases where deceptive claims are made in Spanish, Vietnamese, and other languages. In *Wellco, Inc.*,⁵⁰ the FTC alleged that marketers of indoor TV antennas and signal amplifiers made deceptive performance claims on their websites in both English and Spanish. The defendants allegedly made deceptive claims that these products would let users cancel their cable service and still get all their favorite channels for free, using customer testimonials plagiarized from competitors as part of their pitch. In settling this matter, the defendants agreed to an order that prohibits a variety of deceptive claims about their antennas and any other product they sell. The order also prohibits phony “news” stories and misrepresentations conveyed through endorsements, and imposes a judgment of \$31.82 million, which was partially suspended after payment of \$650,000.

In *Global Concepts Limited*,⁵¹ the FTC alleged that the defendants failed to substantiate their claims that their electronic sound amplifier product allowed users to hear up to 30 times better and hear clearly in crowded places such as restaurants. The defendants advertised the amplifiers directly to consumers via TV ads, as well as company-owned websites, including a Spanish-language site. The defendants generated \$47.2 million in sales. To settle the case, the defendants agreed to an order that, among other things, requires human clinical testing to support future representations similar to the claims challenged in the complaint and imposes a judgment of \$47.2 million, which was partially suspended after payment of \$500,000.

In *QYK Brands LLC*, the FTC alleged that online marketers failed to deliver on promises that they could quickly ship products such as face masks, sanitizers, and other personal protective equipment related to the coronavirus pandemic.⁵² The FTC also alleged that the defendants sold a deceptive COVID-19 preventative, marketed to Vietnamese-American communities in the United States using Vietnamese language videos and an “interview style” news broadcast on Saigon Entertainment Television (SET), a Vietnamese-American television station in Southern California. The FTC filed its complaint in federal district court in August 2020, and the case is currently pending.

⁵⁰ *FTC v. Wellco, Inc.*, No. 1:21-cv-02081 (S.D.N.Y. filed Mar. 10, 2021), available at <https://www.ftc.gov/enforcement/cases-proceedings/192-3004/wellco-inc-ftc-v>.

⁵¹ *FTC v. Global Concepts Ltd., Inc.*, No. 0:18-cv-60990 (S.D. Fla. filed May 2, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/162-3225/msa-30x-sound-amplifier>.

⁵² *FTC v. QYK Brands, LLC*, No. 8:20-cv-01431-JLS-KES (C.D. Cal. filed Aug. 4, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/202-3147/qyk-brands-llc-dba-glowwy>.



During the first year of the pandemic, deceptive COVID-19 treatment and prevention claims proliferated in the marketplace.⁵³ To date, the FTC has issued hundreds of warning letters to marketers,⁵⁴ including those targeting Latino and Korean-American communities. For example, the FTC issued warning letters to two multi-level marketing companies⁵⁵ and a joint warning letter with the U.S. Food and Drug Administration to marketers,⁵⁶ challenging claims made in Spanish about their products’ ability to treat or prevent COVID-19. The agency also issued two letters in Spanish to entities targeting Latino communities with deceptive advertisements and Facebook posts, which allegedly claimed in Spanish that their products could prevent or treat COVID-19.⁵⁷ In addition, the FTC issued a warning letter to a social media marketer challenging COVID-19 treatment and prevention claims made in Korean about its products.⁵⁸

To date, the FTC has issued hundreds of warning letters to marketers, including those targeting Latino and Korean-American communities.

The FTC’s letters warned that the marketers’ false claims were unlawful and demanded that the entities immediately cease the conduct and report back to the FTC. Overwhelmingly, companies that received FTC warning letters quickly removed the false COVID-19 claims from their advertising.

H. Jobs and Money-Making Opportunities

As noted above, communities of color can be disproportionately affected by offers for economic and entrepreneurial opportunities. In June 2021, the FTC, along with the State of Arkansas, filed *Blessings in No Time*,⁵⁹ alleging that perpetrators of a “blessing loom” pyramid scheme falsely promised people, many of whom were suffering financial hardship as a result of the COVID-19 pandemic, that they would receive investment returns as high as 800%.⁶⁰ The FTC’s complaint states that the

⁵³ See FTC COVID-19 Report, *supra* note 4 at 6-7.

⁵⁴ A full list of all of the warning letters sent during the pandemic is available at <https://www.ftc.gov/coronavirus/enforcement/warning-letters>.

⁵⁵ See Warning letters to Youngevity International, Inc. and Vivri USA, LLC (June 5, 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/06/second-round-warning-letters-to-mlms-regarding-coronavirus>.

⁵⁶ See Warning letter to OCLO LLC (May 27, 2021), available at <https://www.ftc.gov/system/files/warning-letters/fda-covid-19-letter-oclo.pdf>.

⁵⁷ See Warning letters in Spanish to Cebilon Y. Vivenso and Gotay’s Group Systems (Oct. 20, 2020), available at https://www.ftc.gov/system/files/warning-letters/covid-19-letter_to_cebilon_y_vivenso_spanish.pdf and https://www.ftc.gov/system/files/warning-letters/covid-19-letter_to_gotays_group_systems_spanish.pdf.

⁵⁸ See Warning letter to UWell Life, Inc. (June 16, 2020), available at https://www.ftc.gov/system/files/warning-letters/covid-19-letter_to_uwell_life_inc.pdf.

⁵⁹ *FTC v. BINT Operations LLC*, No. 4:21-cv-00518-KGB (E.D. Ark. filed June 16, 2021), available at <https://www.ftc.gov/enforcement/cases-proceedings/2123043/blessings-no-time>.

⁶⁰ Blessing looms imitate an informal savings club. For additional background on blessing looms, see generally Karen Hobbs, *A real or fake savings club?*, FTC Consumer Information Blog (Aug. 10, 2020), available at <https://www.consumer.ftc.gov/blog/2020/08/real-or-fake-savings-club>; Seena Gressin, *This “game” is a chain letter scam*, FTC Consumer Information Blog (May 21, 2020), available at <https://www.consumer.ftc.gov/blog/2020/05/game-chain-letter-scam>. See also Emma Fletcher, *Scams starting on social media proliferate in early 2020*, FTC Data Spotlight (Oct. 21, 2020), available at <https://www.ftc.gov/news->



defendants primarily targeted Black communities, noting that the scheme’s membership bylaws have stated that all members “MUST BE OF AFRICAN-AMERICAN DESCENT. ABSOLUTELY NO EXCEPTIONS!” The FTC also alleged that the defendants specifically targeted financially distressed consumers, claiming that the scheme could help them pay for surgery or fulfill “a student’s dream of attending college,” and that it would provide an alternative “[w]hen funding from the government and nonprofits falls short[.]” Instead, the complaint states, most members did not earn returns but instead lost the money they paid to participate and, moreover, were prohibited from posting publicly on social media and the internet about the scheme. Litigation in this matter is ongoing.

In 2020, the FTC coordinated a joint enforcement effort, *Operation Income Illusion*, with 19 federal, state, and local law enforcement partners that encompassed more than 50 actions against operators of work-from-home and employment scams, pyramid schemes, investment scams, bogus coaching courses, and other schemes.⁶¹ Some of the schemes targeted in *Operation Income Illusion* had a noted impact on one or more specific groups, such as military families, people on a limited fixed income, immigrants, Black Americans, and Latinos.⁶²

For example, in one of the cases, *Moda Latina BZ Inc.*,⁶³ the FTC alleged that the defendants targeted Latina consumers with Spanish-language ads on TV and telemarketing pitches offering work-at-home business opportunities that would generate “large profits” selling luxury products – all of this in the midst of the COVID-19 health and economic crisis.⁶⁴ Instead of the promised profits, the FTC charged that consumers were left with hundreds of dollars in losses and unsellable products. The settlement order permanently bans the defendants from selling money-making opportunities and imposes a monetary judgment of \$7 million, suspended upon payment of \$20,000 by each individual defendant due to the defendants’ financial condition.

[events/blogs/data-spotlight/2020/10/scams-starting-social-media-proliferate-early-2020](#) (“As people seek more ways to earn money, reports about multi-level marketing (MLM) companies and pyramid schemes – including blessing circles and other gifting schemes – on social media have increased. The numbers were up a staggering fivefold in the second quarter of 2020.”).

⁶¹ See Press Release, FTC, *As Scammers Leverage Pandemic Fears, FTC and Law Enforcement Partners Crack Down on Deceptive Income Schemes Nationwide* (Dec. 14, 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/12/scammers-leverage-pandemic-fears-ftc-law-enforcement-partners>; Lesley Fair, *Operation Income Illusion cracks down on illusory income claims*, FTC Business Blog, (Dec. 14, 2020), available at <https://www.ftc.gov/news-events/blogs/business-blog/2020/12/operation-income-illusion-cracks-down-illusory-income-claims>.

⁶² See List of Federal, State, and Local Actions (2020), available at https://www.ftc.gov/system/files/attachments/press-releases/scammers-leverage-pandemic-fears-ftc-law-enforcement-partners-crack-down-deceptive-income-schemes/operation_income_illusion_-_federal_state_and_local_actions_2020.pdf.

⁶³ *FTC v. Moda Latina BZ Inc.*, No. 2:20-cv-10832 FMO-SK (C.D. Cal. filed Nov. 30, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/2023068/moda-latina-bz-inc>.

⁶⁴ According to the complaint, the defendants also advertised work-at-home opportunities through social media. *Id.* The FTC has seen an increase in reports about scams that started on social media over the past few years. See Fletcher, *Scams starting on social media proliferate in early 2020*, *supra* note 60. In addition, analysis of consumer reporting data by Dr. Raval in which consumers specified how they were contacted demonstrated that people living in majority Black and Latino communities filed a higher share of reports about experiences in which they were contacted through social media than people living in majority White communities. For more on Dr. Raval’s methodology, see *infra* Section V. This trend raises concerns about how bad actors may use social media to target certain communities.



Screenshot of television advertisement from *Moda Latina BZ Inc. Complaint*⁶⁵



In *Herbalife*,⁶⁶ the FTC alleged that the multi-level marketing company aggressively promoted its business opportunity through videos, live presentations, and print materials in Spanish and English, telling people they could quit their jobs, earn thousands of dollars a month, make a career-level income, or even get rich as Herbalife distributors. Herbalife’s “Presentation Book” and magazines, which were distributed in Spanish, contained numerous testimonials touting financial independence as an Herbalife distributor. In reality, the FTC charged, people made little or no money, and a substantial percentage lost money. Herbalife settled the FTC’s claims, agreeing to pay \$200 million for consumer redress, fully restructure its U.S. business operations to comply with the law, and pay for an independent auditor. The order also prohibits Herbalife from misrepresenting potential or likely earnings. The FTC mailed redress checks to nearly 350,000 Herbalife distributors who lost money. Dr. Raval analyzed the list of consumers used for redress in this case and determined that the people affected were more than 211% more likely to live in a Latino majority zip code compared to the general population.

Dr. Raval analyzed the list of consumers used for redress in this case and determined that the people affected were more than 211% more likely to live in a Latino majority zip code compared to the general population.

⁶⁵ See *id.*, Complaint ¶ 32, available at https://www.ftc.gov/system/files/documents/cases/001_complaint.pdf (translation: “You too will earn a lot of Money.”).

⁶⁶ *FTC v. Herbalife Int’l of America, Inc.*, No. 2:16-cv-05217 (C.D. Cal. filed July 15, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3037/herbalife-international-america-inc-et-al>; see also Statement of the Federal Trade Commission, *FTC v. Herbalife Int’l of America, Inc.* (July 15, 2016), available at https://www.ftc.gov/system/files/documents/public_statements/971213/160715herbalifestatement.pdf.

In *AWS, LLC*,⁶⁷ the FTC alleged that the defendants, including FBA Stores, falsely claimed their “Amazing Wealth System” would let people create a profitable online business selling products on Amazon. Defendants had no affiliation with Amazon. Most consumers lost significant amounts of money and experienced problems with their Amazon stores, including losing their ability to sell. The defendants widely disseminated their advertising in multiple languages, including English and Spanish. The settlement orders ban the defendants from making false earnings claims, among other things. One order imposed a judgment of more than \$63.5 million, which was partially suspended after payment of roughly \$2.55 million in funds and assets. Another order imposed a judgment of more than \$102 million, which was partially suspended upon surrender of about \$10.8 million. The FTC has returned more than \$9.1 million to people who lost money.

In addition, analysis of the customer databases of two prior FTC money-making scheme cases, *Mobile Money Code* and *Digital Altitude*,⁶⁸ showed a disproportionate impact on communities of color for lower price products. Specifically, when people lost less than \$500 (which was the case for all consumers in *Mobile Money Code* and a portion of the consumers in *Digital Altitude*), Dr. Raval found that a higher number of those consumers lived in predominantly Black communities rather than predominantly White communities.⁶⁹

The FTC has also pursued cases against companies that allegedly deceived workers about potential earnings from delivery and ride-hailing services booked through online platforms. Research has shown that communities of color are disproportionately represented in the internet-enabled gig economy.⁷⁰ In *Amazon Flex*,⁷¹ the FTC alleged that the respondents deceptively advertised that delivery drivers who signed up for its Amazon Flex program would get 100% of tips received from customers who placed orders through services like Prime Now and AmazonFresh. According to the FTC, for a two and a half year period, the respondents did not deliver \$61.7 million of those tips to Amazon Flex drivers. Under a settlement, the respondents paid the total amount to return to affected drivers.

⁶⁷ *FTC v. AWS, LLC*, No. 2:18-cv-00442-JCM-PAL (D. Nev. filed Mar. 12, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3149/aws-llc-et-al-fba-stores>.

