

Restoring the Federal Trade Commission's Authority to Protect Consumers and the Marketplace



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Transportation

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EXECUTIVE SUMMARY

Millions of individuals report instances of marketplace fraud and deception each year, and the number of these reports has steadily and significantly increased in recent years. As the nation’s consumer protection agency, the Federal Trade Commission’s ability to return money to injured consumers helps make these consumers whole and prevents bad actors from profiting from their misconduct.

For over 40 years, the Federal Trade Commission (“FTC” or “Commission”) relied upon Section 13(b) of the Federal Trade Commission Act (“FTC Act”) to return money to those who have been scammed or denied fair markets because of anticompetitive behavior.¹ Since the 1980s, seven courts of appeals, relying on longstanding Supreme Court precedent, interpreted Section 13(b) to authorize district courts to award the full panoply of equitable remedies necessary to provide relief for consumers. The ability to return money to consumers is commonly known as “monetary redress,” which provides relief to consumers, whether individuals or businesses, who have lost money due to a scam or anticompetitive behavior. Section 13(b) provided a fair and impartial way for the Commission to obtain monetary redress for harmed consumers in federal court.

In April 2021, the United States Supreme Court overturned this long-standing 13(b) precedent thereby creating uncertainty for consumers and small businesses who depend on the FTC for relief after being subject to a scam or fraud or an unfair, deceptive, or anticompetitive business practice.² In addition, other federal courts have curtailed the FTC’s ability to obtain an injunction pursuant to Section 13(b) to stop illegal practices from continuing to harm consumers

¹ 15 U.S.C. 53(b). That section provides, in relevant part:

Whenever the Commission has reason to believe—

- (1) that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the Federal Trade Commission, and
 - (2) that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public—
- the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice.

² AMG Capital Mgmt., LLC v. Fed. Trade Comm’n, 593 U.S. __ (2021).

and the marketplace.³ As a result of these recent court decisions, the FTC’s Section 13(b) authority is severely weakened.

By diminishing the FTC’s Section 13(b) authority, the courts have notably weakened the FTC’s ability to hold large technology platforms and pharmaceutical companies accountable for their deceptive and unfair practices and anticompetitive conduct. Section 13(b) has been a critical component in addressing Big Tech and Pharma’s ability to harm consumers and fledgling businesses, about which Congress has expressed concern on a broad bipartisan basis.

Congress must act immediately to restore the Commission’s longstanding Section 13(b) authority to effectively and meaningfully protect consumers and businesses. Without congressional action, the FTC has very limited means to provide consumer refunds or redress. Currently, the FTC cannot obtain consumer refunds for many types of violations of the consumer protection laws that it enforces and cannot obtain any consumer refunds at all when consumers or businesses have been harmed by anticompetitive conduct.

Between 2016 and 2020, American consumers received **\$11.2 billion** in refunds from the FTC, most of which was a result of FTC cases under Section 13(b).⁴ Consumers and businesses across every state have been protected by Section 13(b). Moreover, the FTC used Section 13(b) to return millions of dollars to small businesses and budding entrepreneurs that were specifically targeted with unlawful practices.

Without a legislative fix, the FTC’s ability to provide this important relief is severely hobbled. There is an urgent need for Congress to act to restore the FTC’s Section 13(b) authority to provide meaningful relief for consumers harmed by unfair and deceptive acts and other unlawful practices.

³ See Fed. Trade Comm’n v. Shire ViroPharma Inc., 917 F.3d 147 (3d Cir. 2019).

⁴ More than \$9.5 billion of this relief was obtained through Volkswagen’s settlements with the FTC and private plaintiffs regarding the company’s deceptive “clean diesel” advertising campaign.

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I. CONSUMER FRAUD AND DECEPTION ARE ON THE RISE

As the nation’s foremost general consumer protection agency, the Federal Trade Commission is responsible for ensuring the fairness of nearly every segment of the U.S. marketplace. This is a vast undertaking, as millions of individuals report instances of marketplace fraud and deception each year.

To carry out its mission, the FTC prevents “unfair” and “deceptive” acts or practices in commerce,⁵ and enforces dozens of additional consumer protection laws addressing specific unlawful behavior. Laws under the FTC’s jurisdiction include the COVID-19 Consumer Protection Act⁶ (prohibiting deceptive practices related to COVID-19, such as false statements about COVID-19 treatments), the Telemarketing and Consumer Fraud and Abuse Prevention Act,⁷ the Fair Debt Collection Practices Act,⁸ the Fair Credit Reporting Act,⁹ and the Military Lending Act.¹⁰

For more than 40 years, the FTC has returned billions of dollars to victimized consumers and businesses under Section 13(b) of the FTC Act. However, in April 2021, the United States Supreme Court slashed the FTC’s 13(b) authority, severely limiting the Commission’s ability to provide refunds to victimized consumers and businesses.

Consumer Complaints Have Significantly Increased

Frauds, scams, and other unfair or deceptive business practices have steadily and significantly increased in recent years. Between 2010 and 2021, the number of fraud, identity theft, and other reports to the FTC (excluding Do Not Call telemarketing complaints) nearly quadrupled from 1.47 million reports to 5.7 million reports.¹¹ The FTC’s monitoring and analyses of

A BROAD MANDATE TO PROTECT CONSUMERS & BUSINESSES

The FTC fights for consumers and businesses who have been subject to scams or fraud such as:

- Identity theft
- Computers, internet, and online privacy schemes
- Telemarketing scams
- Credit scams
- Immigration services schemes
- Sweepstakes, lotteries, and prize scams
- Business opportunity and work-at-home schemes
- Health and weight loss product scams

⁵ 15 U.S.C. § 45.

⁶ Pub. L. No. 116-260, Title XIV, § 1401(b)(1).

⁷ 15 U.S.C. §§ 6101-6108.

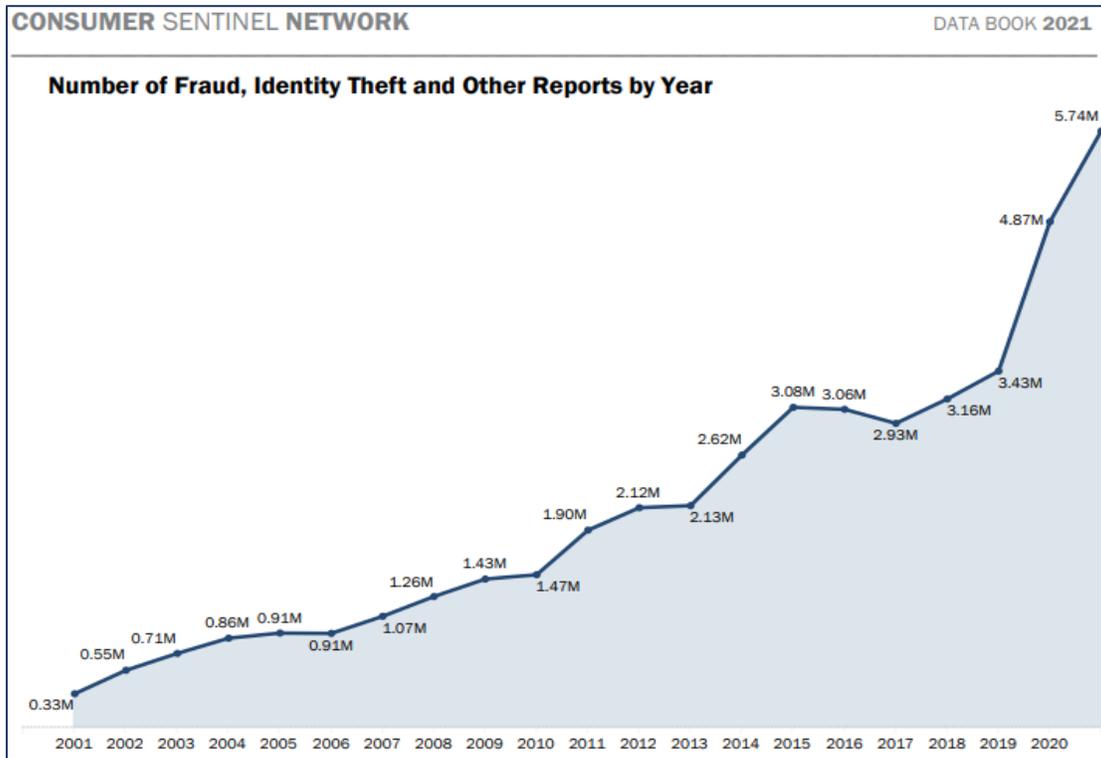
⁸ 15 U.S.C. §§ 1692-1692p.

⁹ 15 U.S.C. §§ 1681-1681x.

¹⁰ 10 U.S.C. § 987.

¹¹ While numerous data contributors have been added to the FTC’s Consumer Sentinel Network during that time frame, the FTC’s own complaint intake portals recorded a similarly dramatic uptick in complaints about fraud, identity theft, and other consumer problems.

Sentinel data reveal increased fraud activity in 2021. Specifically, the number of fraud, identity theft, and other reports to Sentinel (excluding Do Not Call) increased by almost 18% over 2020 numbers, and reported losses from fraud grew from more than \$3.4 billion in 2020 to \$5.9 billion in 2021.¹²



Many scams reported since March 2020 were directly tied to the COVID-19 pandemic through offers of fake cures, opportunities to earn income working from home, or counterfeit personal protective equipment. For many consumers, the twin financial burdens of losing income due to COVID-19 and getting scammed by a shady marketplace seller combined to cause severe financial distress.

The FTC Protects Consumers in Every State

The FTC's actions help protect all American consumers from frauds, scams, and other unfair, deceptive, and anticompetitive business practices. The FTC stops fraudsters, scammers, and other bad actors from taking advantage of consumers and returns to consumers the money these bad actors wrongfully extracted from them. While state attorneys general can bring enforcement actions to protect consumers in their states, many states face budget constraints and not all have sufficient resources to fight the nationwide proliferation of frauds, scams, and unfair or deceptive

¹² *New Data Shows FTC Received 2.8 Million Fraud Reports from Consumers in 2021*, FED. TRADE COMM'N (Feb. 22, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/new-data-shows-ftc-received-28-million-fraud-reports-consumers-2021-0>.

practices. The FTC is uniquely positioned to protect consumers on a national scale and provide a necessary line of defense for consumers.

The FTC's ability to return money to injured consumers helps make these consumers whole, prevents bad actors from profiting from their misconduct, and sends the message that unlawful practices have no place in commerce. However, without Congressional action, the FTC's ability to refund money to consumers who have been scammed, deceived, or taken advantage of will remain severely constrained, thereby allowing bad actors to profit from their misconduct and giving those who break the law a competitive advantage in the marketplace.

II. RECENT COURT DECISIONS HAVE UPENDED CRITICAL CONSUMER PROTECTIONS

Decades of Precedent Have Been Overturned, Denying Consumers Billions in Refunds, Creating Loopholes for Fraudsters, and Weakening Oversight of Big Tech and Pharma

For more than 40 years, the Federal Trade Commission brought actions in federal court under Section 13(b) of the FTC Act asking federal courts to order lawbreakers to provide monetary and other equitable relief for consumers victimized by their illegal conduct. Federal courts had interpreted Section 13(b)'s grant of authority to the FTC to obtain a "permanent injunction" as allowing equitable monetary relief like restitution and disgorgement. The Supreme Court's 2021 decision in *AMG Capital Management* held that the "permanent injunction" authority does not authorize monetary relief and stripped the FTC of its ability to provide this relief for consumers and held that the FTC is limited to seeking an injunction in federal court to stop unlawful conduct.¹³ An injunction alone can leave ill-gotten gains with scammers and provides little deterrence against fraud.¹⁴

Congressional action is needed to ensure the FTC is able to effectively hold violators accountable and protect consumers by restoring the Commission's refund authority and preserving its injunction authority.

AMG Capital Management, LLC vs. FTC: **Profiting From a 1 Billion Dollar Scam**

On April 22, 2021, in *AMG Capital Management, LLC v. FTC*, the Supreme Court held that Section 13(b) does not authorize the FTC to obtain equitable monetary relief on behalf of consumers. The case involved a payday lending scheme that misled financially strapped consumers about the finance fees they would be charged for payday loans and imposed multiple hidden fees totaling over **\$1 billion** in fraudulent charges to consumers.¹⁵

AMG Capital Management advertised it would only charge borrowers a one-time finance fee. However, the company's actual practice was to make multiple withdrawals from borrowers' bank accounts and charge a new finance fee for each withdrawal; the company never disclosed the practice or true cost of the loan to borrowers. The company also falsely threatened borrowers with arrest, prosecution, or imprisonment if they failed to pay.

¹³ *AMG Capital Mgmt., LLC v. Fed. Trade Comm'n*, 593 U.S. __ (2021).

¹⁴ Nevertheless, injunctions are an essential enforcement authority, and in other cases, federal courts are eroding the FTC's ability to obtain even injunctions. See *Fed. Trade Comm'n v. Shire ViroPharma Inc.*, 917 F.3d 147 (3d Cir. 2019).

¹⁵ Press Release, Fed. Trade Comm'n, FTC Charges Payday Lending Scheme with Piling Inflated Fees on Borrowers and Making Unlawful Threats when Collecting (April 2, 2012), <https://www.ftc.gov/news-events/press-releases/2012/04/ftc-charges-payday-lending-scheme-piling-inflated-fees-borrowers>.

The inflated fees frequently resulted in bogus debts of more than triple the amount borrowed. In a typical example, AMG Capital Management told consumer Eric Barboza that a \$500 loan would cost him \$650 to repay, but instead the company attempted to charge him \$1,925 and threatened arrest when he resisted paying that exorbitant amount. In another example, the company told a consumer that her \$300 loan would cost her \$390 to repay, but it would have really cost her \$975 with all of the hidden finance fees.

