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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

STATEMENT OF COMMISSIONER ROHIT CHOPRA

Regarding Law Enforcement Authorizations to Protect Military Families
Commission File No. P859900
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The Commission has voted 3-2 to authorize the use of civil investigative demands and subpoenas to investigate potentially unlawful practices targeting service members, veterans, and their families. The action will improve the agency's ability to order documents and data in investigations and fills a notable gap in the Commission's long list of enforcement authorizations developed over many years.

Military-connected families are prime targets for bad actors, and many face financial distress due to unlawful practices. The Department of Defense has warned that financial distress is a contributing factor to loss of security clearances, involuntary separations, and reduction in overall readiness.

Congress has specifically authorized the Federal Trade Commission to discharge duties related to military family consumer protection. Unfortunately, Commissioners have not taken any actions under some of these authorizations¹ or developed a clear strategy to combat unlawful practices. In my view, the Commission should consider prioritizing three areas.

First, the Commission should investigate abuses targeting recipients of veteran's education benefits. There is a long history of concerning practices when it comes to targeting military families by for-profit colleges.² In 1974, Congress enacted legislation outlining the FTC's role to

¹ In 2013, Congress authorized the Federal Trade Commission to enforce the Military Lending Act. The agency has not yet brought any actions under this authority.

² In the late 1960s, the passage of the Higher Education Act, combined with benefits for those returning from Vietnam, opened the floodgates to widespread fraud. In response, the FTC undertook a major industry-wide investigation, and began bringing lawsuits against for-profit colleges – filing more than two dozen from 1970 to 1974 alone. The Commission also introduced a Guide for Private Vocational and Home Study Schools, which detailed practices the FTC determined were unfair or deceptive. Finally, in 1976, the FTC published a landmark 552-page report laying out problems in the sector and proposing a new enforcement approach. The FTC's report was remarkable both for its breadth and for the extent to which its findings echo across the decades. After an investigation that included 87 volumes of documents, 44 days of hearings, and testimony from more than 400 witnesses, the Commission laid out in extensive detail some of the key problems in the sector. Among the illegal tactics the Commission found to be common were deceptive lead generation, false claims of affiliation with government or major employers, misrepresentations about transferability of credits, and "an appalling lack of substantiation for the job and earnings claims that are made." The report criticized not only unscrupulous schools but also the efficacy of the FTC's enforcement strategy. In particular, the report found that the industry was failing to comply with the Commission's voluntary guides, and that "case-by-case adjudication was not achieving the requisite prophylactic effect." See Fed. Trade Comm'n, *Proprietary Vocational and Home Study Schools. Final Report to the Federal Trade Commission and Proposed Trade Regulation Rule (16 CFR Part 438)*, (Dec. 10, 1976), <https://files.eric.ed.gov/fulltext/ED134790.pdf>. As a result, the Commission turned to rulemaking, an effort it had begun in 1974, to establish industry-wide requirements backed by stiff civil penalties. The Commission's proposed rule required affirmative disclosure of placement and graduation outcomes, mandated a cooling-off period before enrollment, and

ensure that institutions accepting veteran's education benefits – which are utilized by veterans, their dependents, and their survivors – are not engaging in deceptive or misleading practices.³ Specifically, the Commission is authorized to transmit preliminary findings of its investigations to the Department of Veterans Affairs. The Department of Veterans Affairs must then take appropriate action, which can include suspension of the institution, within 90 days. For decades, our predecessors on the Commission did little to fulfill the agency's duties under this statute, and we must change course.

Second, the Commission should pursue initiatives to better protect the personal data of military families. Unsurprisingly, with deployments and frequent moves, military family use of social media is high. Protecting their personal data is not only about privacy, it also implicates national security.

In 2018, Strava, which called itself “the social network for athletes,” publicly revealed the geolocations of members of the military in sensitive locations, including Iraq and Syria, on a publicly accessible map.⁴ Military families also report identity theft at a significantly higher rate than the public at large.⁵ Through enforcement, rulemaking, and other policy initiatives, the Commission should ensure its data protection work advances the goal of safeguarding this sensitive data.

Finally, Commissioners should properly discharge our duty under the law to protect military families from unlawful practices in the auto market. For many service members, an automobile will be the largest purchase they make. While most auto dealers treat military families with respect, there are too many instances where these families are taken advantage of.

The FTC is tasked with enforcing a host of consumer protection laws in the auto dealer market.⁶ Congress also authorized the Commission to trigger redress, penalties, and other sanctions for unlawful practices, but Commissioners have not voted to use this authority in any meaningful way. To protect military families and honest businesses that compete fairly, the FTC should use the authorities Congress has authorized.

While I am disappointed that two of my colleagues are not supporting this effort to continue the agency's longstanding practice of authorizing enforcement resolutions to prosecute violations of the laws that Congress has authorized the FTC to enforce, I have confidence that agency staff will use these new tools effectively.

laid out procedures for refunds for students withdrawing early. However, the rule was vacated in 1980, and the Commission returned to the approach that the agency's report concluded was ineffective.

³ Vietnam Era Veterans' Readjustment Assistance Act of 1974, Pub. L. No. 93-508, 88 Stat. 1578.

⁴ Ricardo Pérez-Peña & Matthew Rosenberg, *Strava Fitness App Can Reveal Military Sites, Analysts Say*, N.Y. TIMES (Jan 29, 2018), <https://www.nytimes.com/2018/01/29/world/middleeast/strava-heat-map.html>.

⁵ See Press Release, Fed. Trade Comm'n, Active Duty Servicemembers are More likely to Report Identity Theft than Other Adults, New FTC Data Shows (May 21, 2020), <https://www.ftc.gov/news-events/press-releases/2020/05/active-duty-servicemembers-are-more-likely-report-identity-theft>.

⁶ Congress required the Federal Trade Commission to coordinate with other agencies to monitor complaints and ensure that appropriate action is taken. See 12 U.S.C. 5519(e).