⁶⁸ *FTC v. Montano* (“Mobile Money Code”), No. 6:17-cv-2203-JA-KRS (M.D. Fla. filed Dec. 28, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/142-3170/ronnie-montano>; *FTC v. Digital Altitude LLC*, No. 2:18-cv-00729-JAK-MRW (C.D. Cal. filed Jan. 29, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3060/digital-altitude-llc>.

⁶⁹ See Raval, *Who is Victimized by Fraud?*, *supra* note 31 at 10, 12, 20, 28. Dr. Raval also found a disparity in another FTC case filed prior to 2016 involving a moneymaking scheme where the consumers lost less than \$500, *FTC v. Indep. Mktg. Exchange, Inc.* (“IME”), No. 10:cv-00568-NHL-KMW (D.N.J. filed Feb. 2, 2010), available at <https://www.ftc.gov/enforcement/cases-proceedings/independent-marketing-exchange-inc>. See *id.* at 10, 12.

⁷⁰ See U.S. Bureau of Labor Statistics, *Electronically mediated work: new questions in the Contingent Worker Supplement*, U.S. Dep’t of Labor tbls. 3 & 4 (Sept. 2018), available at <https://www.bls.gov/opub/mlr/2018/article/electronically-mediated-work-new-questions-in-the-contingent-worker-supplement.htm>; see also Chris Benner et al., *On-Demand and on-the-edge: Ride-hailing and Delivery Workers in San Francisco* (May 2020), available at <https://transform.ucsc.edu/on-demand-and-on-the-edge/>; Edison Research, *The Gig Economy* (Dec. 2018), available at <http://www.edisonresearch.com/wp-content/uploads/2019/01/Gig-Economy-2018-Marketplace-Edison-Research-Poll-FINAL.pdf>.

⁷¹ *In the Matter of Amazon.com, Inc.*, No. C4746 (FTC filed June 9, 2021), available at <https://www.ftc.gov/enforcement/cases-proceedings/1923123/amazon-flex>.



In *Uber Technologies*,⁷² the FTC alleged that the defendant exaggerated the yearly and hourly income drivers could make in certain cities, and misled prospective drivers about the terms of its vehicle financing options. The defendant agreed to pay \$20 million in consumer redress to resolve the charges.

I. Credit, Background Checks, and Access to Housing

Issues related to credit and consumer reporting accuracy raise significant concerns, given the pivotal role they play in people getting employment, credit, and housing opportunities. According to recently released complaint data from the Consumer Financial Protection Bureau (“CFPB”), communities of color appear to face significantly more issues when it comes to credit and consumer reporting.⁷³ The importance of accurate information in tenant screening reports⁷⁴ is of particular concern, as the eviction crisis due to the pandemic is falling hardest on communities of color.⁷⁵ The CFPB noted that a significant number of credit or consumer reporting complaints related to attempts to address identity-theft related issues, as well as concerns about the accuracy of information on a consumer’s report.⁷⁶ The FTC has brought numerous actions under the Fair Credit Reporting Act (“FCRA”) against credit reporting agencies, users of consumer reports, and furnishers of information to credit reporting agencies.⁷⁷ With the eviction crisis falling hardest on communities of color, and the need for these consumers to seek out new housing, the importance of accurate information in tenant screening reports is of particular concern. Recently, through a complaint filed by the DOJ on the FTC’s behalf in *MyLife.com*,⁷⁸ the FTC alleged that MyLife, which promoted the use of its reports in employment and tenant screenings, violated the FCRA by failing to maintain reasonable procedures to verify how its reports would be used, to ensure the information was accurate, and to make sure that the information it sold would be used only for legally permissible purposes. The reports, the FTC alleged, often misrepresented that searched-for individuals had criminal or sexual offender records. The litigation is ongoing. The FTC also has filed cases under the FCRA alleging companies that provide tenant screening reports have failed to maintain reasonable procedures to assure the maximum possible

⁷² *FTC v. Uber Technologies, Inc.*, No. 3:17-cv-00261 (N.D. Cal. filed January 19, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3082/uber-technologies-inc>.

⁷³ CFPB, *Complaint Bulletin* at 10 (Apr. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_county-level-demographic-overview-consumer-complaints_2021-04.pdf (“Credit or consumer reporting appears to cause significantly more issues for consumers in predominantly minority counties than in predominantly white, non-Hispanic counties”).

⁷⁴ Tenant screening reports result from tenant background checks, and can include a variety of information including rental and eviction history, credit, or criminal records.

⁷⁵ According to a recent CFPB report, nine percent of renters reported in December 2020 that it was likely they would be evicted in the next two months, with rates highest for Black and Latino renters. CFPB, *Housing insecurity and the COVID-19 pandemic* at 15 (Mar. 2021), available at https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf.

⁷⁶ See *infra* note 147.

⁷⁷ See FTC Report, *Fair Credit Reporting Act, Efforts to Promote Consumer Report Accuracy and Disputes* (2020), available at https://www.ftc.gov/system/files/documents/reports/fair-credit-reporting-act-efforts-promote-consumer-report-accuracy-disputes-report-congress/ftc_disputes_and_accuracy_report_2020_corrected_version.pdf.

⁷⁸ *United States v. MyLife.com, Inc.*, No. 2:20-cv-06692 (C.D. Cal. filed July 27, 2020) (filed by the DOJ on behalf of the FTC), available at <https://www.ftc.gov/enforcement/cases-proceedings/182-3022/mylifecom-inc>.



accuracy of consumer report information. These actions include settlements with tenant background report providers *RealPage*⁷⁹ and *Appfolio*.⁸⁰

The FTC also has served public housing recipients, who are disproportionately from Black communities. In 2016, out of 2.2 million low-income households that used Section 8 housing choice vouchers, 47% of the heads of households were Black and 17% were Latino.⁸¹ In *Apartment Hunters, Inc.*,⁸² the FTC shut down an operation that it charged with making misrepresentations about the availability of Section 8 housing vouchers. The defendants operated rental listing websites, such as *WeTakeSection8.com*, on which they made false and unfounded claims of having accurate, up-to-date listings approved for Section 8 housing vouchers. In reality, after consumers paid to access the listings, they found that most of the listed properties were either unavailable or did not accept Section 8 housing vouchers. The court ordered the defendants to pay more than \$6 million and permanently banned them from future marketing or sales of subscriptions for or access to rental listings.

J. Payday Loans and Debt Collection

The FTC has prioritized a number of other problematic practices that research and experience show disproportionately affect communities of color. For example, the payday loan industry has been criticized by consumer advocates for troubling practices that impact communities of color with low incomes.⁸³ Indeed, Dr. Raval's analysis, published in 2020, of three FTC payday lending cases (filed prior to 2016) supported this notion. His review of the customer databases from these cases revealed a

⁷⁹ *FTC v. RealPage*, No. 3:18-cv-02737-N (N.D. Tex. filed Oct. 16, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/152-3059/realpage-inc>. The FTC's complaint alleged that the defendant failed to take reasonable steps to ensure the accuracy of tenant screening information that it provided to landlords and property managers in violation of the FCRA, a violation that caused some potential renters to be falsely associated with criminal records. In addition to injunctive relief, the settlement required RealPage to pay a \$3 million civil penalty.

⁸⁰ *United States v. Appfolio, Inc.*, No. 1:20-cv-03563 (D.D.C. filed Dec. 8, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/1923016/appfolio-inc>. The DOJ filed a complaint on behalf of the FTC, alleging that Appfolio violated the FCRA by failing to ensure that criminal and eviction records it received from a third-party vendor were accurate before including such information in its tenant screening reports. The FTC also alleged that AppFolio illegally included eviction or non-conviction criminal records more than seven years old in its reports. In addition to injunctive relief, the settlement required Appfolio to pay a \$4.25 million civil penalty.

⁸¹ See National Housing Law Project, *Section 8 Housing Choice Vouchers, Overview* (Sept. 2016), available at <https://www.nhlp.org/wp-content/uploads/2018/03/3-NHLP-Voucher-Outline.pdf>; see also Housing Spotlight, National Low Income Housing Coalition, *Who Lives in Federally Assisted Housing?* at 3 (Nov. 2012), available at <https://nlihc.org/sites/default/files/HousingSpotlight2-2.pdf> (American Community survey indicates that while Black households compose 12% of all households and 19% of renters, they are overrepresented among Project-Based Section 8 public housing units (33%)).

⁸² *FTC v. Apartment Hunters, Inc.*, No. 8:18-cv-01636 (C.D. Cal. filed Sept. 11, 2018), available at <https://www.ftc.gov/enforcement/cases-proceedings/172-3007/apartment-hunters-inc-et-al-wetakesection8com>.

⁸³ See Aracely Panameño & Keith Corbett, *Wealth-Stripping Payday Loans Trouble Communities of Color*, Center for Responsible Lending (Oct. 2, 2008), available at <https://www.responsiblelending.org/payday-lending/research-analysis/az-payday-communities-of-color-10-2-final.pdf>; Graciela Aponte-Diaz, *State Research Shows That Payday Lending Stores Are Heavily Concentrated In African American and Latino Communities Across California*, Center for Responsible Lending (Dec. 9, 2016), available at <https://www.responsiblelending.org/media/state-research-shows-payday-lending-stores-are-heavily-concentrated-african-american-and>.



disproportionate impact on Black communities.⁸⁴ This area remains a priority for the FTC. In 2020, the FTC sued a payday loan operation that it said was targeting cash-strapped consumers, promising short-term loans that would be repaid through a fixed number of payments.⁸⁵ In reality, people found that, long after the promised number of payments had been made, the defendants had allegedly applied their funds to finance charges only and were continuing to make regular finance-charge-only withdrawals from their checking accounts. The defendants agreed to a final order banning them from lending activities in the future and imposing a \$114 million judgment.

Studies also have shown that a significantly higher percentage of communities of color have debts in collection⁸⁶ and that debt collection contacts⁸⁷ and lawsuits disproportionately affect Black Americans.⁸⁸ The FTC has brought numerous law enforcement actions against debt collectors that engage in egregious violations of the law, including phantom debt collectors.⁸⁹ In 2020 alone, the FTC filed or resolved seven debt collection cases against 39 defendants and obtained \$26 million in judgments.⁹⁰ The Commission also led *Operation Corrupt Collector*, a coast-to-coast debt collection crackdown by the FTC and several federal and state partners, that encompassed more than 50 actions challenging some of the worst-of-the-worst debt collection tactics.⁹¹

⁸⁴ He also found that residents in heavily Black zip codes were more likely to have been affected by the schemes. See FTC Report, *Combating Fraud in African American & Latino Communities* at 15 (June 15, 2016), available at <https://www.ftc.gov/system/files/documents/reports/combating-fraud-african-american-latino-communities-ftcs-comprehensive-strategic-plan-federal-trade/160615fraudreport.pdf> (analysis of *Ideal Financial* data showed residents of heavily Black zip codes more than four times more likely to have been harmed in that case than people living in predominantly White or Latino zip codes); Raval, *Who is Victimized by Fraud?*, *supra* note 31 at 19 (analysis of *Ideal Financial* and *Platinum Trust Card* showed that communities with a 100% black population were affected at a 209% higher rate than 0% Black communities). In another case, *CWB Services*, Dr. Raval found that the people affected were over 167% more likely to live in a Black majority zip code compared to the general population. *FTC v. CWB Servs., LLC*, No. 4:14-cv-00783-DW (W.D. Mo. filed Sept. 5, 2014), available at <https://www.ftc.gov/enforcement/cases-proceedings/132-3184-x140065/cwb-services-llc>.

⁸⁵ *FTC v. Lead Express, Inc.*, No. 2:20-cv-00840-JAD-NJK (D. Nev. filed May 11, 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/192-3208/lead-express-inc-harvest-moon-financial>.

⁸⁶ See Urban Institute, *Debt in America: An Interactive Map* (updated Mar. 31, 2021), available at https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_debt_collections (credit bureau data indicates that 39% of people in predominantly communities of color have a debt in collections, compared with only 24% of those in predominantly White communities).

⁸⁷ See FINRA, *Financial Capability in the United States 2016* at 27 (July 2016), available at https://gflec.org/wp-content/uploads/2016/07/NFCS_2015_Report_Natl_Findings.pdf (31% of Black survey respondents reported having been contacted by a debt collector in the past year, compared with 18% of respondents overall).

⁸⁸ See Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, ProPublica, (Oct. 8, 2015), available at <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>.

⁸⁹ “Phantom debt” is debt that does not exist or that consumers do not owe.

⁹⁰ See FTC Staff Letter on Debt Collection Activities (Feb. 19, 2021), available at https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-enforcement-fair-debt-collection-practices-act-calendar-year-2020-report/p064803_ftc_report_fdcpa_to_cfpb.pdf.

⁹¹ See Press Release, FTC, *State, and Federal Law Enforcement Partners Announce Nationwide Crackdown on Phantom and Abusive Debt Collection* (Sept. 29, 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/09/ftc-state-federal-law-enforcement-partners-announce-nationwide>.



III. Outreach and Education Initiatives to Communities of Color

Since 2016, the FTC has continued to build and solidify its consumer outreach and education strategies to reach communities of color. While this work is led by BCP’s Division of Consumer and Business Education, the entire Bureau – including the regional offices – are actively engaged. The agency’s approach has been to: a) listen to communities; b) engage with ethnic and community media; c) work with trusted partners; d) use storytelling; and e) provide materials in-language. The agency has worked especially hard to respond to the COVID-19 pandemic, recognizing its impact on communities of color.