As a result of the Supreme Court decision, AMG Capital Management will keep much of its illegally obtained funds, and the FTC will not be able to return those funds to harmed consumers. Fortunately, the FTC was able to provide redress to consumers from funds collected in civil and criminal settlements *before* the Supreme Court decision, but the Court’s decision leaves uncertain the disposition of millions of dollars the FTC recovered pursuant to the civil judgment.¹⁶

The impact of this decision will reverberate well beyond the almost \$1 billion in hidden fees that the FTC will not be able to return to consumers in this specific case. More significantly, the decision prevents the FTC from being able to use Section 13(b) to obtain refunds for consumers in future cases. Prior to *AMG*, the FTC used its authority under Section 13(b) to provide over **\$11.2 billion** in refunds to U.S. consumers from 2016 through 2020. Because of *AMG*, the FTC will no longer be able to deliver such results for harmed consumers going forward.

When bad actors extract money from consumers through fraud and deception, the FTC should have the authority to go to court to get consumers their money back—along with an injunction to stop the bad practices before more consumers are harmed. The FTC’s 13(b) authority served as an important counterweight against illegal conduct. If bad actors know they can keep the money they wrongfully take from consumers, they might see little reason to refrain from misconduct.

FTC v. Shire ViroPharma, Inc.:

An Invitation to Game the System to Escape Consequences

On February 25, 2019, in *Federal Trade Commission v. Shire ViroPharma Inc.*, the Third Circuit Court of Appeals went against well-established court precedent and held that, because Congress used the words “is violating, or is about to violate” in Section 13(b), the FTC may obtain an injunction under Section 13(b) only when a violation is either ongoing or “impending” at the time the lawsuit is filed.¹⁷ This decision inhibits the FTC’s ability to secure an injunction for violations that have stopped and severely limits the FTC’s ability to ensure that violators will not revert back to unlawful practices in the future. This is key authority to protect consumers, honest businesses, and the marketplace from future violations.

¹⁶ The FTC obtained \$505,678,077—principally from a criminal seizure of assets by the Department of Justice, and otherwise through settlements with the civil defendants—and applied it to the \$1.3 billion judgment to issue partial refunds to consumers prior to the Supreme Court’s decision.

¹⁷ 917 F.3d 147 (2019).

The FTC charged ViroPharma with violating antitrust laws by systematically delaying generic competition for its branded prescription drug, raising prices by almost 300%, thereby costing consumers and other purchasers hundreds of millions of dollars.¹⁸ The medication is used to treat a potentially life-threatening bacterial infection and is not reasonably interchangeable with any other drug treatments. To maintain its monopoly, ViroPharma waged a campaign of 43 serial unsupported filings with the U.S. Food and Drug Administration (“FDA”) and filed three failed lawsuits against the FDA in order to prevent generic competition. Despite this prior flagrant pattern of unlawful conduct, the Third Circuit held that the FTC had no authority to request an injunction to stop ViroPharma from reviving its unlawful conduct.

This decision invites wrongdoers to continue unlawful conduct until just before they become aware of a possible FTC enforcement action, knowing they will be insulated from liability and accountability for their misconduct.

Without Congressional action, courts may continue to erode the FTC’s ability to protect consumers against the recurrence of unlawful conduct. In fact, as described below, at least one court has done so.

Recent Court Decisions Further Weaken FTC Enforcement Against Big Tech and Pharma

On December 9, 2020, the FTC sued Facebook for engaging in monopolistic conduct by repeatedly conditioning access to its platform on the other party’s agreement to terms that prohibited competition with Facebook.^{19,20} Six months later, the D.C. District Court cited *Shire ViroPharma* in support of its conclusion that a portion of the alleged violation was not “ongoing or about to occur.”²¹ In January of 2022, the court reiterated that the FTC cannot seek an injunction to stop Facebook from continuing *some* of its monopolistic conduct.²² According to the court, the FTC’s allegation of anticompetitive platform access conditions was precluded by *Shire ViroPharma*. By twice denying the FTC the ability to seek a remedy in federal court for Facebook’s blatantly anticompetitive conduct, the court leaves Facebook (and other potential violators) with a winning playbook for future anticompetitive access restrictions, knowing that it can evade enforcement simply by stopping its violations before the FTC can file a lawsuit. This places the FTC and the marketplace in an untenable position.

¹⁸ Press Release, Fed. Trade Comm’n, FTC Charges That Shire ViroPharma Inc. Abused Government Processes Through Serial, Sham Petitioning to Delay Generics and Maintain its Monopoly over Vancocin HCl Capsules (Feb. 7, 2017), <https://www.ftc.gov/news-events/press-releases/2017/02/ftc-charges-shire-viopharma-inc-abused-government-processes>.

¹⁹ Press Release, Fed. Trade Comm’n, FTC Sues Facebook for Illegal Monopolization (Dec. 9, 2020), <https://www.ftc.gov/news-events/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization>.

²⁰ First Amended Compl. at ¶ 146, Fed. Trade Comm’n v. Facebook, Inc., No. 1:20-cv-03590-JEB (D.D.C. Aug. 19, 2021).

²¹ Fed. Trade Comm’n v. Facebook, Inc., 1:20-cv-3590-JEB (D.D.C. June 28, 2021).

²² Fed. Trade Comm’n v. Facebook, Inc., 1:20-cv-03590-JEB (D.D.C. Jan. 11, 2022).

There is bipartisan support in Congress to address unfair, deceptive, and anticompetitive practices by Big Tech and Pharma, which include Big Tech practices that impact children and teen users and conduct in the supply chain that leads to higher costs for prescription drugs. Without restored Section 13(b) authority, the FTC’s ability to hold Big Tech and others accountable is significantly diminished. Numerous hearings before Senate Committees have underscored the need to hold these industries accountable. For example, in 2020, the Senate Commerce Committee highlighted the Commission’s potential role in addressing the Big Tech-fueled crisis facing local news.²³ Likewise, in 2021, the Senate Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights held a hearing regarding the rising cost of prescription drugs.²⁴

The FTC has a long history of holding Big Tech and Big Pharma accountable, which was made possible in large part by Section 13(b). The FTC enforces online platforms’ terms of service, ensures their compliance with privacy policies, and protects their users and workers. The FTC takes action to address anticompetitive conduct that leads to higher drug prices for consumers. Section 13(b) has enabled the Commission to obtain multiple settlements and orders against Big Tech and Big Pharma that have provided refunds to harmed consumers and imposed strong injunctive relief even in cases where the company had stopped its unlawful conduct before the FTC completed its investigation (see following table).

²³ OFFICE OF SEN. MARIA CANTWELL, LOCAL JOURNALISM: AMERICA’S MOST TRUSTED NEWS SOURCES THREATENED (Oct. 2020), https://www.cantwell.senate.gov/imo/media/doc/Local%20Journalism%20Report%2010.26.20_430pm.pdf.

²⁴ *A Prescription for Change: Cracking Down on Anticompetitive Conduct in Prescription Drug Markets Before the Subcomm. on Competition Policy, Antitrust, and Consumer Rights of the Sen. Comm. on the Judiciary*, 117th Cong. (July 13, 2021), <https://www.judiciary.senate.gov/meetings/a-prescription-for-change-cracking-down-on-anticompetitive-conduct-in-prescription-drug-markets>.

Select FTC Cases Against Big Tech and Pharma Using Section 13(b) Remedies:

Company	Case Description	Money Obtained
Reckitt / Indivior (2019, 2020) ^{25,26}	The FTC obtained an injunction and consumer refunds in settlements with Reckitt and Indivior related to these companies' anticompetitive conduct to delay competition to Suboxone, a drug used to treat people suffering from opioid dependency.	At least \$59 million in consumer refunds
AbbVie (2018) ²⁷	Following a bench trial, the Court found that AbbVie had filed sham patent litigation to delay consumer access to low-cost generic alternative to AndroGel, a drug used to treat low testosterone. The Court awarded the FTC \$493 million to give back to consumers who overpaid as a result of AbbVie's anticompetitive conduct.	No money was provided to consumers because \$493 million award obtained under 13(b) was vacated due to AMG
Uber (2017) ²⁸	The FTC obtained a federal court injunction and consumer refunds in a settlement with Uber related to its misrepresentations to drivers about how much income they could earn by driving for Uber and the terms by which they could finance vehicles. Uber stopped making the misrepresentations in 2015 once it learned that the FTC was investigating their conduct.	\$20 million
Amazon (2016) ²⁹	After filing a lawsuit in federal court using the agency's Section 13(b) authority, the FTC won summary judgment on liability and obtained an	Claims process resulted in \$3.6 million in consumer refunds

²⁵ Press Release, Fed. Trade Comm'n, Reckitt Benckiser Group plc to Pay \$50 Million to Consumers, Settling FTC Charges that the Company Illegally Maintained a Monopoly over the Opioid Addiction Treatment Suboxone (July 11, 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/07/reckitt-benckiser-group-plc-pay-50-million-consumers-settling-ftc-charges-company-illegally>.

²⁶ Press Release, Fed. Trade Comm'n, Indivior, Inc. to Pay \$10 Million to Consumers, Settling FTC Charges that the Company Illegally Maintained a Monopoly over the Opioid Addiction Treatment Suboxone (July 24, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/07/indivior-inc-pay-10-million-consumers-settling-ftc-charges-company-illegally-maintained-monopoly>.

²⁷ Press Release, Fed. Trade Comm'n, Federal Trade Commission Withdraws Remaining Case against AbbVie after Supreme Court Decision Strips Consumers of Relief (July 30, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/07/federal-trade-commission-withdraws-remaining-case-against-abbvie-after-supreme-court-decision-strips>.

²⁸ Press Release, Fed. Trade Comm'n, Uber Agrees to Pay \$20 Million to Settle FTC Charges That It Recruited Prospective Drivers with Exaggerated Earnings Claims (Jan. 19, 2017), <https://www.ftc.gov/news-events/news/press-releases/2017/01/uber-agrees-pay-20-million-settle-ftc-charges-it-recruited-prospective-drivers-exaggerated-earnings>.

²⁹ Press Release, Fed. Trade Comm'n, Federal Court Finds Amazon Liable for Billing Parents for Children's Unauthorized In-App Charges (April 27, 2016), <https://www.ftc.gov/news-events/press-releases/2016/04/federal-court-finds-amazon-liable-billing-parents-childrens>.

Company	Case Description	Money Obtained
	injunction and order requiring Amazon to issue consumer refunds in a settlement with Amazon related to the company’s billing of parents and other account holders for unauthorized in-app purchases in “free” children’s game apps that allowed children to spend unlimited money to pay for virtual items without parental involvement.	
AT&T (2016) ³⁰	The FTC obtained a federal court injunction and consumer refunds in a settlement with AT&T related to unauthorized charges placed by third-party merchants on consumers’ phone bills, despite evidence that the charges were fraudulent. AT&T earned a percentage of the unauthorized charges and failed to provide refunds when consumers complained. AT&T stopped allowing unauthorized third-party charges on consumers’ bills months before the FTC filed suit.	Over \$88 million paid to nearly 3 million consumers
TracFone (2015) ³¹	The FTC obtained a federal court injunction and consumer refunds in a settlement with pre-paid mobile provider TracFone related to its misrepresentations from 2009 to 2013 that its data plans were “unlimited.” The company did not adequately disclose that consumers who purchased unlimited data plans would have their data service significantly slowed if they exceeded a fixed limit, a practice known as data throttling. After completing its investigation, FTC filed a settled action in January 2015.	\$31 million

³⁰ Press Release, Fed. Trade Comm’n, FTC Providing Over \$88 Million in Refunds to AT&T Customers Who Were Subjected to Mobile Cramming (Dec. 8, 2016), <https://www.ftc.gov/news-events/news/press-releases/2016/12/ftc-providing-over-88-million-refunds-att-customers-who-were-subjected-mobile-cramming>.

³¹ Press Release, Fed. Trade Comm’n, Prepaid Mobile Provider TracFone to Pay \$40 Million to Settle FTC Charges It Deceived Consumers About ‘Unlimited’ Data Plans (Jan. 28, 2015), <https://www.ftc.gov/news-events/news/press-releases/2015/01/prepaid-mobile-provider-tracfone-pay-40-million-settle-ftc-charges-it-deceived-consumers-about>.

Company	Case Description	Money Obtained
Cephalon / Teva (2015) ^{32,33}	FTC obtained an injunction and equitable monetary relief in a settlement with Cephalon and its parent company Teva related to the companies' anticompetitive conduct to delay competition to Provigil, a drug used to treat narcolepsy and other sleep disorders.	\$1.2 billion , which was disbursed to those harmed by Cephalon's conduct
T-Mobile (2014) ³⁴	The FTC obtained a federal court injunction and consumer refunds in a settlement with T-Mobile related to unauthorized charges placed by third-party merchants on consumers' phone bills, despite evidence that the charges were fraudulent. T-Mobile's billing practices made it difficult for consumers to detect the charges. T-Mobile earned a percentage of the unauthorized charges and failed to provide refunds when consumers complained. T-Mobile halted these practices in December 2013 after learning that the FTC was investigating and months before the FTC filed its action in July 2014.	\$25 million
AT&T (2014) ³⁵	After years of litigation, the FTC obtained a federal court injunction and consumer refunds to settle claims that AT&T misrepresented that its mobile phone data plans were provided "unlimited" data. For consumers who purchased unlimited data plans, AT&T did not adequately disclose that it would significantly reduce consumers' data speeds if consumers exceeded a fixed limit, a practice known as data throttling.	\$60 million

³² Press Release, Fed. Trade Comm'n, FTC Settlement of Cephalon Pay for Delay Case Ensures \$1.2 Billion in Ill-Gotten Gains Relinquished; Refunds Will Go To Purchasers Affected By Anticompetitive Tactics (May 28, 2015), <https://www.ftc.gov/news-events/news/press-releases/2015/05/ftc-settlement-cephalon-pay-delay-case-ensures-12-billion-ill-gotten-gains-relinquished-refunds-will>.

³³ Press Release, Fed. Trade Comm'n, FTC Enters Global Settlement to Resolve Reverse-Payment Charges against Teva, (Feb. 19, 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/02/ftc-enters-global-settlement-resolve-reverse-payment-charges-against-teva>.

³⁴ Press Release, Fed. Trade Comm'n, T-Mobile to Pay At Least \$90 Million, Including Full Consumer Refunds to Settle FTC Mobile Cramming Case (Dec. 19, 2014), <https://www.ftc.gov/news-events/news/press-releases/2014/12/t-mobile-pay-least-90-million-including-full-consumer-refunds-settle-ftc-mobile-cramming-case>.

³⁵ Press Release, Fed. Trade Comm'n, AT&T to Pay \$60 Million to Resolve FTC Allegations It Mised Consumers with 'Unlimited Data' Promises (Nov. 5, 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/11/att-pay-60-million-resolve-ftc-allegations-it-mised-consumers-unlimited-data-promises>.

III. RESULTING FTC ENFORCEMENT VOID

As a result of the *AMG Capital* and *Shire ViroPharma* decisions gutting Section 13(b), the FTC's ability to obtain refunds for consumers harmed by unlawful business practices through the federal courts, as it has for more than 40 years, is severely impaired. The FTC is now limited to using Section 19 of the FTC Act to provide consumer refunds or redress, which significantly limits the Commission's ability to provide full and meaningful relief to injured consumers.

- **Under Section 19, the FTC generally must follow a lengthy process involving both administrative adjudication and federal court litigation that would take years before consumers could receive refunds.** Under this process, the FTC must first conduct an administrative hearing before an administrative law judge, followed by an appeal to the Commission, and then an appeal to federal court, and likely a certiorari petition to the Supreme Court. After that process has run its course over several years, the FTC must then commence another proceeding in federal district court to obtain a monetary judgment. This judgment is also subject to review by an appellate court and a likely certiorari petition to the Supreme Court. This duplicative process has taken as long as 10 years in past cases, which virtually guarantees that the defendant's assets will dissipate and that it will be extremely difficult to locate victims who would be entitled to relief. By contrast, the Section 13(b) process begins with a lawsuit in federal district court, and although the district court litigation may be followed by an appeal, and a possible certiorari petition to the Supreme Court, the average timeframe for this litigation is 2-4 years.
- **Federal courts are unlikely to order asset freezes that require defendants to preserve money for consumers until the Section 19 litigation is resolved.** Before embarking on the lengthy Section 19 process in fraud cases, the FTC would need to seek an asset freeze to preserve funds for a potential monetary judgment. Section 19 does not address asset freezes, and federal courts are likely to be reluctant to oversee an asset freeze for the many years it takes for the Section 19 process to run its course, particularly when the court would not have control over the duration of the Section 19 litigation.
- **Many consumers are not eligible for refunds under the three-year statute of limitations.** Section 19 only allows courts to award redress to consumers who suffered losses within three years of the Commission filing an administrative complaint. However, the FTC often does not learn about potential violations until unlawful conduct has been ongoing for many years. By the time the FTC investigates and files its administrative complaint, consumers who suffered losses more than 3 years before filing will be ineligible for refunds. As a result, the more recent victims could get refunds, while earlier victims of the same conduct would not.
- **Section 19 does not allow disgorgement of funds that defendants obtained as a result of illegal conduct.** Where consumers did not pay for a product or service or suffer monetary damages (e.g., a data breach case or when Instagram's practices harm children and teens), Section 19 does not allow courts to order defendants to give up the profits they earned from breaking the law. As a result, violators get to keep the fruits of their unlawful conduct, and consumers are left with nothing.

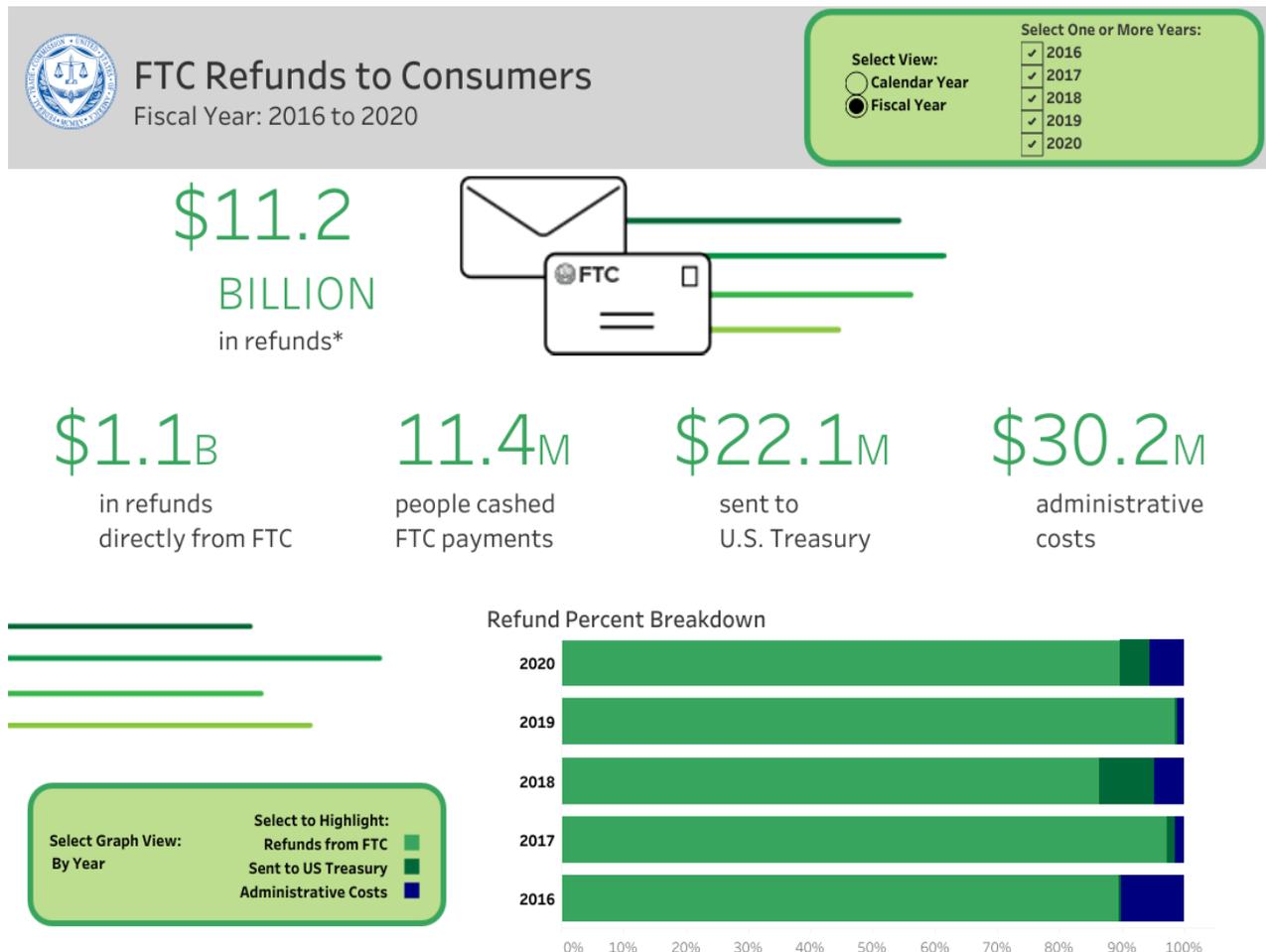
- **The FTC cannot obtain refunds for consumers harmed by a company's violations of antitrust laws.** Section 19 only authorizes monetary relief in consumer protection cases. It does not authorize courts to award monetary relief in cases involving unfair methods of competition or anticompetitive practices. The market needs strong, effective antitrust enforcement. Private actions are inadequate to address antitrust violations, particularly in the pharmaceutical industry where consumers lack standing to sue under federal law and are increasingly hampered by arbitration clauses and high standards for certifying antitrust class actions. The Department of Justice can secure monetary relief in antitrust cases and the FTC should be able to secure the same relief.

These limitations severely hamstring the FTC's ability to protect consumers. Section 19 provides consumers with meager remedies and a robust 13(b) is necessary to fill this void.

IV. CONSUMER VICTIMS – NATIONALLY

Between 2016 and 2020, American consumers received **\$11.2 billion** in refunds primarily as a result of FTC cases under Section 13(b), as demonstrated in the following graphic.³⁶ This dollar amount includes refund programs administered by the FTC, by defendants, and by other federal agencies. Regardless of who administers the refund program, millions of consumers have benefitted from these refunds as a direct result of FTC cases. Indeed, **11.4 million** consumers received payments from the \$1.1 billion in refunds directly administered by the FTC.

The FTC Used Section 13(b) to Refund *Billions* of Dollars to *Millions* of Americans



*This total includes money returned to consumers as a result of all FTC cases, including refund programs administered by defendants and other federal agencies. FTC updates this figure after it receives additional information from these outside entities. The amount sent to the U.S. Treasury does not include civil penalty judgments.

³⁶ Fed. Trade Comm’n, *FTC Refunds to Consumers*, TABLEAU PUBLIC, https://public.tableau.com/app/profile/federal.trade.commission/viz/Refunds_15797958402020/RefundsbyCase (last visited Jan. 15, 2022). The \$11.2 billion in refunds came from FTC law enforcement actions based on 13(b), though some of them included other legal theories as well. More than \$9.5 billion of this sum came from the FTC’s case regarding Volkswagen’s deceptive ads about its “clean diesel” vehicles.

Sample FTC 13(b) Cases Resulting in Significant Consumer Refunds³⁷

Case Name	Case Description	Dollar Amount	Number of Recipients
Office Depot ³⁸	<i>Computer Repair Scam</i> — Company lured consumers with promises of a “free” computer checkup, only pretended to perform the promised checkup, and then lied to consumers that there was malware on their computers to trick them into buying costly computer repair and technical services.	\$34,287,669	541,247
Herbalife ³⁹	<i>Multi-level Marketing Scheme</i> — Company misled consumers into paying thousands of dollars for a business opportunity by claiming that consumers could earn thousands of dollars a month, make a career-level income, or get rich selling diet and other products even though the vast majority of distributors earned little or no money.	\$199,506,819	260,687
DeVry University ⁴⁰	<i>Education/Job Opportunities</i> — University lured consumers, including military consumers, into paying thousands of dollars to enroll with misleading claims that 90% of graduates seeking employment obtained jobs in their fields within 6 months of graduation and graduates with	\$49,091,498 (Plus additional \$50.6 million in student debt forgiveness administered by the university.)	128,916

³⁷ Fed. Trade Comm’n, *FTC Refunds to Consumers*, *supra* note 36.

³⁸ Press Release, Fed. Trade Comm’n, Office Depot and Tech Support Firm Will Pay \$35 Million to Settle FTC Allegations That They Tricked Consumers into Buying Costly Computer Repair Services (Mar. 27, 2019), <https://www.ftc.gov/news-events/press-releases/2019/03/office-depot-tech-support-firm-will-pay-35-million-settle-ftc>.

³⁹ Press Release, Fed. Trade Comm’n, Herbalife Will Restructure Its Multi-level Marketing Operations and Pay \$200 Million For Consumer Redress to Settle FTC Charges (July 15, 2016), <https://www.ftc.gov/news-events/press-releases/2016/07/herbalife-will-restructure-its-multi-level-marketing-operations>.

⁴⁰ Press Release, Fed. Trade Comm’n, DeVry University Agrees to \$100 Million Settlement with FTC (Dec. 15, 2016), <https://www.ftc.gov/news-events/press-releases/2016/12/devry-university-agrees-100-million-settlement-ftc>.

	bachelor’s degrees averaged 15% higher incomes 1 year after graduation than graduates from all other colleges or universities.		
University of Phoenix ⁴¹	<i>Education/Job Opportunities</i> — University lured consumers, including military consumers, into paying thousands of dollars to enroll by misrepresenting job opportunity and curriculum development relationships with companies such as Adobe, American Red Cross, Avis, AT&T, MGM, Microsoft, Rubbermaid, and Twitter.	\$49,672,634 (Plus additional \$141 million in student debt forgiveness administered by the university.)	147,481
LifeLock ⁴²	<i>Identity Theft Protection</i> — Company violated previous 13(b) order, including by failing to implement a comprehensive information security program and continuing to make deceptive claims about the quality of its identity theft protection services.	\$31,260,505 (Plus additional \$68 million in refunds administered through consumer class action lawsuit)	1,070,563
AMG Services ⁴³	<i>Payday Lending Scheme</i> — Company charged consumers over \$1 billion in hidden fees. See full description on page 9.	\$505,678,077 (Most of these funds came from DOJ criminal settlements)	1,179,803

⁴¹ Press Release, Fed. Trade Comm’n, FTC Obtains Record \$191 Million Settlement from University of Phoenix to Resolve FTC Charges It Used Deceptive Advertising to Attract Prospective Students (Dec. 10, 2019), <https://www.ftc.gov/news-events/press-releases/2019/12/ftc-obtains-record-191-million-settlement-university-phoenix>.

⁴² Press Release, Fed. Trade Comm’n, LifeLock to Pay \$100 Million to Consumers to Settle FTC Charges it Violated 2010 Order (Dec. 17, 2015), <https://www.ftc.gov/news-events/press-releases/2015/12/lifelock-pay-100-million-consumers-settle-ftc-charges-it-violated>.