A. Listening to Communities

To deepen its connection with those who work every day with communities of color, the FTC, since 2016, has hosted nine Common Ground Conferences⁹² and three



Latino Roundtables,⁹³ both of which are events that brought together law enforcement, community stakeholders, and partners across the country. Most Common Ground Conferences have included panels on how fraud affects specific communities. For example, the Madison, Wisconsin Common Ground Conference kicked off with a panel on how law enforcement and education can address fraud in communities that are disproportionately targeted or impacted by fraud.⁹⁴ And a Common Ground event in Birmingham, Alabama, jointly hosted with the Birmingham NAACP, offered training to the NAACP’s volunteer leadership on issues they had defined as important to their community, including impersonator and job scams, debt collection, and credit.⁹⁵

While Common Ground Conferences seek information on the state of scams and bad business practices affecting every community, sometimes a deeper dive into a particular community is needed. Latino Roundtables in Chicago, Washington, D.C., and Los Angeles focused on discussing consumer issues and developing and deepening partnerships – both with the FTC and among the groups themselves. The Washington, D.C. Roundtable led to regular quarterly calls and the opportunity to further develop partnerships. For example, at the FTC’s April 2021 quarterly call with D.C. area Latino leaders, FTC staff established a new working relationship with Supporting and Mentoring Youth Advocates (“SMYAL”), an organization that works with LGBTQ+ youth in the D.C. area. This new collaboration helps amplify the FTC’s consumer protection messages to Latino LGBTQ+ youth in the

⁹² A list of Common Ground Conferences can be found at <https://www.consumer.gov/content/common-ground-conferences-and-roundtables-calendar>.

⁹³ See, e.g., Illinois Latino Roundtable: <https://www.ftc.gov/news-events/events-calendar/2016/12/combating-fraud-latino-communities>; Washington, D.C. Latino Roundtable: <https://www.ftc.gov/news-events/events-calendar/hablemos-lets-talk-ftc-latino-roundtable>.

⁹⁴ See Agenda, *Working Together to Protect Midwest Consumers*, available at <https://www.ftc.gov/news-events/events-calendar/2016/10/working-together-protect-midwest-consumers-common-ground>.

⁹⁵ See Agenda, *Protecting Alabama Against Fraud*, available at <https://www.consumer.gov/sites/www.consumer.gov/files/alnaacpevent.93016.pdf>.

city, facilitates creation of networks between that organization and Latino leaders in the city, and helps the FTC learn how to adapt its messages for the broader LGBTQ+ community.

Small businesses are integral to every community across the country, and many of them are owned by people of color.⁹⁶ Starting in 2017, the FTC prioritized outreach and education for small businesses, with a focus on common scams⁹⁷ and data security issues.⁹⁸ In a series of FTC-led listening sessions, business owners across the country shared their interest in getting support for training their employees about basic online safety and cybersecurity, and to have the materials available in Spanish. Based on this feedback, the agency launched a Cybersecurity for Small Business campaign and its Spanish counterpart, *Ciberseguridad para Pequeños Negocios*,⁹⁹ standing on the shoulders of the popular *Start With Security* publication.¹⁰⁰ To promote the business education campaign, the FTC has worked closely with the Small Business Administration’s Small Business Development Centers (“SBDCs”) and District Offices across the country in addition to other state and local partners. For example, FTC staff has presented at webinars hosted by SBDCs in English and Spanish, which then lead to invitations to do further presentations.

In 2019, the FTC refreshed and relaunched its successful Green Lights & Red Flags: FTC Rules of the Road for Business workshop (“GLRF”),¹⁰¹ specifically marketing the event to groups such as the Austin Asian American Bar Association, the Harris County Black Lawyers Association, the Hispanic Bar Association of Houston, and the Mexican American Bar Association of San Antonio. One of the most recent GLRF events was hosted by Thurgood Marshall School of Law, which is part of Texas Southern University, a Historically Black College and University (“HBCU”). The FTC will continue to actively reach out to bar associations and business groups in communities of color and bring GLRF events to law and business schools in HBCUs and Hispanic-Serving Institutions (“HSI”).¹⁰²

This past year, the FTC has also met with numerous groups working to combat surveillance practices that harm communities of color, including algorithmic discrimination and disparate impacts

⁹⁶ See Brian Headd, *Small Business Facts, Business Ownership Demographics*, U.S. Small Business Administration Office of Advocacy (Mar. 2021), available at <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/16095912/Business-Ownership-Demographics-Fact-Sheet.pdf>.

⁹⁷ See FTC Business Center, *Scams and Your Small Business: A Guide for Business* (May 2018), available in English at <https://www.ftc.gov/tips-advice/business-center/guidance/scams-your-small-business-guide-business> and in Spanish at <https://www.ftc.gov/es/consejos/para-empresarios/las-estafas-y-su-pequeno-negocio-una-guia-para-los-negocios>.

⁹⁸ See FTC Business Center, *Cybersecurity for Small Business*, available at <https://www.ftc.gov/tips-advice/business-center/small-businesses/cybersecurity>.

⁹⁹ See *id.* in Spanish at <https://www.ftc.gov/es/tips-advice/business-center/small-businesses/cybersecurity/espanol>.

¹⁰⁰ See FTC Business Center, *Start with Security: A Guide for Business* (June 2015), available in English at <https://www.ftc.gov/tips-advice/business-center/guidance/start-security-guide-business> and in Spanish at <https://www.bulkorder.ftc.gov/es/system/files/publications/spdf0205-startwithsecurity.pdf>.

¹⁰¹ See events in Atlanta: <https://www.ftc.gov/news-events/events-calendar/green-lights-red-flags-ftc-rules-road-business>, Cleveland: <https://www.ftc.gov/news-events/events-calendar/green-lights-red-flags-2020-workshop>, and Dallas: <https://www.ftc.gov/news-events/events-calendar/green-lights-red-flags-2021-ftc-rules-road-business>.

¹⁰² An HSI is an institution of higher education that has an enrollment of undergraduate full-time equivalent students that is at least 25% Hispanic students. To become an HSI, an institution has to apply for designation via the U.S. Department of Education. See <https://sites.ed.gov/hispanic-initiative/hispanic-serving-institutions-hsis/>.



resulting from the use of facial recognition technology,¹⁰³ to learn more about the effects of these technologies on communities of color. These meetings have included representatives from several civil rights groups including, among others, Color of Change and the Lawyers’ Committee for Civil Rights.

As noted above, the COVID-19 pandemic has had, and will continue to have, a disproportionate impact on low-income communities and communities of color.¹⁰⁴ Millions of people have lost jobs, businesses, income, housing, and savings due to the financial impact of the pandemic. To better deliver needed resources to people in financial distress, the FTC convened listening sessions with community advocates.¹⁰⁵ The goal was to better understand and respond to the challenges facing people in their communities. To date, the agency has hosted 15 virtual Financial Impact Listening Sessions with advocates, leaders, and organizations that work with diverse communities in 26 states and the District of Columbia. The FTC is using these insights to create and deploy a comprehensive outreach effort responsive to these concerns and accessible to every community. The agency has held, for example, nationwide radio tours – some jointly with the National Association of Attorney General (“NAAG”) – that specifically targeted communities of color with information on pandemic-related scams, and reaching an estimated audience of nearly 11 million listeners.

To date, the agency has hosted 15 virtual Financial Impact Listening Sessions with advocates, leaders, and organizations that work with diverse communities in 26 states and the District of Columbia.

B. Engaging Ethnic and Community Media

Ethnic and community media are among the most trusted sources of information in many communities of color. Since the 2016 Report, FTC staff has conducted 17 Ethnic and Community Media Briefings, bringing the total to 30 since the program’s inception in 2015.¹⁰⁶ During these events, journalists have the opportunity to hear from state and local law enforcement, legal services, and community advocates. Together, they discuss the scams and practices affecting the communities in that locality, and how these groups can better work together to address the issues. These events have built local and state partnerships, connected groups that had never before collaborated, and resulted in hundreds of articles in multiple languages about consumer protection issues, FTC cases, and the

¹⁰³ See Rebecca Kelly Slaughter, *Algorithms and Economic Justice*, Yale Journal of Law and Technology (August 2021), available at

https://law.yale.edu/sites/default/files/area/center/isp/documents/algorithms_and_economic_justice_master_final.pdf; Joy Buolamwini and Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, available at [buolamwini18a.pdf \(mlr.press\)](https://arxiv.org/pdf/1802.03413v1.pdf); National Institute of Standards and Technology (NIST), *Face Recognition Vendor Test (FRVT) Part:3 Demographic Effect*, NISTIR 8280 (December 2019), available at <https://nvlpubs.nist.gov/nistpubs/ir/2019/NIST.IR.8280.pdf>.

¹⁰⁴ See Whitney Airgood-Obrycki & Alexander Hermann, *Interactive Tool Illustrates The Disparate Economic Impacts of The Pandemic*, Joint Center for Housing Studies of Harvard University (Feb. 8, 2021), available at <https://www.jchs.harvard.edu/blog/interactive-tool-illustrates-disparate-economic-impacts-pandemic>.

¹⁰⁵ See, e.g., Midwest Regional Office – Consumer Protection and Financial Impact Listening Session, available at <https://www.ftc.gov/news-events/events-calendar/midwest-regional-office-consumer-protection-financial-impact-listening>.

¹⁰⁶ A list of Ethnic and Community Media Briefings can be found at www.consumer.gov/commonground.



importance to the community of reporting fraud and bad business practices.¹⁰⁷ During the pandemic, these briefings have been virtual, but they continue to be a successful way to connect with a range of communities in a locality, hear their experiences and needs, give other agencies a platform, and share FTC resources. Briefings in large cities like New York, Chicago, Los Angeles, and San Francisco, have resulted in more than 30 media stories each in English and in other languages.¹⁰⁸ In smaller venues, with smaller media markets, these briefings have generated 12-15 stories each on average, as well as developing relationships with ethnic media journalists in both large and small markets.

Screen shots of news coverage resulting from Ethnic and Community Media Briefings

World Journal

疫情詐騙吸金1.46億 網購防疫品最多
記者李略／舊金山報導 2020-09-25



新冠疫情所衍生的詐騙活動，類型多樣，且層出不窮，令人防不勝防。聯邦和加州政府也都重拳出擊，呼籲民眾積極舉報並且分享相關經歷，讓執法部門可以更好調查跟進與起訴。

少數族裔媒體服務中心（Ethnic Media Services）特別邀請了多位政府代表，講述這半年疫情期間的各種詐騙行為。

聯邦貿易委員會（Federal Trade Commission，簡稱FTC）消費者保護副主任瓦卡（Monica Vaca）說，疫情相關的詐騙涵蓋非常多方面，讓人震驚。她說像是購物、醫療、還債、旅遊等等都有涉及，這也凸顯了民眾們每日需要面臨的困擾，因為本身疫情期間民眾的經濟收入就已經不穩定，詐騙活動乘機形同雪上加霜。

Reporte Hispano

Más de \$146 millones a perdido la población por estafas relacionadas con COVID-19
Kleibeel Marciano | 29 Septiembre 2020



Los estafadores se han aprovechado del temor y la crisis económica de salud que ha generado la pandemia del COVID-19 para robar a los consumidores más de \$146 millones de dólares, según explicaron voceros de la Comisión Federal de Comercio (FTC, por sus siglas en inglés) durante una rueda de prensa de Ethnic Media Services.

In addition to the ethnic and community media briefings, FTC staff has regularly hosted Ethnic Media Tele-briefings on topics important to the Commission and ethnic media audiences. These briefings serve as a way to give ethnic media ready access to FTC experts, while also providing journalists an opportunity to share related experiences from their community. Topics covered have included cases, such as *Herbalife*;¹⁰⁹ refunds to consumers resulting from FTC action like *Western Union*;¹¹⁰ and the annual release of the FTC's Data Book.¹¹¹ And, as a matter of course, Spanish-language media outlets often seek out interviews with bilingual FTC subject matter experts on consumer

¹⁰⁷ See, e.g., Reporte Hispano (July 16, 2020), available at <https://reportehispano.com/en/2020/07/el-coronavirus-ha-creado-una-lluvia-de-estafas/>; Nepal24Hours (July 14, 2020), available at <https://www.nepal24hours.com/coronavirus-opens-a-pandoras-box-of-scams/>; Hola America News (July 14, 2020), available at <https://holaamericanews.com/es/corona-virus-opens-a-pandoras-box-of-scams/>; Hispanic LA (July 14, 2020), available at <https://hispanicla.com/el-coronavirus-ha-creado-una-lluvia-de-estafas-48095/>; India Post (July 3, 2020), available at https://drive.google.com/file/d/1suRmbQlBg5t8ugiNRRJgTLMK_hP4lzcN/view; Kyocharo America (Korean) (July 14, 2020), available at <http://sem.kyocharoamerica.com/board/contentsView.php?idx=1476335>; Kyosko Magazine (July 14, 2020), available at <https://kioskonews.com/2020/07/14/el-coronavirus-ha-creado-una-lluvia-de-estafas/>; Blackfacts (July 15, 2020), available at <https://www.blackfacts.com/fact/coronavirus-opens-a-pandora-s-box-of-scams>.

¹⁰⁸ News outlets in a variety of media, including television, radio, online, and in print have served Black, Latino, South Asian, Southeast Asian, Korean, Chinese, Filipino, Bangladeshi, Turkish, Pakistani, Haitian, Somali, Ethiopian, Eritrean, Bosnian, Polish, and Hungarian communities, among many others.