⁴³ Press Release, Fed. Trade Comm’n, FTC Charges Payday Lending Scheme with Piling Inflated Fees on Borrowers and Making Unlawful Threats when Collecting (April 2, 2012), <https://www.ftc.gov/news-events/press-releases/2012/04/ftc-charges-payday-lending-scheme-piling-inflated-fees-borrowers>. The FTC obtained \$505,678,077 from a criminal seizure of assets by the Department of Justice and applied it to the \$1.3 billion judgment to issue partial refunds to consumers prior to the Supreme Court’s decision. The FTC used those funds, in addition to funds obtained by other settling defendants, to mail refunds to consumers. See *AMG Services Refunds*, FED. TRADE COMM’N (Sept. 2018), <https://www.ftc.gov/enforcement/refunds/amg-services-refunds>.

Volkswagen ⁴⁴	The Federal Trade Commission charged that Volkswagen Group of America, Inc. deceived consumers with the advertising campaign it used to promote its supposedly “clean diesel” VWs and Audis, which Volkswagen fitted with illegal emission defeat devices designed to mask high emissions during government tests.	\$9.5 billion	731,759 ⁴⁵
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Scope and Scale of Consumer Fraud⁴⁶

Year	Total number of reports	Total dollars reported lost	Median reported loss
2021	2,789,161	\$5,893.0 M	\$500
2020	2,277,130	\$3,444.6 M	\$305
2019	1,862,871	\$2,441.9 M	\$395
2018	1,522,834	\$1,615.9 M	\$370

⁴⁴ Press Release, Fed. Trade Comm’n, In Final Court Summary, FTC Reports Volkswagen Repaid More Than \$9.5 Billion To Car Buyers Who Were Deceived by ‘Clean Diesel’ Ad Campaign (July 27, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/07/final-court-summary-ftc-reports-volkswagen-repaid-more-95-billion-car-buyers-who-were-deceived-clean>. The underlying figures are not available on the Tableau Public site referenced in note 36 because the FTC did not administer this program.

⁴⁵ Figure does not include Canadian consumers who also received redress.

⁴⁶ Figures are based on fraud reports in the FTC’s Consumer Sentinel Network. See Fed. Trade Comm’n, *Fraud Reports*, TABLEAU PUBLIC, <https://public.tableau.com/app/profile/federal.trade.commission/viz/FraudReports/FraudFacts> (last visited Mar. 2, 2022). The figures do not include identity theft.

V. CONSUMER VICTIMS – STATE-BY-STATE

The tables in this section show how the FTC’s enforcement under Section 13(b) has helped individual consumers in every U.S. state and territory in recent years.

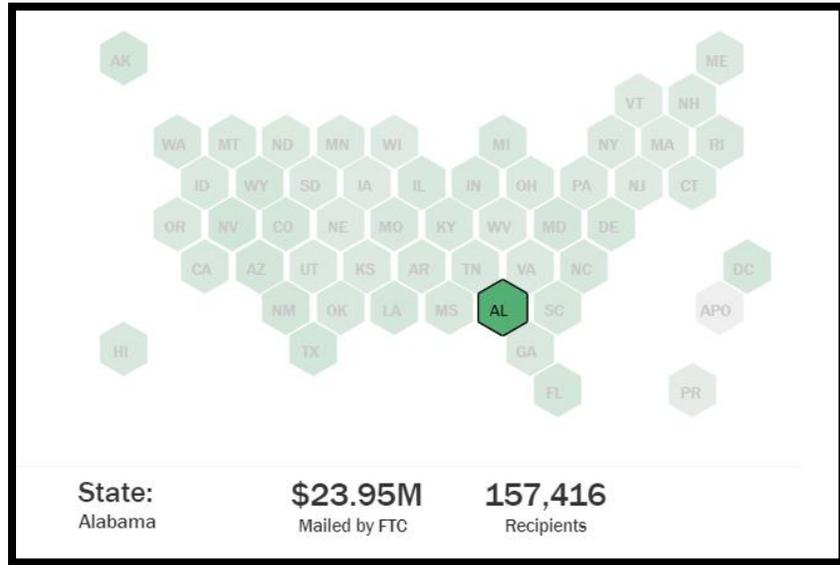
Methodology Notes:

- Refund data for each state was collected from this website:
https://public.tableau.com/app/profile/federal.trade.commission/viz/Refunds_15797958402020/RefundsbyCase
 - o The top five cases, as measured by the First Mailing amount, are shown in a bar graph on the right side of this page. Individual state data for each of these cases was collected from each individual state page, which can be accessed by clicking on each state, district, or territory shown in the map on this page.
 - o The refund data included in this report was captured on January 15, 2022.
 - o While most of the cases listed on this website were filed using Section 13(b), some of the cases included other legal theories as well.
- Fraud data for each state was collected from this website, based on Consumer Sentinel Network data:
<https://public.tableau.com/app/profile/federal.trade.commission/viz/FraudReports/FraudFacts>
 - o Individual state data was collected from each state page, which can be accessed by clicking on each state, district, or territory shown in the map on this page.
 - o The fraud data in this report was captured on March 2, 2022.
- Refund data reflects physical checks mailed by the FTC in the United States for any type of case in recent years.
- Electronic payments, international checks, or refunds administered by defendants or other federal agencies are not reflected because the FTC does not have State-specific geographic data for those refunds.⁴⁷
- The charts include over \$505 million in consumer redress that was principally made possible by the Department of Justice’s criminal forfeiture case against the owners of AMG Services. The FTC distributed the money as partial refunds to the *AMG Capital* victims prior to the Supreme Court’s decision. The fraud data does not include identity theft complaints.⁴⁸

⁴⁷ Fed. Trade Comm’n, *FTC Refunds to Consumers*, *supra* note 36.

⁴⁸ Fed. Trade Comm’n, *Fraud Reports*, *supra* note 46 (data collected from the State by State page).

ALABAMA



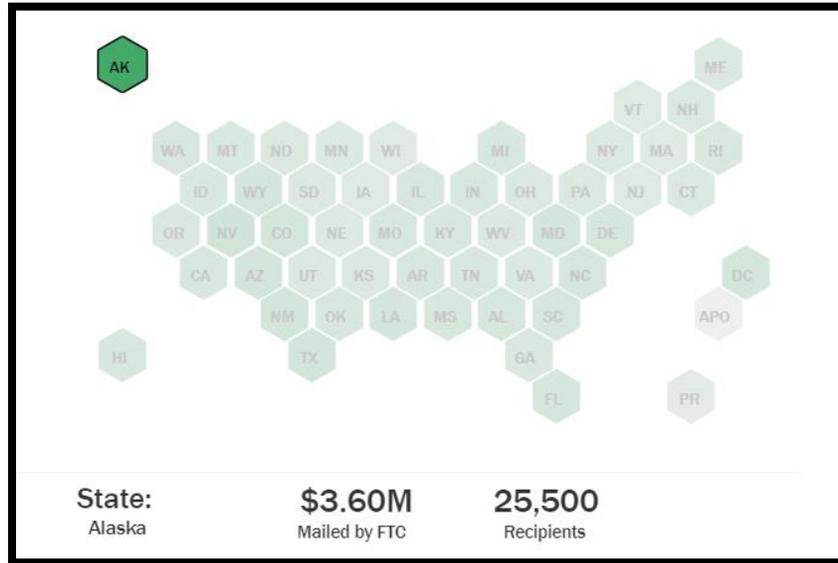
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$9,989,989	26,571
Herbalife	Multi-Level Marketing Scheme	\$1,166,592	1,475
Progressive Leasing	Rent to Own	\$2,835,383	34,492
Reckitt Benckiser	Anticompetitive Practices	\$1,659,212	1,367
University of Phoenix	Education/Job Opportunities	\$641,210	2,203

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	26,986	\$44,700,000	\$423
2020	22,892	\$27,800,000	\$261
2019	20,703	\$18,200,000	\$355
2018	17,655	\$10,000,000	\$311

ALASKA



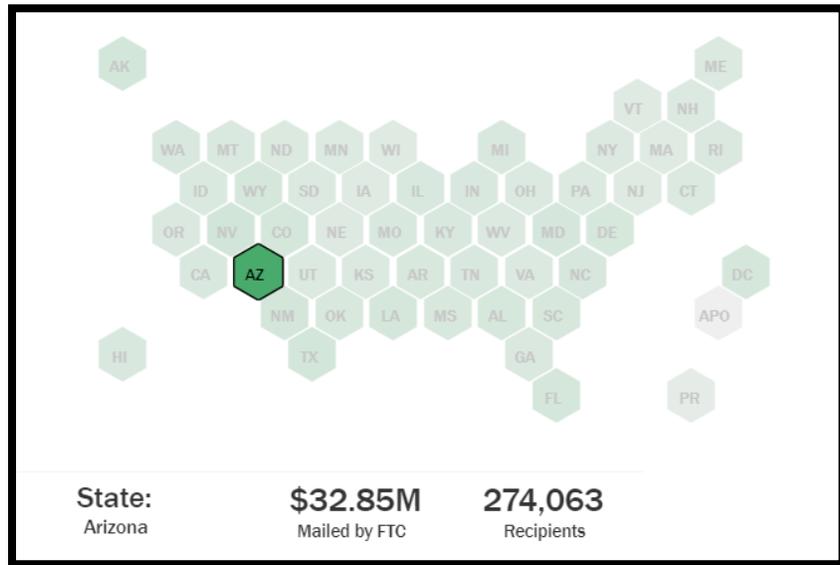
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,531,315	3,561
Herbalife	Multi-Level Marketing Scheme	\$166,746	260
Progressive Leasing	Rent to Own	\$454,389	4,423
Reckitt Benckiser	Anticompetitive Practices	\$52,347	54
University of Phoenix	Education/Job Opportunities	\$80,959	269

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	6,906	\$13,100,000	\$600
2020	4,363	\$ 5,800,000	\$500
2019	3,171	\$ 6,100,000	\$490
2018	2,685	\$ 3,700,000	\$491

ARIZONA



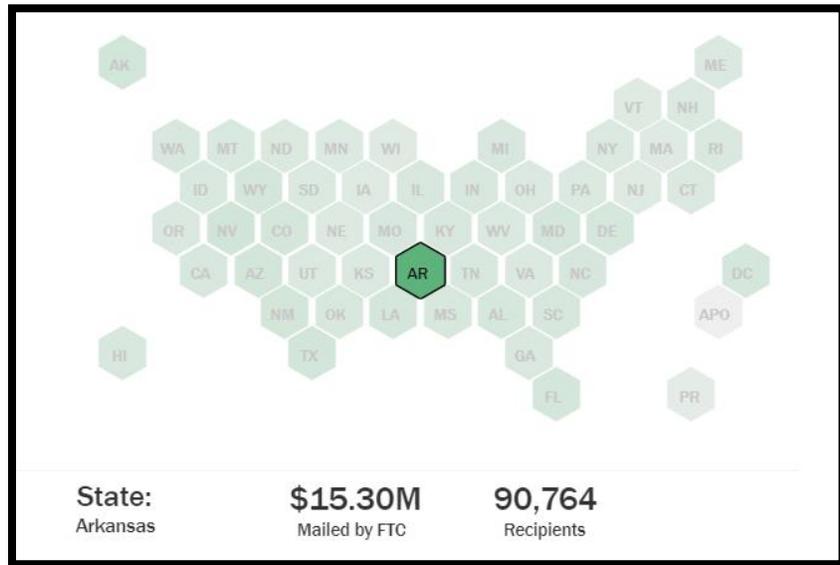
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$5,744,863	16,146
Herbalife	Multi-Level Marketing Scheme	\$4,136,530	5,924
Progressive Leasing	Rent to Own	\$5,805,743	66,728
Reckitt Benckiser	Anticompetitive Practices	\$831,778	896
University of Phoenix	Education/Job Opportunities	\$2,323,123	6,685

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	51,873	\$116,000,000	\$515
2020	43,849	\$ 70,700,000	\$356
2019	36,749	\$ 42,700,000	\$440
2018	31,653	\$ 30,100,000	\$399

ARKANSAS



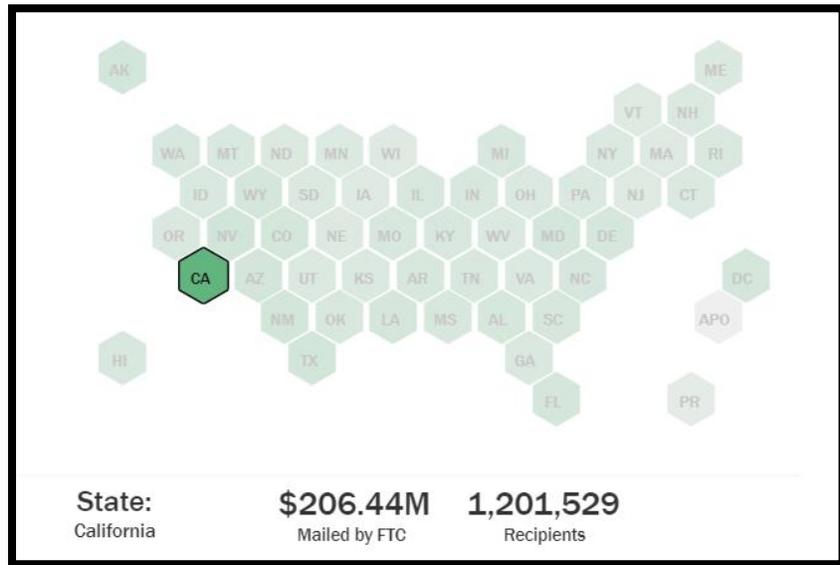
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$6,827,529	16,039
Herbalife	Multi-Level Marketing Scheme	\$1,191,298	1,596
Progressive Leasing	Rent to Own	\$1,954,439	22,872
Reckitt Benckiser	Anticompetitive Practices	\$642,013	601
University of Phoenix	Education/Job Opportunities	\$357,431	1,257

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	16,142	\$16,700,000	\$450
2020	12,765	\$14,400,000	\$286
2019	11,346	\$13,800,000	\$300
2018	9,589	\$ 5,200,000	\$360