¹⁰⁹ See Press Release, FTC, *Herbalife Will Restructure Its Multi-level Marketing Operations and Pay \$200 Million For Consumer Redress to Settle FTC Charges* (July 15, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/07/herbalife-will-restructure-its-multi-level-marketing-operations>.

¹¹⁰ See FTC FAQs regarding FTC and Department of Justice's settlement with Western Union (Sept. 2020), available at <https://www.ftc.gov/enforcement/cases-proceedings/refunds/western-union-settlement-faqs>.

¹¹¹ See FTC, *Consumer Sentinel Network Data Book 2020* (Feb. 2021), available at <https://www.ftc.gov/reports/consumer-sentinel-network-data-book-2020>.



protection issues. This media coverage helps disseminate current and relevant alerts to the Latino community on a regular basis.

C. Connecting with Trusted Partners

Building upon more than 15 years of concentrated outreach to communities of color, the FTC continues to apply those lessons to expand its reach to these communities and audiences. By following its trusted sources approach, the FTC works to build relationships with key players in communities of color, while developing the kinds of resources they recommend.

Well-known, national organizations like the NAACP and the Urban League are key partners when it comes to reaching Black communities across the nation. The FTC has, for example, offered train-the-trainer sessions to NAACP State Economic Chairs and to their State Conference Leaders to help them to alert their local chapter members about job scams, fake business opportunities, problems with background checks, tax identity theft, and other barriers to economic opportunity.

The agency is also taking a local approach to reaching Black communities by working with groups like churches, libraries, and community colleges and universities. For example, FTC staff has regularly attended events with Black churches on the South Side of Chicago and faith-based groups in New York, where they gave presentations on top frauds and financial literacy, and distributed print materials. FTC staff has also spoken at events presented by the Delta Sigma Theta Sorority, a sisterhood of predominantly Black, college-educated women. FTC staff has spoken at in-person and virtual town halls held by members of Congress, which reach a diverse range of constituents. These partnerships are important because these institutions have a unique and powerful historic role in providing the Black community with social services, education, and outreach.

The FTC also has spent years building trusted partnerships within Native American communities. Following the FTC's 2014 Native American Common Ground Conference,¹¹² the Oklahoma Native Assets Coalition, Inc. invited staff from the FTC's Southwest Regional Office to present a seminar about avoiding consumer fraud such as government impersonators, tech support scams, debt collection and debt relief scams, opportunity scams, automobile dealerships, funeral services, and identity theft to Native American tribes throughout Oklahoma. In addition, staff from the FTC's Northwest Regional Office, which regularly engages with Tribal communities, participated in the annual Alaska Federation of Natives Annual Convention, which draws approximately 6,000 attendees each year and is the largest representative annual gathering of Native peoples in the United States.¹¹³ Staff has also presented on consumer issues on the Blackfeet Reservation, and held an open dialog with the Tribal community during the 2021 Montana Ethnic Media Roundtable.¹¹⁴

¹¹² See Agenda, *Native American Common Ground Conference*, available at <https://www.ftc.gov/news-events/events-calendar/2014/05/native-american-common-ground>.

¹¹³ Statement from the organization's website, available at <https://www.nativefederation.org/>.

¹¹⁴ See *Spotting and Preventing Pandemic Related Scams and Other Fraud in Montana/The Mountain West*, available at https://www.consumer.gov/sites/www.consumer.gov/files/ftc_invite_montana.pdf.



Over the past several years, the FTC has built relationships with housing agencies nationwide to help protect low-income communities from scams and bad business practices. One example is the FTC’s partnership with the Washington, D.C. Housing Authority) to educate tenants about how to spot and avoid scams, including credit repair, identity theft, and government impersonators. A national example is the FTC’s partnership with the U.S. Department of Housing and Urban Development’s (“HUD”) EnVision Centers across the country. These centers support people in and around public housing, as well as Section 8 residents,¹¹⁵ with programs on financial empowerment, job training, high school equivalency testing, and other education-centered programs. In a separate program, FTC staff is presently collaborating with HUD’s Housing Counseling Office to develop trainings for HUD housing counselors in response to COVID-related rental, housing, and eviction scams.

Over the past five years, the FTC has continued to expand its work with legal service providers who work with low income consumers in underserved communities.¹¹⁶ National organizations like the Legal Services Corporation and the National Association of Consumer Advocates are frequent participants in FTC outreach campaigns and regularly invite FTC staff to present on their webinars. Recent webinars have covered topics including deceptive debt collection practices, helping Latino consumers spot and avoid scams, and counseling identity theft victims.

At the local, state, and regional level, FTC staff regularly participate in calls with legal services providers to learn about the consumer protection issues their clients are facing and to offer the FTC’s free educational resources and expertise. In fact, this exchange of ideas is longstanding and constructive, as feedback from legal services providers inspired the FTC’s creation of its website, consumer.gov (consumidor.gov in Spanish). These sites give people consumer protection basics in a straightforward, easily-navigated design, with increased accessibility through an audio read-along of the content, video explanation of key issues, and easy conversion to larger font. The FTC continues to expand the websites’ accessibility and relevance by adding mobile responsiveness to make the websites easily viewed on smart phones, and by adding new topics and resources. These include an article on higher education¹¹⁷ new videos,¹¹⁸ and updates on impersonator scams¹¹⁹ and identity theft sections.¹²⁰

The agency’s work with libraries continues. Librarians are a trusted source of information in the communities they serve. Staff attends the national conference for either the American Library

¹¹⁵ See *supra* note 81 (data regarding demographics of users of Section 8 vouchers).

¹¹⁶ The FTC also participates on the federal Legal Aid Interagency Roundtable (LAIR), a partnership created to raise federal agencies’ awareness of how civil legal aid can help advance federal objectives. The DOJ and the White House Domestic Policy Council launched the LAIR in 2012 to work with legal aid partners to advance government programs; create and disseminate tools to provide information about civil legal aid and federal funding opportunities; and generate research to inform policy that improves access to justice.

¹¹⁷ See *Your Education After High School*, available at <https://www.consumer.gov/articles/0042-your-education-after-high-school>.

¹¹⁸ See FTC Videos, *Avoiding Student Loan Debt Relief Scams*, available at <https://youtu.be/--Ky877xcD8> and *Cashing a Paycheck - Personal Finance Tips*, available at <https://youtu.be/PHwUyw7x8EA>.

¹¹⁹ See *Impersonator Scams*, available at <https://www.consumer.gov/articles/imposter-scams>.

¹²⁰ See *Avoiding Identity Theft*, available at <https://www.consumer.gov/articles/1015-avoiding-identity-theft>; see also *Recovering from Identity Theft*, available at <https://www.consumer.gov/articles/1016-recovering-identity-theft>.



Association (“ALA”) or the Public Library Association every year. In 2018 the FTC attended the Joint Conference of Librarians of Color in Albuquerque, New Mexico, which is hosted by the ALA’s ethnic affiliates – American Indian Library Association, the Asian/Pacific American Librarians Association, the Black Caucus of the American Library Association, the Chinese American Librarians Association, and REFORMA: The National Association to Promote Library & Information Services to Latinos and the Spanish Speaking. The FTC has established strong partnerships with individual library systems that display FTC print publications in their locations and make these free materials available for their patrons.

D. Educating Through Storytelling



As the agency continues to work to reach broader audiences in more effective ways, FTC staff experience, communication experts, ethnic media, and partners in the Latino community and other communities of color all point to the power of storytelling to convey important messages. The FTC continues to print its popular *fotonovelas* series – graphic novels with stories based on Spanish speakers’ reports to the FTC.¹²¹ The storytelling strategy is similarly used in the *Fraud Affects Every Community Video Series*.¹²² These first-person stories of fraud – and advice from the FTC and legal services on avoiding it – help a wider range of people identify with the person’s experience. Both the videos and *fotonovelas* tell stories in a way to encourage those who engage with them, encouraging people to talk about scams and report them to the FTC as a way to help fight fraud in their community. They form part of the FTC’s high-quality consumer education materials that are widely available in multiple formats: websites, blogs, videos, audio, and print.¹²³ The agency offers these for other groups to use, share, and even co-brand, with or without attribution. The goal is always to get practical and actionable information into the hands of people who need it, at the moment they need it, delivered by someone they trust.

¹²¹ The full series is available at [ftc.gov/fotonovelas](https://www.ftc.gov/fotonovelas) and in English at <https://www.consumer.ftc.gov/features/feature-0031-fotonovelas>, with topics including government impersonators, immigration scams, debt collection, telemarketing fraud, and the importance of reporting scams.

¹²² Examples can be found at www.ftc.gov/everycommunity.

¹²³ See consumer websites at <https://www.consumer.ftc.gov/> and <https://www.consumer.gov/>, and in Spanish <https://www.consumidor.ftc.gov/> and <https://www.consumidor.gov/>, and for military at <https://www.militaryconsumer.gov/>; see consumer blogs in English at <https://www.consumer.ftc.gov/blog> and in Spanish at <https://www.consumidor.ftc.gov/blog>; see business blogs at <https://www.ftc.gov/news-events/blogs/business-blog>; see videos at <https://www.youtube.com/user/FTCvideos>. For an example of a read-along page, see <https://www.consumer.gov/articles/1002-making-budget>.

Examples of Fraud Affects Every Community videos



E. Serving Communities in Various Languages

One question that frequently comes up in outreach to communities of color is how to provide resources in appropriate languages. While all FTC consumer and small business education is available in both English and Spanish,¹²⁴ the agency worked strategically to provide information in additional languages when there is both interest in and demand for those resources. The FTC has made significant investments in providing immigration resources in a range of languages,¹²⁵ as well as some scam-spotting basics for refugee case workers.¹²⁶ More recently, the agency has sought to gather in one place useful information in some of the most widely-spoken languages.¹²⁷ Each of these efforts has been accompanied by a communications campaign, so that organizations in each of those linguistic communities know how to find and use those resources.

¹²⁴ See resources in English for consumers: <https://www.consumer.ftc.gov/> and small business: <https://www.ftc.gov/tips-advice/business-center/small-businesses>, and in Spanish for consumers: <https://www.consumidor.ftc.gov/> and small business: <https://www.ftc.gov/es/tips-advice/business-center/small-businesses/espanol>.

¹²⁵ Immigration resources are available in Arabic, traditional Chinese, Creole, English, Korean, Russian, Spanish, and Vietnamese at <https://www.consumer.ftc.gov/features/feature-0012-scams-against-immigrants>.

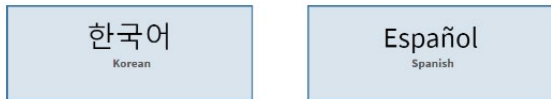
¹²⁶ Information for recent immigrants and refugees is presented in Amharic, Arabic, Dari, English, French, Somali, and Spanish at <https://www.consumer.ftc.gov/features/feature-0033-avoiding-scams-information-recent-refugees-and-immigrants>.

¹²⁷ Resources are available in simplified Chinese, Korean, Spanish, Tagalog, and Vietnamese at <https://www.consumer.ftc.gov/consumer-resources-other-languages>.

Consumer Resources in Other Languages



The Federal Trade Commission (FTC) offers information in several languages on a variety of consumer education topics. Click on the language resources below to read, download and share this information. There are also in-language resources available to order for free at ftc.gov/bulkorder.



FTC staff also has conducted sustained and on-the-ground outreach in Spanish, when needed. The devastation that followed 2017 Hurricane Maria led to increased engagement and partnership-building with many groups throughout Puerto Rico. The resulting relationships have led to numerous opportunities for outreach and collaboration, including delivering a continuing legal education program with the Puerto Rico Bar Association and training to legal services providers. This has been true not only in the wake of the hurricane, but during the COVID-19 pandemic. For example, FTC staff has collaborated with government

agencies from Puerto Rico, the AARP office in Puerto Rico, and the Elder Justice program in the U.S. Attorney’s office in Puerto Rico on a COVID-19 scam awareness campaign. These and other organizations are now working with the FTC throughout Puerto Rico to help people spot and avoid scams, and to encourage them to report fraud to the FTC.¹²⁸

Co-branded infographics that are part of the COVID-19 scam awareness campaign in Puerto Rico



F. Responding to the COVID-19 Pandemic

The FTC’s quick and comprehensive response to the COVID-19 pandemic continues. The FTC has worked aggressively to educate consumers of all communities and backgrounds about coronavirus-related scams. The agency created a page for consumers¹²⁹ within [ftc.gov/coronavirus](https://www.ftc.gov/coronavirus), with resources in

¹²⁸ Organizations include the Puerto Rico Department of Consumer Affairs, Legal Services of Puerto Rico, One Stop Career Center, the Puerto Rico Bar Association, and local universities.

¹²⁹ See *Coronavirus Advice for Consumers*, available at <https://www.ftc.gov/coronavirus/scams-consumer-advice> and in Spanish, *Las estafas relacionadas con el coronavirus*, available at <https://www.ftc.gov/es/coronavirus/las-estafas-relacionadas-con-el-coronavirus>.

numerous languages to help people spot and avoid coronavirus scams – along with a page for businesses.¹³⁰ These sites are intended to give the audience a one-stop shop for materials to help spot, avoid, and report scams related to COVID-19 and the financial challenges that have resulted from the pandemic. Resources on the FTC’s coronavirus site include blog posts, videos, social media graphics, comprehensive infographics, and audio tips.¹³¹ Through regular outreach with a range of organizations, FTC staff encouraged the broader use of these materials. For example, a large chain of Asian supermarkets in California included the infographic, below, in their electronic newsletter, which it delivered to 30,000 subscribers. In addition, the FTC has partnered with both the Better Business Bureau and the NAAG to create and promote, respectively, videos and graphics to a broader audience.