CALIFORNIA



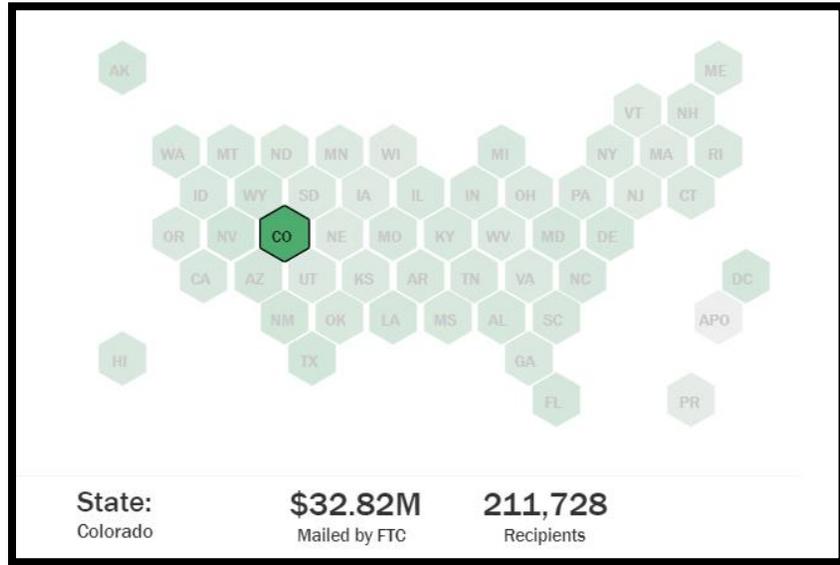
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$55,639,293	124,601
Herbalife	Multi-Level Marketing Scheme	\$49,540,840	57,781
Progressive Leasing	Rent to Own	\$13,388,936	168,225
Reckitt Benckiser	Anticompetitive Practices	\$4,102,735	4,548
University of Phoenix	Education/Job Opportunities	\$10,497,515	26,484

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	245,585	\$820,900,000	\$600
2020	210,975	\$423,400,000	\$400
2019	176,213	\$291,900,000	\$484
2018	130,146	\$176,500,000	\$400

COLORADO



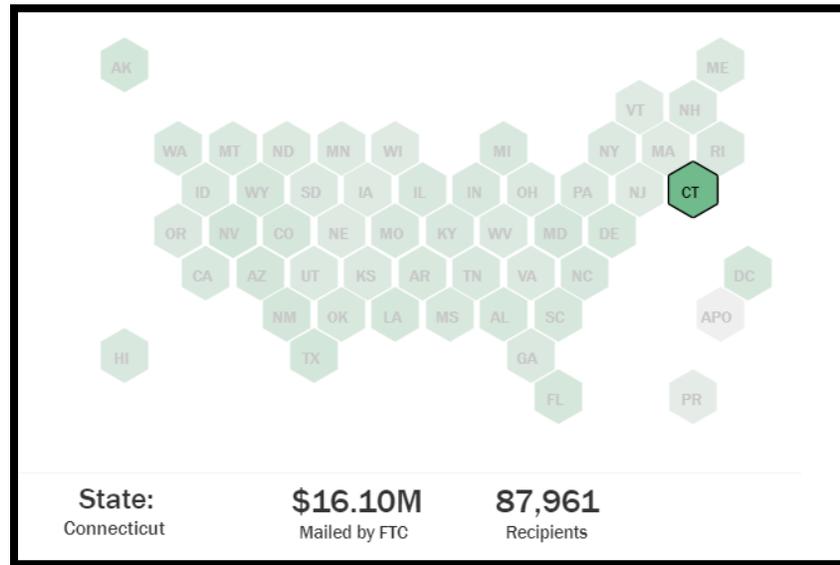
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$12,675,115	26,884
Herbalife	Multi-Level Marketing Scheme	\$2,854,047	3,859
Progressive Leasing	Rent to Own	\$2,730,349	31,726
Reckitt Benckiser	Anticompetitive Practices	\$530,482	474
University of Phoenix	Education/Job Opportunities	\$963,831	2,870

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	46,089	\$88,000,000	\$479
2020	37,085	\$53,500,000	\$350
2019	30,333	\$44,500,000	\$400
2018	24,749	\$25,700,000	\$350

CONNECTICUT



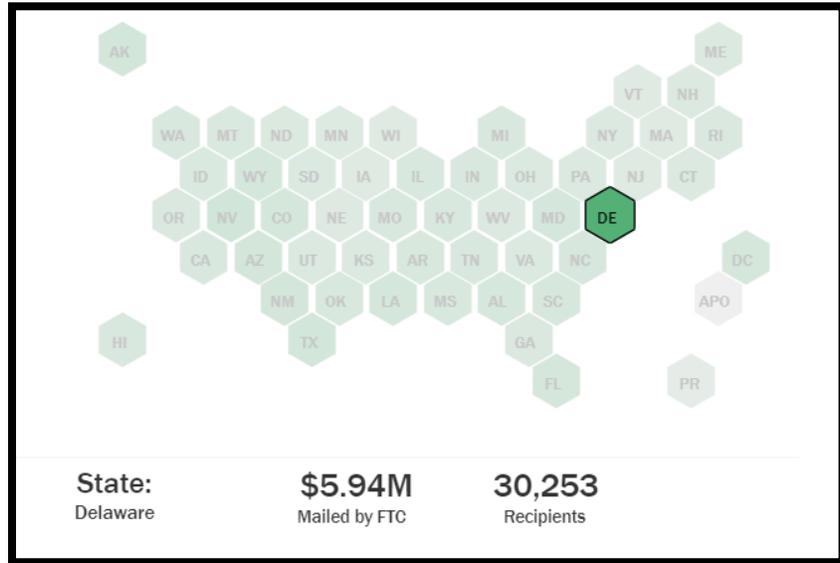
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$7,176,832	14,618
Herbalife	Multi-Level Marketing Scheme	\$1,504,444	1,970
Progressive Leasing	Rent to Own	\$1,472,408	17,946
Reckitt Benckiser	Anticompetitive Practices	\$1,139,271	859
University of Phoenix	Education/Job Opportunities	\$219,641	690

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	21,278	\$40,900,000	\$460
2020	19,396	\$25,000,000	\$280
2019	15,135	\$16,400,000	\$300
2018	12,304	\$ 8,600,000	\$303

DELAWARE



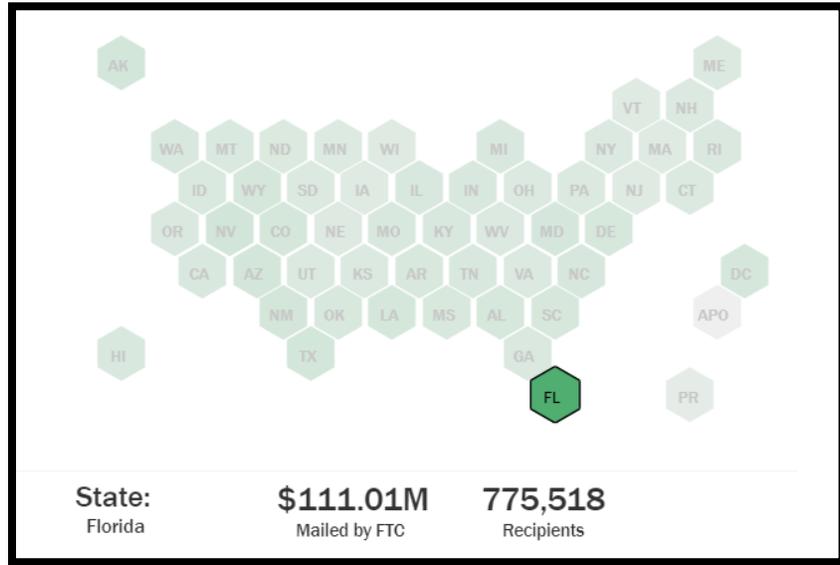
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,729,138	5,875
Herbalife	Multi-Level Marketing Scheme	\$593,162	983
Progressive Leasing	Rent to Own	\$589,883	6,777
Reckitt Benckiser	Anticompetitive Practices	\$252,902	226
University of Phoenix	Education/Job Opportunities	\$115,286	360

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	7,367	\$14,100,000	\$500
2020	6,956	\$ 9,300,000	\$400
2019	5,614	\$ 8,100,000	\$369
2018	4,189	\$ 2,600,000	\$300

FLORIDA



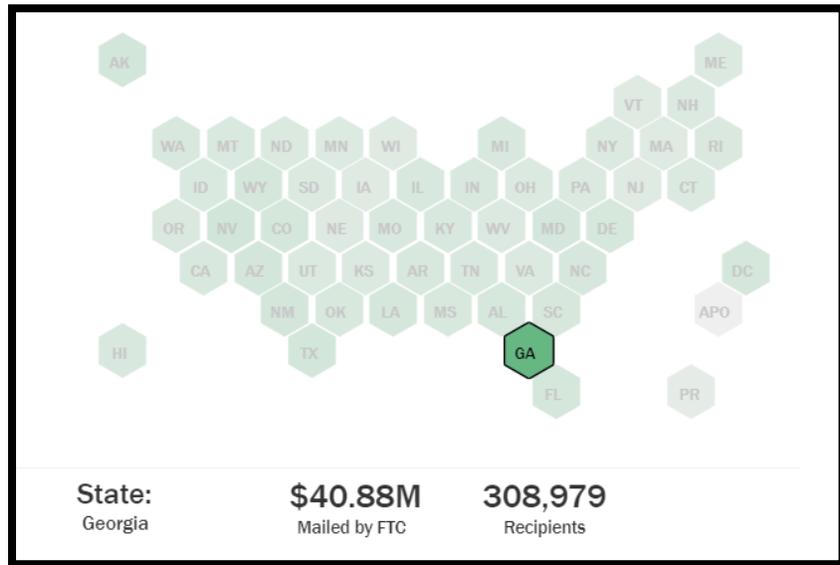
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$35,809,688	92,156
Herbalife	Multi-Level Marketing Scheme	\$13,716,064	20,996
Progressive Leasing	Rent to Own	\$13,147,380	161,806
Reckitt Benckiser	Anticompetitive Practices	\$3,781,711	3,461
University of Phoenix	Education/Job Opportunities	\$3,115,727	9,130

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	156,319	\$331,300,000	\$532
2020	137,168	\$208,000,000	\$376
2019	109,261	\$147,600,000	\$418
2018	88,546	\$ 86,100,000	\$396

GEORGIA



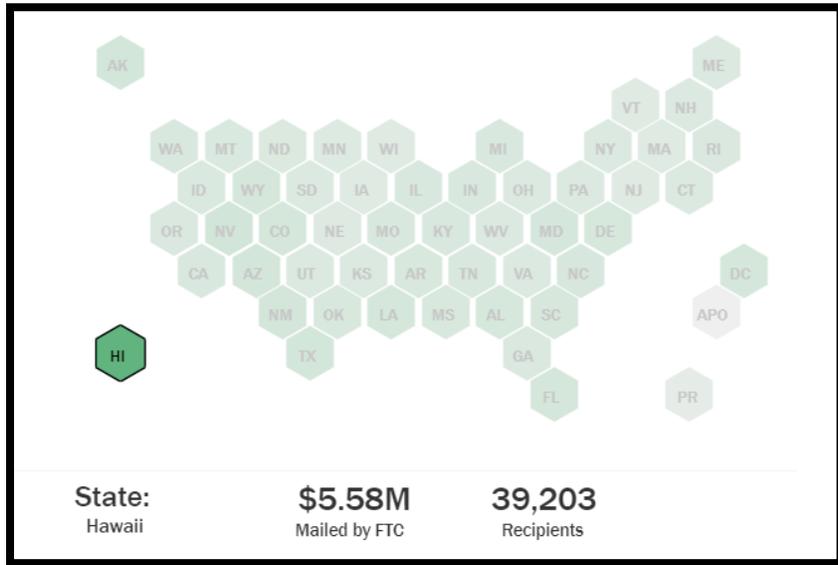
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$3,618,365	9,050
Herbalife	Multi-Level Marketing Scheme	\$4,011,384	4,764
Progressive Leasing	Rent to Own	\$8,042,717	95,659
Reckitt Benckiser	Anticompetitive Practices	\$1,482,409	1,460
University of Phoenix	Education/Job Opportunities	\$2,337,279	7,676

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	65,977	\$113,000,000	\$500
2020	58,454	\$ 73,900,000	\$300
2019	45,667	\$ 48,600,000	\$340
2018	38,400	\$ 32,700,000	\$316

HAWAII



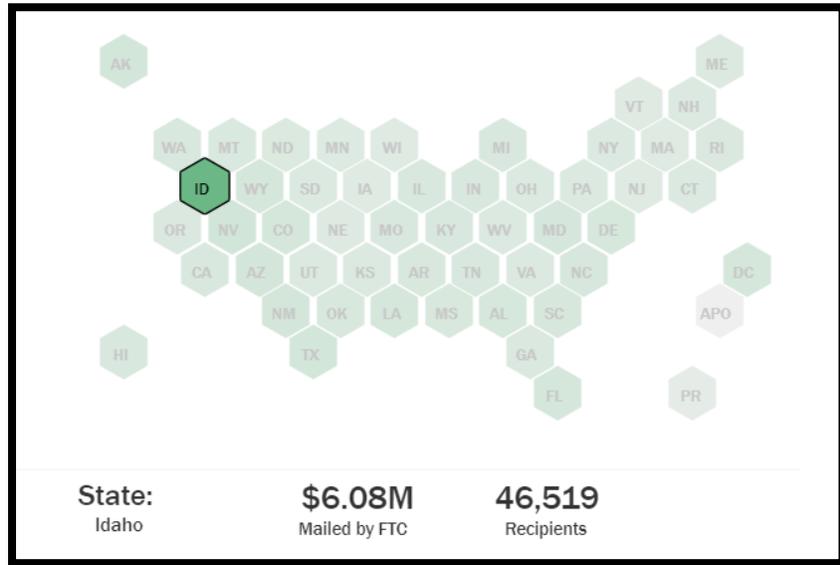
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,570,027	3,809
Herbalife	Multi-Level Marketing Scheme	\$290,581	443
Progressive Leasing	Rent to Own	\$152,797	1,922
Reckitt Benckiser	Anticompetitive Practices	\$81,796	69
University of Phoenix	Education/Job Opportunities	\$599,704	1,568

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	9,193	\$22,500,000	\$620
2020	7,593	\$15,900,000	\$358
2019	5,461	\$ 7,800,000	\$500
2018	4,338	\$ 6,000,000	\$400

IDAHO



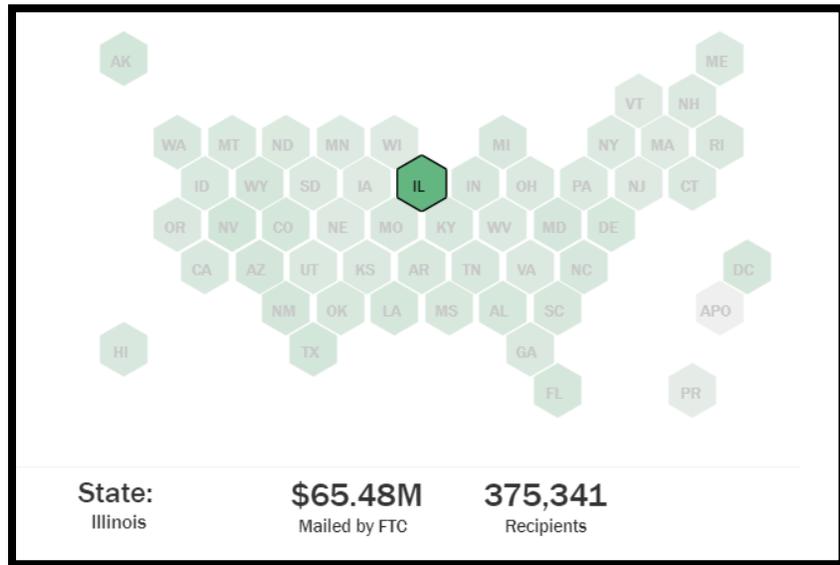
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,626,136	4,374
Herbalife	Multi-Level Marketing Scheme	\$490,742	804
Progressive Leasing	Rent to Own	\$489,810	6,316
Reckitt Benckiser	Anticompetitive Practices	\$127,413	129
University of Phoenix	Education/Job Opportunities	\$322,602	1,006

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	10,786	\$16,900,000	\$396
2020	8,567	\$10,500,000	\$287
2019	7,457	\$ 9,500,000	\$400
2018	6,570	\$ 5,400,000	\$400

ILLINOIS



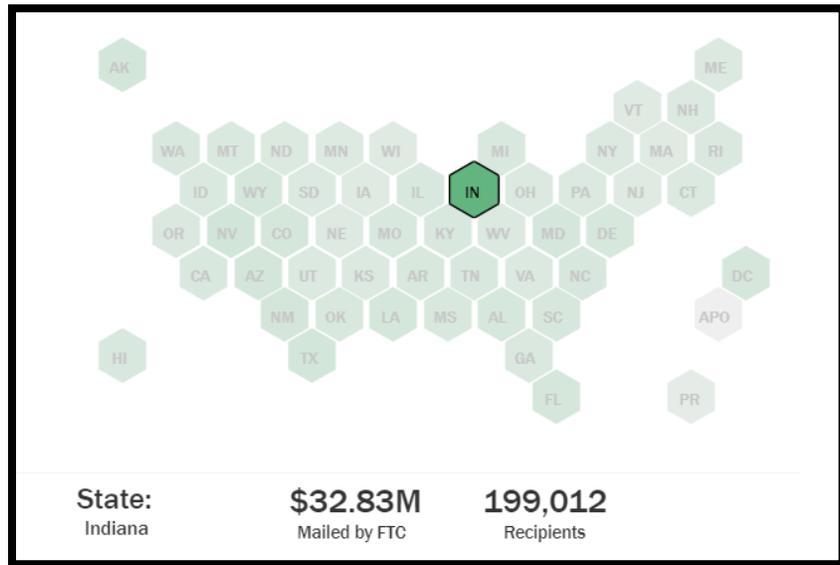
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$20,542,511	46,201
Herbalife	Multi-Level Marketing Scheme	\$9,793,850	10,612
Progressive Leasing	Rent to Own	\$6,338,795	69,951
Reckitt Benckiser	Anticompetitive Practices	\$1,339,150	1,381
University of Phoenix	Education/Job Opportunities	\$1,302,162	4,180

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	78,280	\$129,000,000	\$450
2020	65,272	\$ 97,000,000	\$279
2019	51,783	\$ 55,300,000	\$300
2018	40,115	\$ 30,500,000	\$300

INDIANA



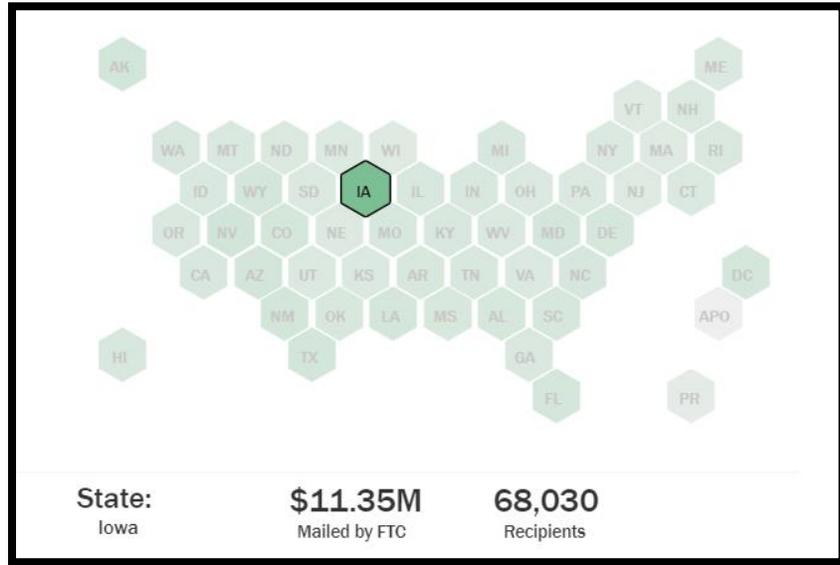
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$15,037,087	36,062
Herbalife	Multi-Level Marketing Scheme	\$1,807,531	2,509
Progressive Leasing	Rent to Own	\$3,665,576	41,361
Reckitt Benckiser	Anticompetitive Practices	\$1,136,707	991
University of Phoenix	Education/Job Opportunities	\$568,906	1,956

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	39,621	\$46,900,000	\$400
2020	32,008	\$32,700,000	\$235
2019	26,111	\$21,200,000	\$320
2018	21,969	\$17,400,000	\$350

IOWA



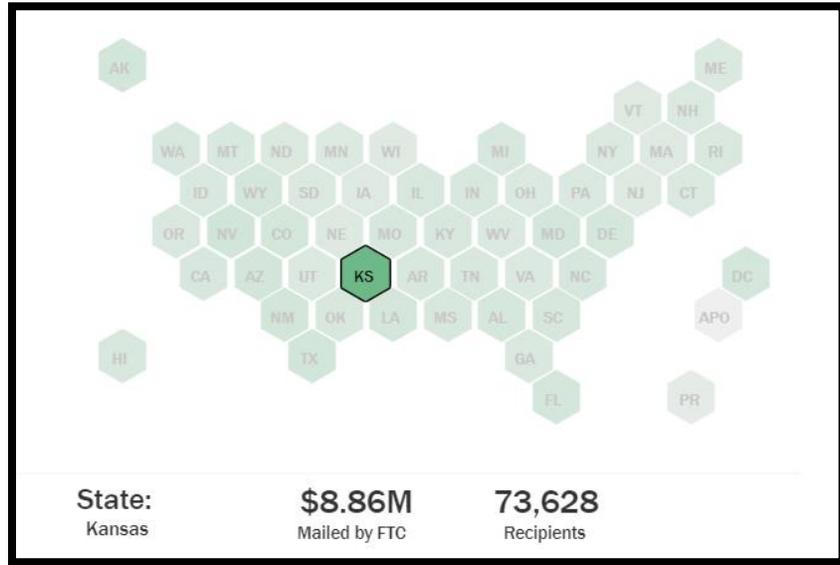
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$4,342,175	10,651
Herbalife	Multi-Level Marketing Scheme	\$1,021,229	1,670
Progressive Leasing	Rent to Own	\$664,446	8,624
Reckitt Benckiser	Anticompetitive Practices	\$136,600	163
University of Phoenix	Education/Job Opportunities	\$243,872	795

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	14,643	\$21,200,000	\$379
2020	12,813	\$17,400,000	\$250
2019	11,893	\$11,700,000	\$311
2018	9,947	\$ 7,400,000	\$370

KANSAS



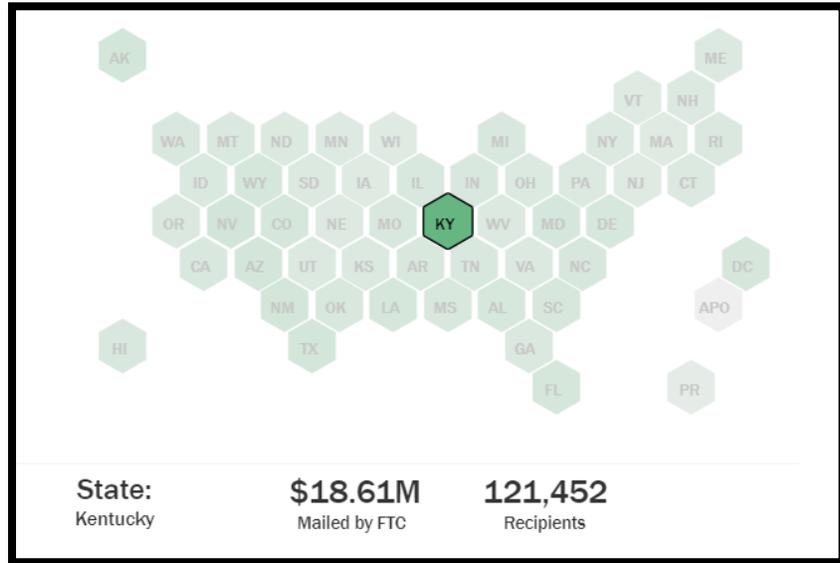
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$555,978	1,601
Herbalife	Multi-Level Marketing Scheme	\$1,623,426	2,390
Progressive Leasing	Rent to Own	\$812,681	10,238
Reckitt Benckiser	Anticompetitive Practices	\$178,370	210
University of Phoenix	Education/Job Opportunities	\$236,911	792

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	16,940	\$19,900,000	\$429
2020	14,428	\$15,100,000	\$250
2019	12,311	\$13,100,000	\$329
2018	10,865	\$ 9,900,000	\$354

KENTUCKY



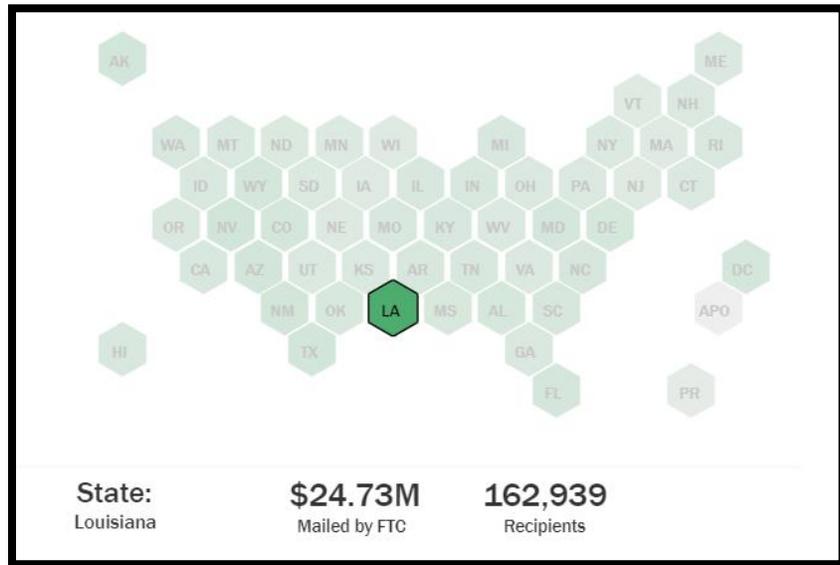
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$7,417,783	19,211
Herbalife	Multi-Level Marketing Scheme	\$460,954	698
Progressive Leasing	Rent to Own	\$2,620,039	30,981
Reckitt Benckiser	Anticompetitive Practices	\$1,789,367	1,458
University of Phoenix	Education/Job Opportunities	\$406,850	1,341

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	16,940	\$19,900,000	\$429
2020	21,796	\$16,400,000	\$208
2019	18,136	\$14,500,000	\$300
2018	14,894	\$10,400,000	\$300