Infographics in various languages with advice on how to avoid COVID-19 related scams



Since the beginning of the pandemic – in fact, starting in February 2020¹³² – the FTC has issued more than 120 Consumer Alerts on COVID-related topics, including Economic Impact Payments, false health and treatment claims, charity fraud, government impersonator scams, contact tracing, privacy issues, income scams, and scams targeting small business. These alerts, which were also available in Spanish – and many in other languages, too – served as the basis for ongoing conversations among the FTC, partner organizations serving communities of color, and ethnic media. They also drew significant public attention to the financial impact of the pandemic. For example, a single Consumer Alert about potential scams related to the Economic Impact Payments received more than 1.6 million views.¹³³ The agency also put out more than 45 Business Alerts covering topics including scams targeting small business, health and earnings claims, scams related to loans issued by the U.S. Small Business Administration (“SBA”), unemployment benefits fraud, privacy considerations for videoconferencing and at-home

¹³⁰ See *Business Guidance During Coronavirus*, available at <https://www.ftc.gov/coronavirus/business-guidance>.

¹³¹ Find resources in multiple languages at <https://www.ftc.gov/coronavirus/resources> and in Spanish at <https://www.ftc.gov/es/coronavirus/recursos>.

¹³² See FTC Consumer Alert, *Coronavirus: Scammers follow the headlines* (Feb. 10, 2020), available at <https://www.consumer.ftc.gov/blog/2020/02/coronavirus-scammers-follow-headlines>.

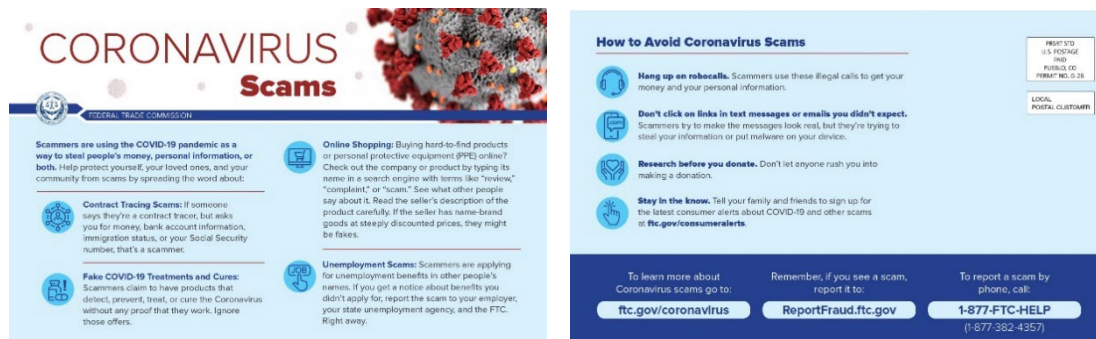
¹³³ See FTC Consumer Alert, *Checks from the government* (Mar. 18, 2020), available at <https://www.consumer.ftc.gov/blog/2020/03/checks-government>.

school, and a warning to nursing homes that stimulus payments were for their residents, not for them.¹³⁴ The FTC also ran a multi-part “Back to Business” blog series for companies returning to the in-person workplace, addressing data security issues and the latest COVID-related scams targeting small business.¹³⁵ Local media and community partners, including libraries, banks, and local law enforcement, subscribe to both Business and Consumer Alerts, and are a force-multiplier. They frequently share and forward the information to their members, expanding the FTC’s audience exponentially, and calling on FTC staff to share their expertise in media interviews.

As the pandemic deepened, the FTC quickly adapted its messaging and its outreach methods, presenting in English and Spanish at scores of webinars, Facebook live events, virtual conferences and other virtual events on pandemic-related scams affecting both consumers and small businesses. For example, FTC staff spoke at the FDIC’s Alliance for Economic Inclusion events in Texas, Louisiana, and Mississippi about COVID-19 scams targeting small business;¹³⁶ SBA events on the same topic; AARP webinars and tele-town halls on COVID-related scams, as well as those related to the pandemic’s financial impact; various webinars sponsored by the Puerto Rico Bar Association on scams and the financial impact of the pandemic; and events with federal partners like the USPIS and FEMA conducted entirely in Spanish to help consumers and business owners spot and avoid COVID-related scams and learn basic online safety and cybersecurity information.

To ensure that important messages about pandemic-related scams reach people and communities with limited or no access to broadband internet, the FTC used USPS’s Every Door Direct Mailer service to deliver postcards with tips on spotting, avoiding, and reporting COVID-related scams. The mailer went to more than 237,000 households in late 2020. To further amplify its outreach, the FTC also mailed letters to more than 5,000 community health clinics – including 2,332 rural clinics — to encourage healthcare professionals to share the FTC’s COVID-related materials and consumer protection tips with patients and older adults.

FTC Mailer sent to 237,000 households



¹³⁴ See FTC Business Blog, available at <https://www.ftc.gov/news-events/blogs/business-blog>.

¹³⁵ See FTC Back to Business Blog series, available at <https://www.ftc.gov/consumer-protection/small-business>.

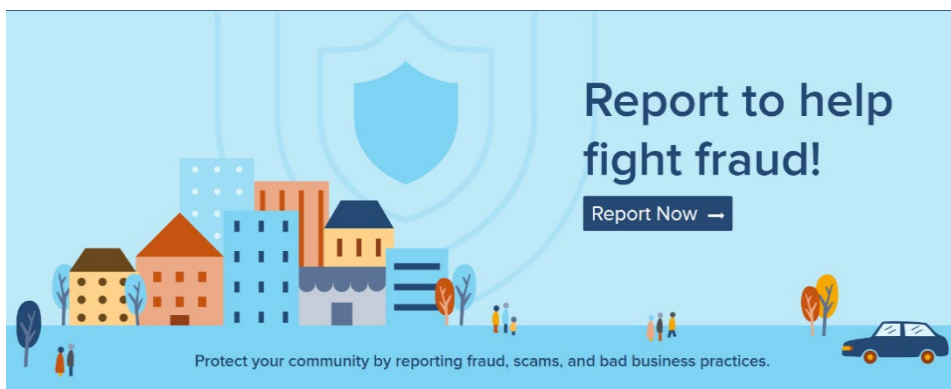
¹³⁶ See events in Texas, <https://www.fdic.gov/consumers/community/events/2020-07-16-small-business-resources-texas.html>; Mississippi, <https://www.fdic.gov/consumers/community/events/2020-08-19-fdic-alliance-for-economic-inclusion-mississippi.html>; and Louisiana, <https://www.fdic.gov/consumers/community/events/2020-11-19-louisiana-small-business.html>.

As the pandemic shifted, and responses to it changed, the scams also changed. To serve both communities of color and its broader audience, the FTC worked to get messages to the public ahead of scammers, including before and during the vaccine rollout. Numerous Consumer Alerts and graphics, created and promoted in partnership with NAAG, sought to combat vaccine-related scams that exploited confusion about when, how, and where to sign up and get vaccinated. The agency recently released joint guidance on vaccine certifications and passports,¹³⁷ and stands ready to address the next phase of the pandemic, as well as ensure that it gets the word out to every community.

G. Making Reporting Channels More Accessible

A key tool that the FTC has to hear directly from consumers is its Consumer Sentinel (“Sentinel”) reporting system, which is an online database where reports from consumers about fraud and other consumer problems are collected. The agency has taken significant steps to increase reports in Sentinel from all communities. In October 2020, the FTC launched ReportFraud.ftc.gov, a new site designed to make it easier for people to report fraud and other illegal business practices online. The process is now simpler and more user-friendly and, once a report is submitted, the user now gets concrete next steps to attempt to get their money back, recover from the experience they are reporting, and avoid future fraud. The entire site is available in Spanish at Reportefraude.ftc.gov. The FTC engaged in a multi-faceted outreach strategy that is ongoing to promote ReportFraud.ftc.gov in every community, which includes videos, blogs, social media messages, presentations and outreach to national and local partners, and paid online search ads in English and Spanish. Preliminary analysis of the report data by Dr. Michel Grosz and Dr. Raval in the FTC’s Bureau of Economics shows an average increase of approximately 27% in the number of online and mobile reports filed with the FTC immediately following the launch.

ReportFraud.ftc.gov landing page



¹³⁷ See FTC Consumer Alert, *Scammers cash in on confusion over vaccine verification methods* (May 28, 2021), available at <https://www.consumer.ftc.gov/blog/2021/05/scammers-cash-confusion-over-vaccine-verification-methods>.

In March 2021, the FTC launched the Community Advocate Center to increase the number of reports the FTC receives from lower-income communities.¹³⁸ The Report Fraud Community Advocates are organizations providing free or low-cost legal representation which have partnered with the FTC to help their clients work through fraud and other bad business experiences. Participating organizations receive a custom link to ReportFraud.ftc.gov through which they can report their clients' experiences with fraud and get advice to help them try to recover money lost. Participants can also track the reports they have filed and receive quarterly reports about consumer issues in their regions.

The FTC values these connections with legal services providers, which have provided important information on concerns affecting the communities they serve.¹³⁹ Key organizations that support legal services work and advocate for communities of color, such as the Legal Services Corporation, the National Legal Aid & Defender Association, the National Consumer Law Center, and the National Association of Consumer Advocates,¹⁴⁰ support the Community Advocate Center initiative.

IV. FTC Workshops and Industry Studies

The FTC has conducted a number of workshops and other engagements to gather information and to learn from industry, advocates, and other stakeholders. It also has published reports, business guidance, and comments on pertinent topics.

A. Workshops

In December 2016, the FTC conducted a workshop, *The Changing Consumer Demographics*, examining how the aging population and growing racial and ethnic diversity in the United States will affect the future of consumer protection.¹⁴¹ The workshop brought together demographers, researchers, marketers, consumer groups, and federal, state, and local law enforcement to examine the predicted changes in various diverse groups and discuss what impact those changes will have on the marketplace.

¹³⁸ FTC Community Advocate Center, available at <https://reportfraud.ftc.gov/community>.

¹³⁹ See, e.g., FTC Blog, *I'd like to thank* (July 2015), available at <https://www.consumer.ftc.gov/blog/2015/07/id-thank>; *Fraud Affects Every Community: Debt Settlement Companies*, available at <https://vimeo.com/352058978> (FTC video highlighting work of Community Legal Services); and *Fraud Affects Every Community: Debt Collection* (FTC video highlighting work of Pine Tree Legal Assistance), available at <https://vimeo.com/352069281>.

¹⁴⁰ See, e.g., Legal Services Corporation Press Release, *Legal Services Corporation Requests Supplemental Funding to Help Implement American Jobs Plan* (Apr. 5, 2021), available at <https://www.lsc.gov/press-release/legal-services-corporation-requests-supplemental-funding-help-implement-american-jobs-plan> ("Sixty percent of [Legal Service Corporation's] grantees' clients are people of color, the majority of whom are women. Civil legal aid attorneys help tackle barriers to justice created by the intersection of race and poverty."); National Legal Aid & Defender Association, *Racial Justice Action Plan* (Oct. 2018), available at https://www.nlada.org/sites/default/files/pictures/NLADA_Racial_Justice_Action_Plan_%28Oct%202018%29.pdf; National Consumer Law Center, *Racial Justice and Equal Economic Opportunity Project*, available at <https://www.nclc.org/special-projects/racial-justice.html>.

¹⁴¹ See *The Changing Consumer Demographics* (Dec. 6, 2016), available at <https://www.ftc.gov/news-events/events-calendar/2016/12/changing-consumer-demographics>.



According to demographers at the workshop, the U.S. population will be even more racially and ethnically diverse in the future, and by 2060, no group will be the majority.¹⁴² The biggest growth in population segments is expected among Latinos born in the U.S., Asian Americans, multiracial Americans, and the aging baby boomers. Experts recommended working with trusted partners – such as community organizations and ethnic media – to reach diverse consumers, and recommended using tailored language and culturally appropriate messaging to best reach different audiences.

In July 2019, the FTC hosted a workshop, *Nixing the Fix: A Workshop on Repair Restrictions*, to examine the ways in which manufacturers may limit third-party repairs and whether those limitations affect consumer protection.¹⁴³ The FTC submitted a congressional report on repair restrictions in May 2021.¹⁴⁴ For the report, the FTC synthesized knowledge gained from the workshop, as well as public comments, responses to a request for empirical research and data, and independent research. Among other things, the report made observations relating to communities of color, including that the burden of repair restrictions may fall more heavily on communities of color and lower-income communities.¹⁴⁵ The FTC will continue to examine the many consumer protection issues raised by repair restrictions, and pursue appropriate law enforcement and regulatory options, as well as consumer education.

In December 2019, the FTC and the CFPB hosted a public workshop, *Accuracy in Consumer Reporting*, to explore issues affecting the accuracy of both traditional credit reports and employment and tenant background screening reports, including the use of machine learning and alternative data in making eligibility determinations.¹⁴⁶ Among other topics, the panelists explored the interplay between these issues, and their impact on people of color obtaining credit, housing and employment. One panelist stated that a consumer’s data itself, as it enters into the credit reporting system, can be biased, without even accounting for the biases against communities of color at the point of service.¹⁴⁷

¹⁴² See *id.*, Changing Demographics Workshop Slides Part 1, available at https://www.ftc.gov/system/files/documents/public_events/955193/consumer_demographics_part1_0.pdf.

¹⁴³ See *Nixing the Fix, A Workshop on Repair Restrictions* (July 16, 2019), workshop webpage, including transcript, available at <https://www.ftc.gov/news-events/events-calendar/nixing-fix-workshop-repair-restrictions>.

¹⁴⁴ See *Nixing the Fix: An FTC Report to Congress on Repair Restrictions* (May 2021), available at https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf.

¹⁴⁵ The report noted that many Black-owned small businesses are in the repair and maintenance industries, and difficulties facing small businesses can disproportionately affect small businesses owned by people of color from underserved communities. In addition, repair restrictions for some products, such as smartphones, also may place a greater financial burden on communities of color and lower-income Americans, as research shows that Black and Latino consumers are about twice as likely as White consumers to have smartphones, but no broadband access at home. See *supra* note 144 at 3-4.

¹⁴⁶ See *Accuracy in Consumer Reporting: An FTC/CFPB Workshop* (Dec. 10, 2019), available at <https://www.ftc.gov/news-events/events-calendar/accuracy-consumer-reporting-workshop>.

¹⁴⁷ See FTC Transcript (Morning Session) of *Accuracy in Consumer Reporting* Workshop at 16 (Dec. 10, 2019), available at https://www.ftc.gov/system/files/documents/videos/accuracy-consumer-reporting-workshop-session-1/ftc_accuracy_in_consumer_reporting_workshop_transcript_segment_1_12-10-19.pdf (“sometimes just the data from where you are and who you are, as it enters the credit reporting system, can be biased. If you were to account for biases at point of service for communities of color, then yes, the credit reporting system would be very biased.”). The panelist further highlighted his concerns about using alternative data to determine credit worthiness given issues with the “accuracy, transparency, predictive capacity, the impact of using such data, especially on communities of color.” *Id.* at 35. Another panelist noted during a discussion of using criminal records data in the area of housing, given “what we know about mass





In April 2021, the FTC hosted a workshop, *Bringing Dark Patterns to Light: An FTC Workshop*, to examine digital “dark patterns” – user interface design features that can manipulate consumers into taking unintended or undesired actions.¹⁴⁸ The workshop featured panel discussions and presentations by experts in human-computer interaction, user experience design, privacy, and consumer protection, and covered a range of topics, including the impact of dark patterns on communities of color. In addition, some panelists observed that greater economic stress, language barriers, and cultural differences all may make non-English speakers and people of color more susceptible to dark patterns and lead to disparate impacts that exacerbate existing racial and socioeconomic disparities. They emphasized the need for companies and organizations to examine the effects that their technologies are having on different communities, as well as the need for increased government regulation and enforcement regarding deceptive and unfair dark patterns.¹⁴⁹

Surveillance practices and the use of artificial intelligence (“AI”) also raise concerns for people in different population segments. Every year since 2016, the FTC holds *PrivacyCon*, a conference in which researchers present cutting-edge work on privacy, data security, and AI, which helps inform the FTC’s policy and enforcement work. For example, advances in AI technology promise to revolutionize our approach to medicine, finance, business operations, media, and more. But research has highlighted how apparently “neutral” technology can produce troubling outcomes – including discrimination by race or other legally protected classes. For example, during a panel on *Bias in Algorithms* at PrivacyCon 2020, researchers presented a study demonstrating that an algorithm used with good intentions – to target medical interventions to the sickest patients – ended up funneling resources to a healthier, White population, to the detriment of sicker, Black patients.¹⁵⁰ Similar to PrivacyCon 2020, PrivacyCon 2021 also examined bias in algorithms. The event included a number of presenters addressing algorithmic bias, and how best to combat it.¹⁵¹ For example, researchers presented a study on auditing for

incarceration in this country . . . any way in which you’re using blanket rules to disqualify people based on their criminal records is anything but colorblind and will have a huge disproportionate impact on people of color in this country.” See FTC Transcript (Afternoon Session) of *Accuracy in Consumer Reporting Workshop* at 31-33, available at https://www.ftc.gov/system/files/documents/videos/accuracy-consumer-reporting-workshop-session-2/ftc_accuracy_in_consumer_reporting_workshop_transcript_segment_2_12-10-19.pdf.

¹⁴⁸ See *Bringing Dark Patterns to Light: An FTC Workshop* (Apr. 29, 2021), workshop webpage available at <https://www.ftc.gov/news-events/events-calendar/bringing-dark-patterns-light-ftc-workshop>.

¹⁴⁹ See FTC Transcript of the Dark Patterns Workshop at 43-52 (Apr. 29, 2021), available at https://www.ftc.gov/system/files/documents/public_events/1586943/ftc_darkpatterns_workshop_transcript.pdf.

¹⁵⁰ Ziad Obermeyer et al., *Dissecting racial bias in an algorithm used to manage the health of populations*, 366 *Science* 6464, 447-53 (Oct. 25, 2019), available at <https://science.sciencemag.org/content/366/6464/447>.

¹⁵¹ See PrivacyCon2021 Event Description and Agenda available at <https://www.ftc.gov/news-events/events-calendar/privacycon-2021>.

discrimination in algorithms delivering job ads.¹⁵² More research is needed, however, to better understand these issues and their impact on communities of color.

FTC staff recently published posts on the FTC’s Business Blog providing guidance on using AI and algorithms—including a recommendation that companies test their algorithms, both at the outset and periodically thereafter, to make sure they do not create a disparate impact on a protected class.¹⁵³

B. Industry Studies

The FTC is conducting an industry study of social media and video streaming platforms to better understand how these companies collect, use, and present personal and demographic information, their advertising and user engagement practices, and how these practices may impact consumers, including communities of color. Specifically, our study will help us understand how these platforms use consumers’ sensitive information to target or exclude specific communities from ads and marketplace opportunities, as well as what steps these platforms are taking to ensure that their algorithms are not biased by, for example, missing significant information from communities of color.

In December 2020, the FTC issued orders to nine companies to obtain relevant data,¹⁵⁴ the study of which will help inform and guide the FTC’s policy and enforcement approaches.

The FTC also is conducting an industry study regarding how broadband companies collect, use, and disclose information about consumers and their devices.¹⁵⁵ In March 2019, the FTC issued orders to

¹⁵² See Basileal Imana, Aleksandra Korolova, Johan Heidemann, *Auditing for Discrimination in Algorithms Delivering Job Ads*, In Proceedings of the Web Conference 2021 (Apr. 19-23, 2021), available at https://www.ftc.gov/system/files/documents/public_events/1582978/auditing_for_discrimination_in_algorithms_delivering_job_ads.pdf.

¹⁵³ See Elisa Jillson, *Aiming for truth, fairness, and equity in your company’s use of AI*, FTC Business Alert (Apr. 19, 2021), available at <https://www.ftc.gov/news-events/blogs/business-blog/2021/04/aiming-truth-fairness-equity-your-companys-use-ai>, citing Eliane Röösl, Brian Rice, Tina Hernandez-Boussard, *Bias at warp speed: how AI may contribute to the disparities gap in the time of COVID-19*, Journal of the American Medical Informatics Association (Aug. 17, 2020); FTC Business Blog, *Using Artificial Intelligence and Algorithms* (Apr. 8, 2020), available at <https://www.ftc.gov/news-events/blogs/business-blog/2020/04/using-artificial-intelligence-algorithms>.

¹⁵⁴ See Press Release, FTC, *FTC Issues Orders to Nine Social Media and Video Streaming Services Seeking Data About How They Collect, Use, and Present Information* (Dec. 14, 2020), available at <https://www.ftc.gov/news-events/press-releases/2020/12/ftc-issues-orders-nine-social-media-video-streaming-services>.

¹⁵⁵ See Press Release, FTC, *FTC Seeks to Examine the Privacy Practices of Broadband Providers* (Mar. 26, 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/03/ftc-seeks-examine-privacy-practices-broadband-providers>; see also Press Release, FTC, *FTC Revises List of Companies Subject to Broadband Privacy Study* (Aug. 29, 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/08/ftc-revises-list-companies-subject-broadband-privacy-study>.



seven U.S. internet broadband providers and related entities to obtain relevant data. As the internet assumes an increasingly pervasive role in the most personal aspects of our lives, including telehealth and distance learning, the privacy of consumer data requires increased attention, especially for communities of color and low-income communities.

These consumers may have fewer choices when it comes to protecting the privacy of their activities online, either because they have fewer internet options or because even though they have options, they have no choice but to accept low-price services in exchange for giving up their privacy. The Pew Research Center has shown disparities between White, Black, and Latino communities when it comes to access to home broadband service.¹⁵⁶ Recent research from UCLA found that Black and Hispanic households are 1.3 to 1.4 times as likely as White households to experience limited connectivity, and low-income households are most affected by digital unavailability, with more than 2 in 5 having only limited access to a computer or the internet.¹⁵⁷

As the internet assumes an increasingly pervasive role in the most personal aspects of our lives, including telehealth and distance learning, the privacy of consumer data requires increased attention, especially for communities of color and low-income communities.

C. Advocacy Work Related to the Equal Credit Opportunity Act

The FTC engages in advocacy work to help protect communities of color in credit transactions. For example, FTC staff recently commented on the disparate impact standard under the Equal Credit Opportunity Act (“ECOA”) and Regulation B¹⁵⁸ and the credit needs of small businesses, including those that are minority-owned.¹⁵⁹ Also, in a joint amicus brief with the CFPB in *TeWinkle v. Capital One, N.A.*, the FTC argued that the term “applicants” in the ECOA applies to those who are currently

¹⁵⁶ According to Pew Research, as of February 2021, 80% of White U.S. adults are home broadband users, as compared to 71% of Black U.S. adults and 65% of Hispanic U.S. adults. See Pew Research Center, Internet/Broadband Fact Sheet (Apr. 7, 2021), available at <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/?menuItem=3109350c-8dba-4b7f-ad52-a3e976ab8c8f>; Sara Atske & Andrew Perrin, *Home broadband adoption, computer ownership vary by race, ethnicity in the U.S.*, Pew Research Center (July 16, 2021), available at <https://www.pewresearch.org/fact-tank/2021/07/16/home-broadband-adoption-computer-ownership-vary-by-race-ethnicity-in-the-u-s/> (“A quarter of Hispanics are “smartphone-only” internet users – meaning they own a smartphone but lack traditional home broadband services. By comparison, 12% of White adults fall into this category. Among Black adults, 17% are smartphone dependent, but this share is not statistically different from their White or Hispanic counterparts.”).

¹⁵⁷ John McDonald, *Despite improved access, digital divide persists for minority, low-income students*, UCLA Newsroom (Dec. 8, 2020), available at <https://newsroom.ucla.edu/releases/digital-divide-persists-for-minority-low-income-students>.

¹⁵⁸ ECOA and Regulation B, its implementing regulation, prohibit discrimination in credit transactions.

¹⁵⁹ FTC Staff Comment to the CFPB, Regarding Regulation B, the Implementing Regulation of the Equal Credit Opportunity Act (Dec. 2020), available at <https://www.ftc.gov/policy/advocacy/advocacy-filings/2020/12/ftc-staff-comment-cfpb-regarding-regulation-b-implementing>.



seeking credit as well as those who sought and have now received credit.¹⁶⁰ In doing so, the FTC sought to ensure that protections against discrimination were not unduly limited.

V. Research Relating to Communities of Color

The FTC conducts research and analysis to identify the impact of consumer problems on various groups and population segments. This research and work by others has highlighted disparities in the marketplace for consumers living in communities of color. Such research has been helpful in guiding the FTC's efforts described above, but more is needed to further understand the disparities.

A. Differences in the Prevalence of Fraud

Since 2004, the FTC has conducted four surveys looking at the prevalence of fraud in the United States, which have demonstrated the magnitude of fraud.¹⁶¹ The most recent survey, released in 2019, found that 15.9% of participants – representing 40 million U.S. adult consumers – reported experiencing one or more of the frauds included in the survey.¹⁶² All of the surveys found that Black and Latino¹⁶³ consumers were more likely to have experienced the surveyed frauds than White consumers.¹⁶⁴ Although the fourth survey did not find a statistical significance in the disparity,¹⁶⁵ these surveys overall reveal some differences among the different population segments in the marketplace.

The National Crime Victim Survey on financial fraud by the DOJ's Bureau of Justice Statistics ("BJS"), which focused on more limited and severe types of fraud than the FTC's survey, also showed

¹⁶⁰ Brief of Amici Curiae CFPB and FTC In Support of Appellant and Reversal at 13, *TeWinkle v. Capital One, N.A.*, No. 20-2049, ECF No. 62 (2d Cir. Oct. 7, 2020), available at <https://www.ftc.gov/policy/advocacy/amicus-briefs/2020/10/bradley-tewinkle-v-capital-one-na>. The appeal is still pending.

¹⁶¹ FTC, Bureau of Economics Staff Report, *Consumer Fraud in the United States: An FTC Survey* (Aug. 2004), available at <https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-ftc-survey/040805confraudrpt.pdf> (hereinafter "Fraud Survey 2004"); FTC, Bureau of Economics Staff Report, *Consumer Fraud in the United States: The Second Survey* (Oct. 2007), available at <https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-second-federal-trade-commission-survey-staff-report-federal-trade/fraud.pdf> (hereinafter "Fraud Survey 2007"); FTC, Bureau of Economics Staff Report, *Consumer Fraud in the United States, 2011: The Third FTC Survey* (Apr. 2013), available at <https://www.ftc.gov/reports/consumer-fraud-united-states-2011-third-ftc-survey> (hereinafter "Fraud Survey 2013"); FTC, Bureau of Economics Staff Report, *Mass-Market Consumer Fraud in the United States: A 2017 Update* (Oct. 2019), available at <https://www.ftc.gov/system/files/documents/reports/mass-market-consumer-fraud-united-states-2017-update/p105502massmarketconsumerfraud2017report.pdf> (hereinafter "Fraud Survey 2019").