LOUISIANA



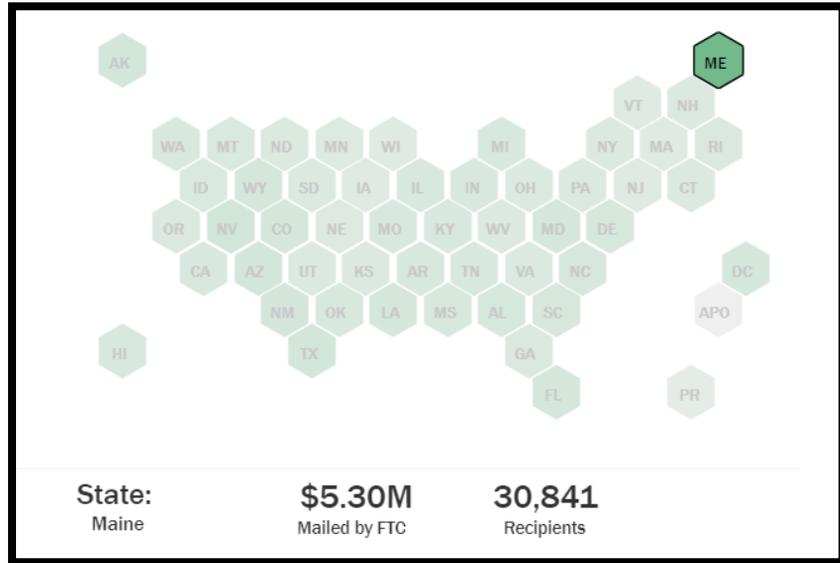
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$11,249,399	28,632
Herbalife	Multi-Level Marketing Scheme	\$688,857	1,153
Progressive Leasing	Rent to Own	\$3,204,123	35,791
Reckitt Benckiser	Anticompetitive Practices	\$1,078,912	876
University of Phoenix	Education/Job Opportunities	\$829,336	2,695

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	23,404	\$30,000,000	\$422
2020	19,748	\$22,100,000	\$300
2019	16,139	\$15,600,000	\$380
2018	14,477	\$28,900,000	\$371

MAINE



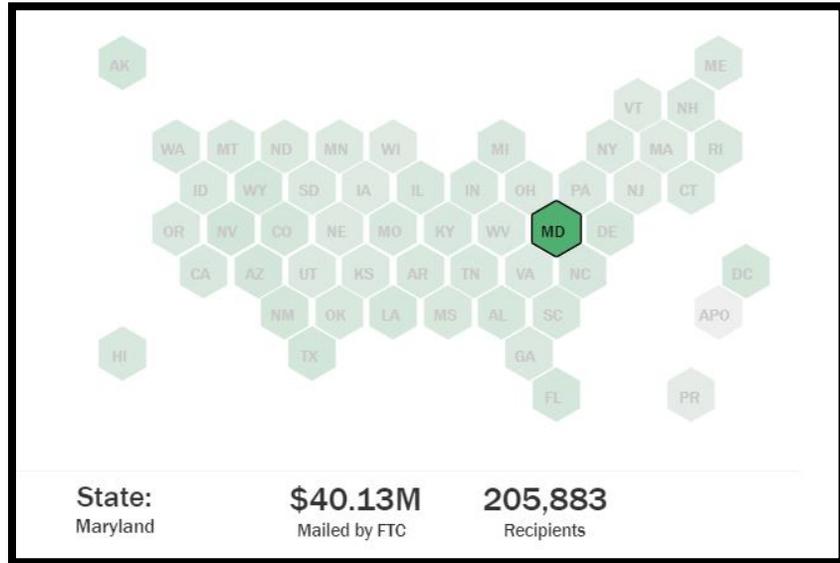
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,161,523	5,030
Herbalife	Multi-Level Marketing Scheme	\$130,720	227
Progressive Leasing	Rent to Own	\$362,008	4,619
Reckitt Benckiser	Anticompetitive Practices	\$917,029	677
University of Phoenix	Education/Job Opportunities	\$89,999	309

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	8,397	\$9,700,000	\$400
2020	6,495	\$6,000,000	\$219
2019	5,209	\$3,500,000	\$251
2018	4,524	\$2,600,000	\$349

MARYLAND



FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$17,165,972	32,300
Herbalife	Multi-Level Marketing Scheme	\$2,754,781	4,026
Progressive Leasing	Rent to Own	\$4,127,092	45,624
Reckitt Benckiser	Anticompetitive Practices	\$2,815,790	2,208
University of Phoenix	Education/Job Opportunities	\$823,172	2,426

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	45,832	\$94,000,000	\$518
2020	41,956	\$57,400,000	\$318
2019	31,427	\$40,300,000	\$407
2018	24,707	\$18,500,000	\$344

MASSACHUSETTS



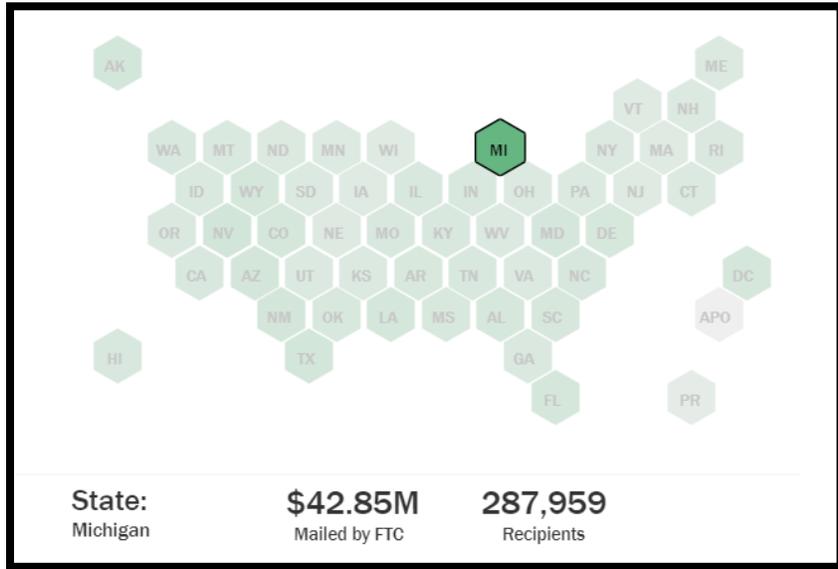
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$9,813,160	20,549
Herbalife	Multi-Level Marketing Scheme	\$1,953,679	2,912
Progressive Leasing	Rent to Own	\$2,244,142	25,379
Reckitt Benckiser	Anticompetitive Practices	\$2,680,258	1,995
University of Phoenix	Education/Job Opportunities	\$292,496	914

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	44,020	\$91,300,000	\$500
2020	35,356	\$42,600,000	\$272
2019	27,304	\$26,100,000	\$289
2018	22,434	\$19,900,000	\$338

MICHIGAN



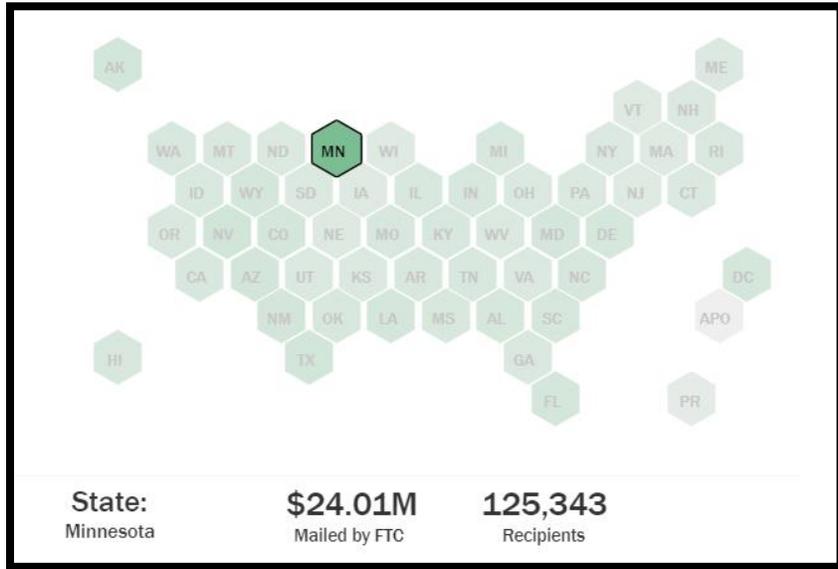
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$15,808,053	39,462
Herbalife	Multi-Level Marketing Scheme	\$2,866,010	4,806
Progressive Leasing	Rent to Own	\$7,249,830	73,982
Reckitt Benckiser	Anticompetitive Practices	\$2,002,457	1,671
University of Phoenix	Education/Job Opportunities	\$1,298,978	4,221

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	58,709	\$83,300,000	\$400
2020	51,649	\$58,900,000	\$250
2019	40,550	\$38,600,000	\$300
2018	32,796	\$24,500,000	\$299

MINNESOTA



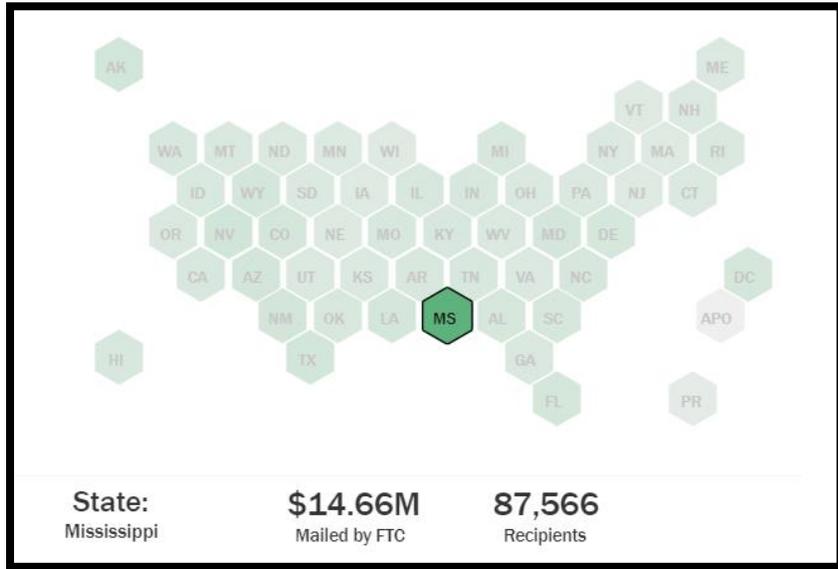
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$8,219,423	18,511
Herbalife	Multi-Level Marketing Scheme	\$4,541,396	7,257
Progressive Leasing	Rent to Own	\$37,979	449
Reckitt Benckiser	Anticompetitive Practices	\$492,379	455
University of Phoenix	Education/Job Opportunities	\$342,795	1,080

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	33,234	\$60,300,000	\$482
2020	29,428	\$39,200,000	\$300
2019	24,092	\$29,100,000	\$385
2018	19,749	\$15,800,000	\$360

MISSISSIPPI



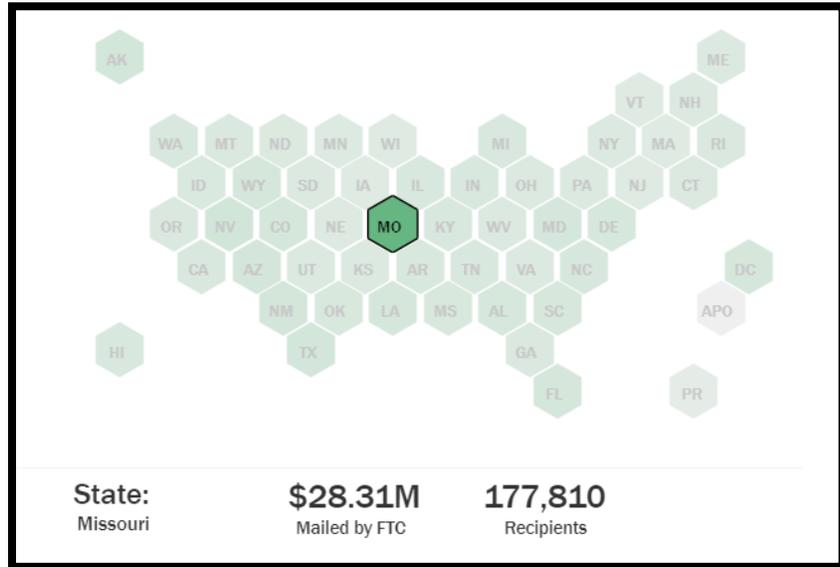
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$6,366,205	17,131
Herbalife	Multi-Level Marketing Scheme	\$549,189	866
Progressive Leasing	Rent to Own	\$1,757,639	20,361
Reckitt Benckiser	Anticompetitive Practices	\$1,088,313	884
University of Phoenix	Education/Job Opportunities	\$398,747	1,496

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	13,952	\$23,400,000	\$400
2020	12,799	\$11,400,000	\$210
2019	10,562	\$ 9,900,000	\$315
2018	9,274	\$ 8,100,000	\$326

MISSOURI



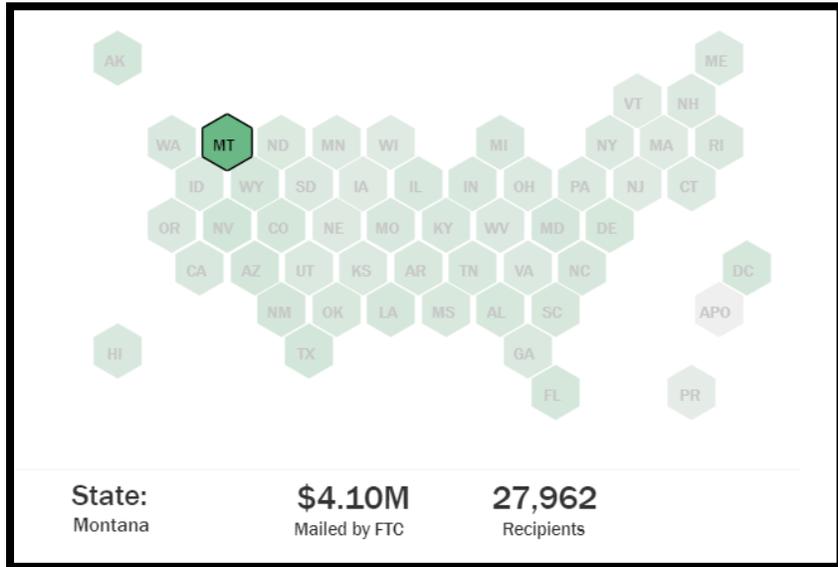
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$12,640,456	29,885
Herbalife	Multi-Level Marketing Scheme	\$1,298,676	2,240
Progressive Leasing	Rent to Own	\$2,150,394	25,976
Reckitt Benckiser	Anticompetitive Practices	\$663,165	652
University of Phoenix	Education/Job Opportunities	\$642,070	2,096