¹⁶² Fraud Survey 2019, *supra* note 161 at 23-24.

¹⁶³ The fraud surveys used the terms "African Americans" and "Hispanics," but this update uses the terms "Black" and "Latino."

¹⁶⁴ Fraud Survey 2004, *supra* note 161 at 61; Fraud Survey 2007, *supra* note 161 at S-2; Fraud Survey 2013, *supra* note 161 at 98; Fraud Survey 2019, *supra* note 161 at 112. The first two FTC fraud surveys also found that those who are American Indians or Alaska Natives were significantly more likely to have experienced fraud than Whites. Fraud Survey 2004, *supra* note 161 at 55-62; Fraud Survey 2007, *supra* note 161 at 26-27, 30. While the 2005 data analyzed in the 2007 survey showed that American Indians or Alaska Natives have a higher incidence of fraud than Whites, the difference was not statistically significant. Fraud Survey 2007, *supra* note 161 at 26, n. 32.

¹⁶⁵ Fraud Survey 2019, *supra* note 161 at 112 (estimated likelihood of being a victim of one of the surveyed frauds: 19.2% for African Americans, 17.3% for Hispanics, 14.9% for Non-Hispanic Whites).



disparities.¹⁶⁶ BJS’s first supplement to National Crime Victim Survey on financial fraud conducted in 2017 estimated 3 million persons, or about 1.25% of those age 18 or older, reported that they were victims of personal financial fraud during the prior 12 months. The survey found disparities in the demographics of the participants, stating that “[a] smaller percentage of [W]hite persons were victims of financial fraud (1.19%) than [B]lack persons (1.67%) and persons who were Native Hawaiian or Other Pacific Islander, American Indian or Alaska Native, or two or more races (2.19%).”¹⁶⁷

B. Disparities in Consumer Reporting of Marketing Practices

Reports from consumers about marketing practices that are collected through the Sentinel database provides an important source of information to the FTC for law enforcement purposes, and also illuminate trends and disparities. The agency collects and analyzes the reports and also provides federal, state, and local law enforcement agencies with secure access to them. Law enforcement agencies and other organizations contribute consumer reports to the database, which is searchable by criteria such as the type of report and the name, address, and telephone number of the reported entity.¹⁶⁸ Using Sentinel, the FTC and its law enforcement partners can analyze reports to look for patterns and trends, identify problematic business practices and enforcement targets, and develop cases against targets under investigation.¹⁶⁹ In 2020, the agency received more than 4.7 million consumer reports, a notable increase over prior years.¹⁷⁰ Analysis of this information provides insights into the communities that report to the FTC, such as what types of concerns they report, the payment methods reported, and other details about the consumers’ experiences.

1. Rates of Reporting

FTC consumer reporting data analysis demonstrates disparities in the rates of reporting by people residing in Black and Latino communities as compared to those residing in White communities. The FTC’s 2016 report, *Combating Fraud in African*

FTC consumer reporting data analysis demonstrates disparities in the rates of reporting by people residing in Black and Latino communities as compared to those residing in White communities.

¹⁶⁶ Rachel E. Morgan, *Fraud in the United States, 2017*, DOJ, Bureau of Justice Statistics (Apr. 2017), available at <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=7366>.

¹⁶⁷ *Id.* at 5.

¹⁶⁸ A list of Sentinel data contributors is located at <https://www.ftc.gov/enforcement/consumer-sentinel-network/data-contributors>.

¹⁶⁹ To make reporting data more transparent, in 2018, the agency began making aggregate reporting data on fraud, identity theft, and other consumer problems available in interactive online dashboards. This tool, accessible at ftc.gov/exploredata, provides a timely snapshot of what consumers are reporting, allowing users to explore data by types of fraud, state, and other criteria.

¹⁷⁰ The number of consumer reports increased by 1.7 million from 2015, when the agency received 3 million reports. This figure includes reports about fraud, identity theft, and other consumer problems. It does not include reports regarding Do Not Call violations. See FTC Report, *Consumer Sentinel Network Data Book 2020*, at 4 (Feb. 2021), available at https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf. A number of factors likely contributed to this increase since 2015, including an increase in data contributors, increased agency outreach on the importance of reporting, and, most recently, the rise in reports related to the pandemic.



American and Latino Communities,¹⁷¹ included research conducted by the FTC’s Bureau of Economics that matched the zip code information voluntarily provided when people filed Sentinel reports in 2015 to the U.S. Census Bureau’s demographic information for those zip code areas. Analyzing the aggregate information, Dr. Raval could draw inferences as to the likely demographics of the consumers filing reports and provide insight into the reporting trends for predominantly Black, Latino, and White communities. That research showed that people living in predominantly Latino communities submitted substantially fewer reports than people in predominantly White zip code areas.¹⁷²

The 2016 Report also analyzed customer data from an FTC case, *Ideal Financial Solutions*, which involved unauthorized debiting from the bank accounts of people who applied for payday loans. People who lived in zip codes heavily populated with Black residents were more than four times more likely to have experienced unauthorized bank debits by the defendants than people living in areas that were predominantly White or Latino.¹⁷³ Dr. Raval found that despite the higher rates of loss in predominantly Black communities in *Ideal Financial*, people in those same zip code areas filed reports about the defendants about 45% less often than heavily White communities.¹⁷⁴

New research analyzing the consumer reports received in Sentinel in 2020 shows disparities in the reporting rates from Black, Latino, and White communities when mapping this data to the Census Bureau’s zip code information.¹⁷⁵ Figure A below illustrates the rate at which each community filed reports in 2020; that is, how many reports were filed for every 1,000 people in the community. The communities are defined by the Black, Latino, and White population concentrations in zip code areas where complainants reside, shown as 0% to 100% in Figure A.¹⁷⁶ Figure A shows that communities with more than 50% Latino residents filed reports at rates that were much lower than those of communities with a majority of Black or White residents.¹⁷⁷ Further, the rate of filing for Latino communities gets

¹⁷¹ See FTC Report, *Combating Fraud in African American and Latino Communities* (June 15, 2016), available at <https://www.ftc.gov/system/files/documents/reports/combating-fraud-african-american-latino-communities-ftcs-comprehensive-strategic-plan-federal-trade/160615fraudreport.pdf>.

¹⁷² FTC Staff Economist Devesh R. Raval in the Bureau of Economics conducted this research examining the zip codes provided in Consumer Sentinel reports. See FTC Report, *Combating Fraud in African American and Latino Communities*, *supra* note 171 at 4-6; see also Devesh Raval, *Which Communities Complain To Policymakers? Evidence From Consumer Sentinel*, Economic Inquiry (2021), available at <https://deveshraval.github.io/complaintSentinel.pdf>

¹⁷³ See FTC Report, *Combating Fraud in African American and Latino Communities*, *supra* note 171 at 15.

¹⁷⁴ *Id.* at 16. Note that the Dr. Raval’s analysis takes factors such as income and education into account. The disparities would be larger without controlling for these factors. Further, in a subsequent paper, Dr. Raval analyzed the customer data and the complaint data for eight additional FTC matters and again found “strong evidence” that residents of heavily Black and heavily Latino areas complain at lower rates than other areas compared to their level of victimization. See Devesh Raval, *Whose Voice Do We Hear in the Marketplace?: Evidence from Consumer Complaining Behavior*, Marketing Science (2020), available at <https://deveshraval.github.io/complaintBehavior.pdf>.

¹⁷⁵ The analysis does not include Native American, Asian American, or other communities because the number of zip codes with a majority of residents from other groups is very small.

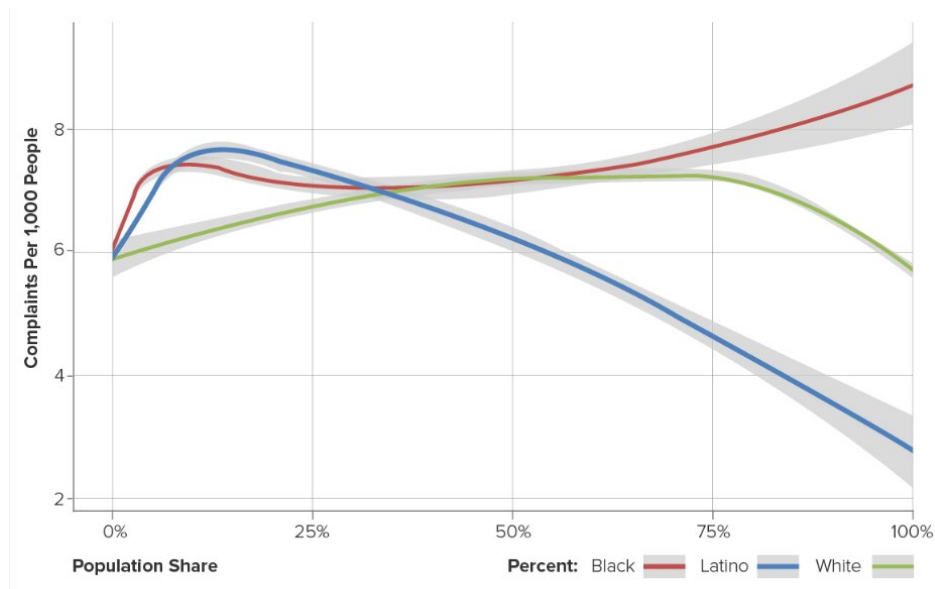
¹⁷⁶ Figure A shows the raw number of reports in the FTC’s Consumer Sentinel database for every 1,000 persons in that zip code. The analysis is limited to reports that included a zip code and that related to fraud and other consumer protection problems (such as financial and credit problems) in Consumer Sentinel, and does not include reports about identity theft or Do Not Call violations. Consumers voluntarily provided a zip code in 88% of the relevant reports. Zip codes that corresponded to unique organizations, PO boxes, or areas with a population of less than 100 were excluded from the analysis. Zip code demographics are based on data from the Census Bureau’s American Community Survey from 2014 to 2018. Individuals who filed six reports or more in a given year are excluded from the analysis to avoid distorting the results.

¹⁷⁷ The FTC has seen a general increase of consumer reports coming to the FTC directly since 2015. The rate of reporting by people living in predominantly White and Black communities increased by about 85%, and the rate for people living in Latino communities increased by more than 100% since 2015.



progressively lower as the population share of Latino residents increases. Communities with predominantly Black residents (75% or more) filed at a rate higher than communities with predominantly White and Latino residents.¹⁷⁸

Figure A
Consumer Sentinel Report Rates for Black, Latino, and White Communities in 2020 for Combined Reports from All Contributors



2. Types of Reports

People living in communities with different demographic populations report different types of concerns at different rates. Figure B shows the types of Sentinel reports filed in 2020 for majority Black, Latino, and White communities. Each colored line in the graph shows the share of reports from each community about the various categories of reports. For example, impersonator scams¹⁷⁹ were the top fraud reported in 2020, and this graphic examines how often different communities reported this scam. The green line shows that 18% of all reports filed by people living in majority White communities were about impersonator scams. Likewise, the blue line shows that 17% of all reports filed by people living in majority Latino communities were about impersonator scams. For both groups, impersonator scams were the top report in Sentinel. For people living in majority Black communities, it was a different story.

¹⁷⁸ Figures A and B show reports consumers filed with the FTC and all Sentinel contributors, including the CFPB. Prior analysis has found that the CFPB, which focuses on issues related to financial goods and services, received higher rates of reports from majority Black communities than the FTC or Better Business Bureaus. See Raval, *Which Communities Complain To Policymakers?*, *supra* note 172 at 1, 5, 25-26.

¹⁷⁹ Impersonator scams involve scammers who falsely claim to be with the government, a well-known business, or some other trusted entity or person to get people to send them money. These include government impersonator scams, such as fake Social Security Administration calls, and business imposters, such as calls impersonating Microsoft.



In majority Black communities, the top report was about credit bureaus, as Figure B illustrates. About 21% of the total reports filed by people living in majority Black communities were about credit bureaus, and impersonator scams came in second place ranking with 12.5% of reports. People living in other communities filed much lower percentages of reports about credit bureaus: only about 5.2% of total reports by majority White communities were about credit bureaus, and in majority Latino communities it was about 12%. Other categories in which people living in majority Black communities filed a higher percentage of reports include banks and lenders, auto issues, and debt collection. In fact, people living in majority Black communities filed a significantly higher percentage of reports about used auto sales than majority Latino and White communities. People living in majority Latino and White communities filed a significantly higher share of reports about new auto sales.¹⁸⁰

In majority Black communities, the top report was about credit bureaus.... Other categories in which people living in majority Black communities filed a higher percentage of reports include banks and lenders, auto issues, and debt collection.

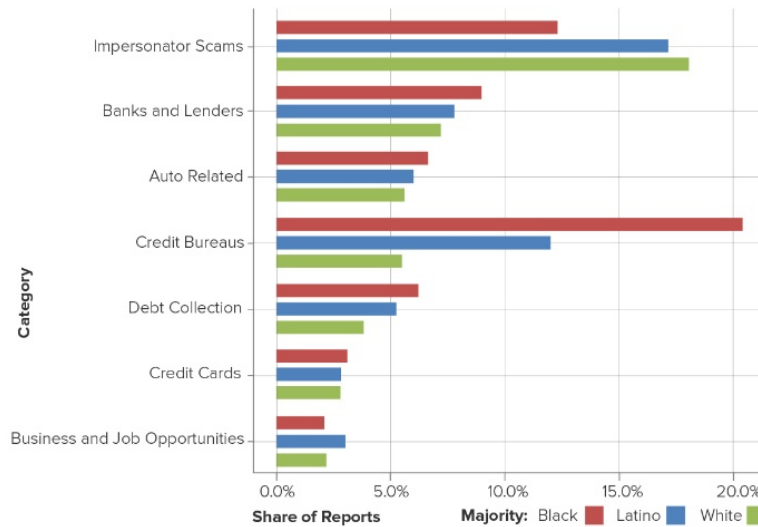
Looking at the blue lines in Figure B, people living in majority Latino communities filed a higher share of reports about credit bureaus, banks and lenders, auto issues, and debt collection than majority White communities. In addition, people living in majority Latino communities filed a higher share of reports about business opportunities and job scams than people living in majority Black or White communities.

[P]eople living in majority Latino communities filed a higher share of reports about business opportunities and job scams than people living in majority Black or White communities.

¹⁸⁰ Approximately 22% of the reports filed by consumers residing in majority Black communities about auto issues were about new auto sales (compared to almost 30% of the auto-related reports filed by by consumers residing in majority Latino and White communities), and 33% of the reports filed by consumers residing in majority Black communities about auto-related issues were about used auto sales (compared to approximately 23% of the share of reports filed by consumers residing in majority Latino and White communities).



Figure B
Share of Consumer Sentinel Report Types for Majority Black, Latino, and White Communities in 2020 for Combined Reports from All Contributors¹⁸¹



3. Payment Methods Reported

People filing reports directly with the FTC can voluntarily provide information about the way they paid for the scam or bad business practice being reported. Figure C shows the differences in the payment methods reported by each of the three communities for reports filed directly with the FTC in 2020.

The differences between what communities report about the payment methods used during their experiences is striking. People living in majority White communities filed the largest share of their reports about credits cards (almost 28%), while people living in majority Black and Latino communities filed the largest share of their reports about payments made with debit cards (about 27% and 24% respectively). Since the law provides additional fraud protection in credit card transactions,¹⁸² these disparities in reporting illustrate inequities in the legal protections available to the groups. In addition, people living in majority Black and Latino communities reported

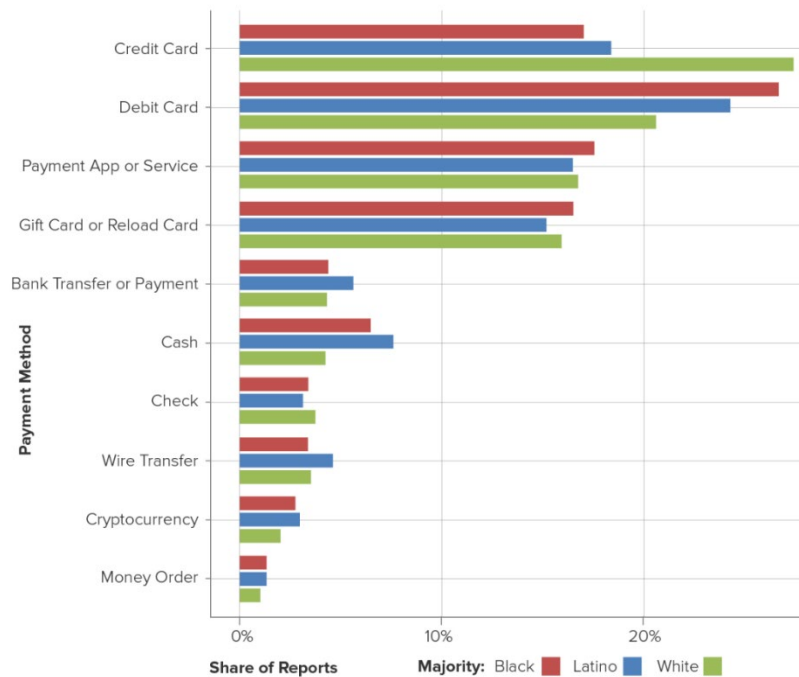
[P]eople living in majority Black and Latino communities reported a larger share of payments using cash, cryptocurrency, and money orders. . . . since many of these payment methods do not enjoy the legal protections attached to credit card payments, the people living in communities of color with less access to credit cards have, in turn, less recourse for fraud and other problematic experiences.

¹⁸¹ A more comprehensive chart showing the Sentinel report numbers for additional categories can be found at Appendix A.

¹⁸² See FTC Consumer Information, *Lost or Stolen Credit, ATM, and Debit Cards*, available at <https://www.consumer.ftc.gov/articles/0213-lost-or-stolen-credit-atm-and-debit-cards>.

a larger share of payments using cash, cryptocurrency, and money orders. People living in majority Black communities also filed more reports about payment apps or services and gift card or reload cards than people living in the other communities, while people living in majority Latino communities filed larger shares of reports about bank transfers or payments and wire transfers. Again, since many of these payment methods do not enjoy the legal protections attached to credit card payments, the people living in communities with less access to credit cards have, in turn, less recourse for fraud and other problematic experiences.

Figure C
Consumer Sentinel Reports with Payment Method for Black, Latino, and White Communities 2020



C. Disparities in FTC Cases

Apart from examining reports from consumers about their experiences, the FTC also can learn from its law enforcement cases. An examination of 23 FTC cases shows that predominantly Black communities are over-represented in the pool of consumers who lost money.

An examination of 23 FTC cases shows that predominantly Black communities are over-represented in the pool of consumers who lost money.

The FTC cases involving payday loan applications, student debt relief programs, and certain business opportunities had the largest number of affected consumers residing in predominantly Black

communities.¹⁸³ The study found the largest effects for cases involving payday loan applications and student debt relief programs, with approximately a 200% higher number of consumers having purchased such services in predominantly Black communities than White communities. For business opportunity cases, Dr. Raval found higher rates of affected consumers in heavily Black communities in lower dollar investment schemes where participants invested under \$500. In cases requiring investments of over \$500, Dr. Raval found that Black communities were underrepresented.¹⁸⁴

The FTC's Bureau of Economics is continuing to analyze additional data from consumer protection cases to assist in identifying the communities affected.¹⁸⁵ Although the findings are limited to the particular cases analyzed, this research has provided important insight as the agency seeks to understand more about how certain scams and consumer problems affect people living in different communities. Such information can guide strategic planning both in case targeting and designing outreach programs. It also confirms that the FTC needs to use a variety of channels to ensure the agency learns about issues in every community.¹⁸⁶

VI. Looking Forward

The Every Community Initiative is an important part of the FTC's work to fight for all consumers that utilizes a coordinated, multi-pronged approach to help stop and prevent fraud and other problematic business practices affecting communities of color. The disproportionate health and economic impact of the COVID-19 pandemic on communities of color reminds us that there is much more to be done.

The FTC is committed to serving communities of color through vigorous law enforcement actions, meaningful community engagement and dialogue, and the pursuit of insightful research. Looking forward, the FTC will focus on:

Law Enforcement:

- Work to increase reporting of fraud and other consumer issues to the FTC by all communities, including by engaging with community-based organizations to use ReportFraud.ftc.gov to access information on how to try to recover money lost.¹⁸⁷
- Enhance investigative resources to better identify conduct that either directly targets, or disproportionately impacts, communities of color. This includes developing or obtaining

¹⁸³ See Raval, *Who is Victimized by Fraud?*, *supra* note 31 at 10-11.

¹⁸⁴ *Id.*

¹⁸⁵ In some instances the data has been customer databases and in others it is a list of the consumers who received redress in the cases, which may be a subset of all of the customers.

¹⁸⁶ Dr. Raval suggests in one paper that policymakers consider a system of weighing consumer reports and overweight reports from groups that report less than their rate of victimization. See Raval, *Whose Voice Do We Hear in the Marketplace?*, *supra* note 174 at 1, 36-41.

¹⁸⁷ See www.ReportFraud.ftc.gov/community.



technical and other tools to improve the FTC’s ability to monitor advertising to communities of color and collect evidence of fraud and to develop expertise to assess potential algorithmic bias affecting communities of color.

- Bring new law enforcement actions that shut down frauds that target or disproportionately affect communities of color, and explore how the FTC may use its unfairness authority to target discriminatory and other problematic practices, such as algorithmic bias or discriminatory impacts related to facial recognition and other surveillance technology.
- Strengthen existing relationships, and form new partnerships, with agencies at the federal, state, and local levels to further encourage information sharing, case referrals, and the opportunity to collaborate on matters whenever possible and logical.

Outreach and Education:

- Make consumer and business education materials more widely available in multiple formats and languages, and look for new approaches to place consumer protection messages where people already are – physically, in the media, and online.
- Seek out additional trusted sources in communities of color, further strengthening and broadening relationships with community and legal services organizations and building greater partnerships with HBCUs, HSIs, and Tribal colleges, faith-based organizations, housing organizations, business organizations, and other groups that serve communities of color.
- Expand the agency’s relationships with ethnic media, working to disseminate educational messages to communities of color nationwide. Curate content for and deliver timely and informative content through the FTC’s Business and Consumer Alerts to ensure the agency is delivering key messages into the hands of target audiences.
- Develop and disseminate education to increase consumer and business awareness and understanding of potential disparate impacts of technology, including AI and facial recognition.

Research:

- Increase the systematic review and analysis of reports in the Consumer Sentinel database, as well as FTC case and refund data, with a focus on identifying trends and disparities related to fraud and other practices that impact communities of color – including the root causes.

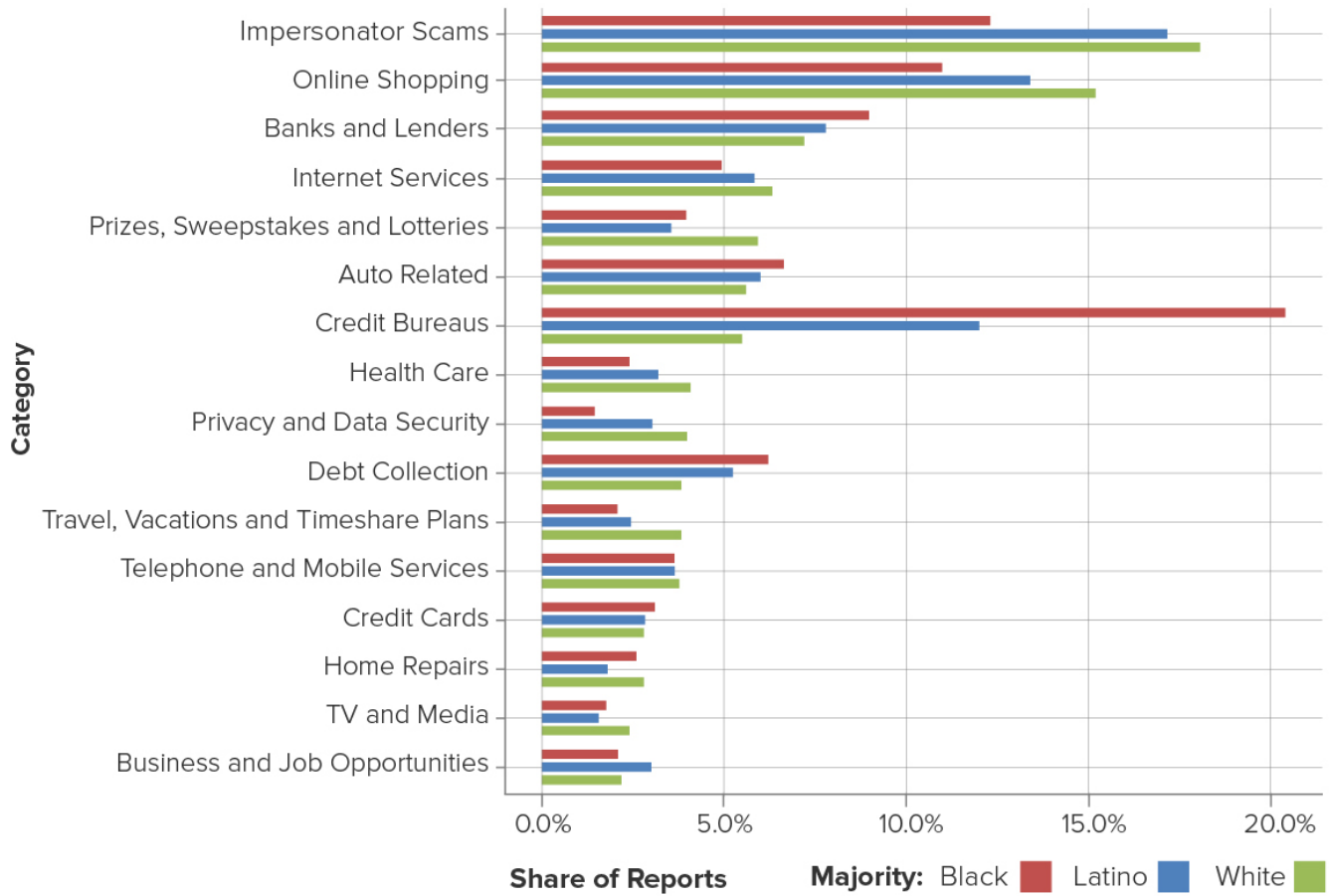


- Conduct industry studies and organize hearings, conferences, meetings, and other events to gather information and promote additional research with industry representatives, experts, advocates, and other stakeholders about consumer issues affecting communities of color.
- Continue to research and improve understanding about the ways in which surveillance practices target or create a disparate impact for people in different population segments.



Appendix A

Share of Consumer Sentinel Report Types for Majority Black, Latino, and White Communities in 2020 for Combined Reports from All Contributors¹⁸⁸



¹⁸⁸ Appendix A is a more comprehensive version of Figure B and includes additional categories of reports.