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	39,182	\$52,300,000	\$361
2020	33,327	\$41,500,000	\$229
2019	27,703	\$30,500,000	\$300
2018	22,608	\$19,400,000	\$300

MONTANA



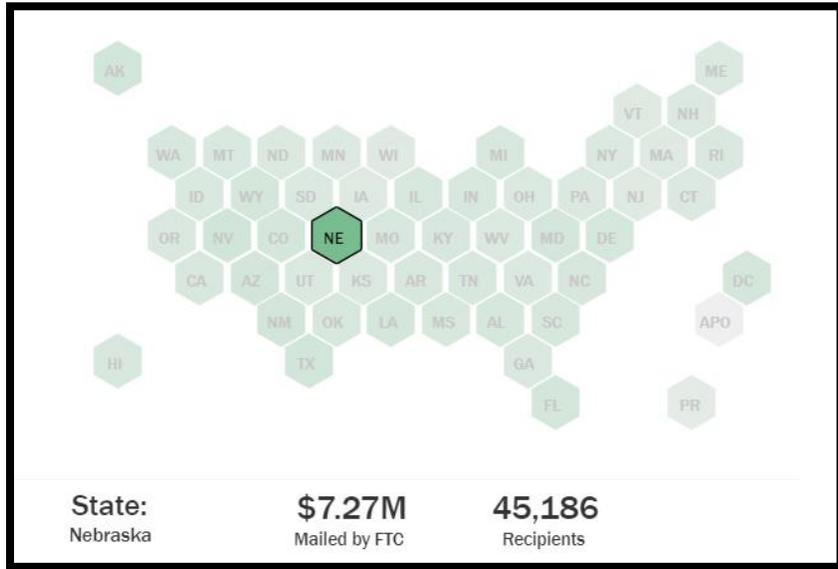
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,374,987	3,424
Herbalife	Multi-Level Marketing Scheme	\$243,920	383
Progressive Leasing	Rent to Own	\$195,356	2,299
Reckitt Benckiser	Anticompetitive Practices	\$88,491	82
University of Phoenix	Education/Job Opportunities	\$131,490	421

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	6,712	\$ 9,600,000	\$436
2020	5,767	\$ 5,800,000	\$297
2019	4,707	\$ 3,900,000	\$300
2018	4,605	\$ 2,800,000	\$398

NEBRASKA



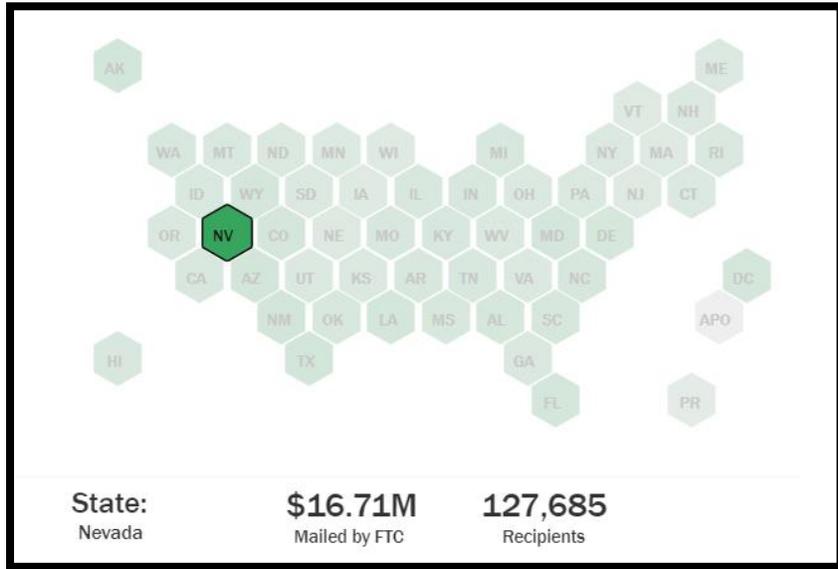
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,720,261	6,709
Herbalife	Multi-Level Marketing Scheme	\$869,393	987
Progressive Leasing	Rent to Own	\$367,599	4,536
Reckitt Benckiser	Anticompetitive Practices	\$97,928	90
University of Phoenix	Education/Job Opportunities	\$125,102	389

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	10,242	\$14,300,000	\$450
2020	9,072	\$13,300,000	\$262
2019	7,438	\$ 6,500,000	\$358
2018	6,123	\$ 4,900,000	\$337

NEVADA



FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$3,342,319	9,189
Herbalife	Multi-Level Marketing Scheme	\$2,765,941	3,112
Progressive Leasing	Rent to Own	\$2,289,302	26,547
Reckitt Benckiser	Anticompetitive Practices	\$412,969	467
University of Phoenix	Education/Job Opportunities	\$981,141	2,772

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	24,729	\$69,600,000	\$616
2020	21,873	\$38,100,000	\$400
2019	19,023	\$27,400,000	\$500
2018	14,330	\$11,900,000	\$429

NEW HAMPSHIRE



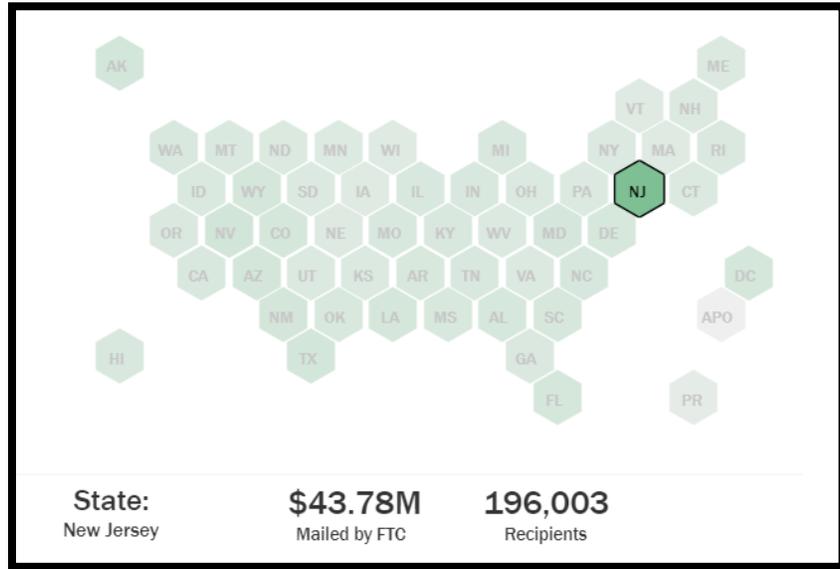
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,406,005	5,140
Herbalife	Multi-Level Marketing Scheme	\$316,991	519
Progressive Leasing	Rent to Own	\$442,128	4,969
Reckitt Benckiser	Anticompetitive Practices	\$777,544	586
University of Phoenix	Education/Job Opportunities	\$77,933	265

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	9,299	\$13,700,000	\$450
2020	7,521	\$ 6,700,000	\$234
2019	6,149	\$ 5,300,000	\$263
2018	4,883	\$ 3,900,000	\$300

NEW JERSEY



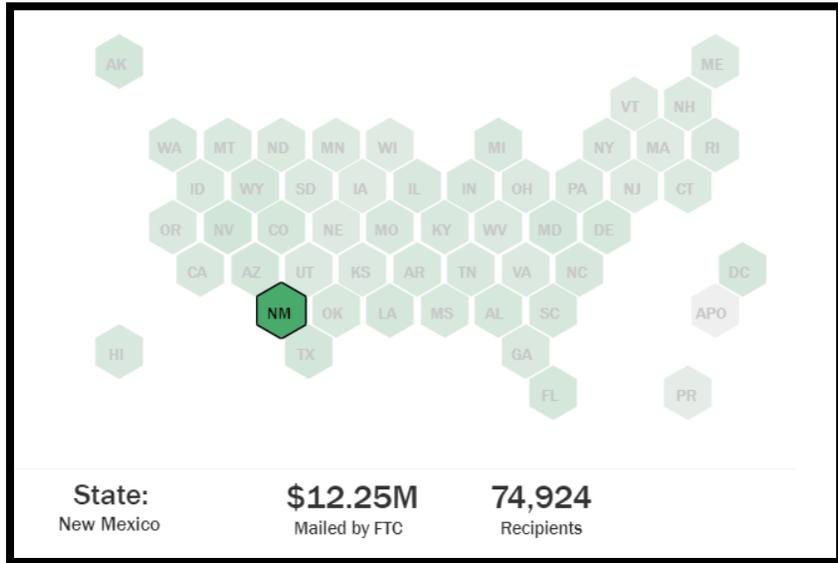
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$19,370,881	37,186
Herbalife	Multi-Level Marketing Scheme	\$6,652,164	7,744
Progressive Leasing	Rent to Own	\$125,852	1,495
Reckitt Benckiser	Anticompetitive Practices	\$1,693,149	1,434
University of Phoenix	Education/Job Opportunities	\$830,011	2,501

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	54,494	\$122,200,000	\$508
2020	48,384	\$ 73,300,000	\$315
2019	38,024	\$ 51,000,000	\$390
2018	30,004	\$ 34,400,000	\$356

NEW MEXICO



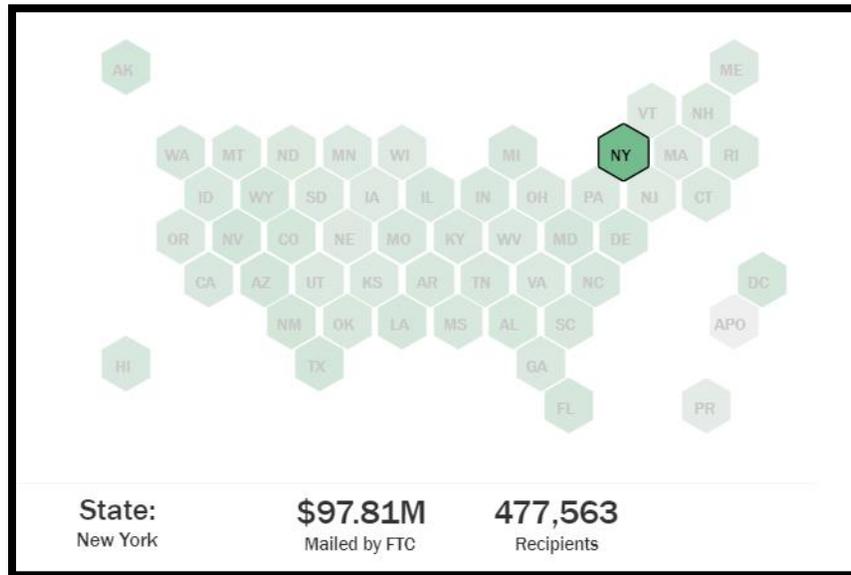
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$3,479,111	8,103
Herbalife	Multi-Level Marketing Scheme	\$2,991,621	4,149
Progressive Leasing	Rent to Own	\$1,541,041	18,292
Reckitt Benckiser	Anticompetitive Practices	\$299,266	274
University of Phoenix	Education/Job Opportunities	\$360,562	1,017

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	13,773	\$23,200,000	\$500
2020	12,165	\$25,100,000	\$409
2019	9,194	\$14,100,000	\$500
2018	8,031	\$10,500,000	\$400

NEW YORK



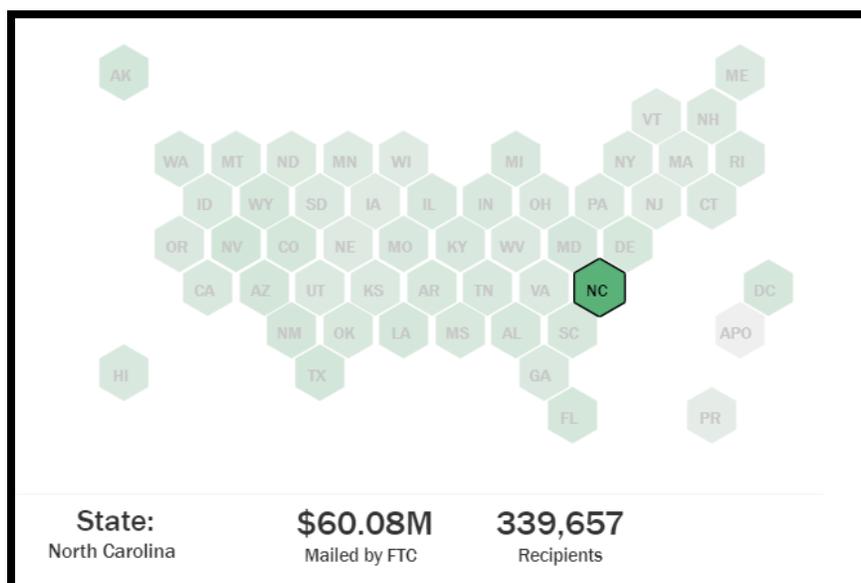
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$39,912,503	76,212
Herbalife	Multi-Level Marketing Scheme	\$15,078,040	15,722
Progressive Leasing	Rent to Own	\$7,785,361	92,006
Reckitt Benckiser	Anticompetitive Practices	\$3,764,084	3,037
University of Phoenix	Education/Job Opportunities	\$1,206,115	3,784

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	123,684	\$280,900,000	\$500
2020	109,037	\$174,200,000	\$300
2019	88,565	\$123,200,000	\$371
2018	66,771	\$ 67,700,000	\$321

NORTH CAROLINA



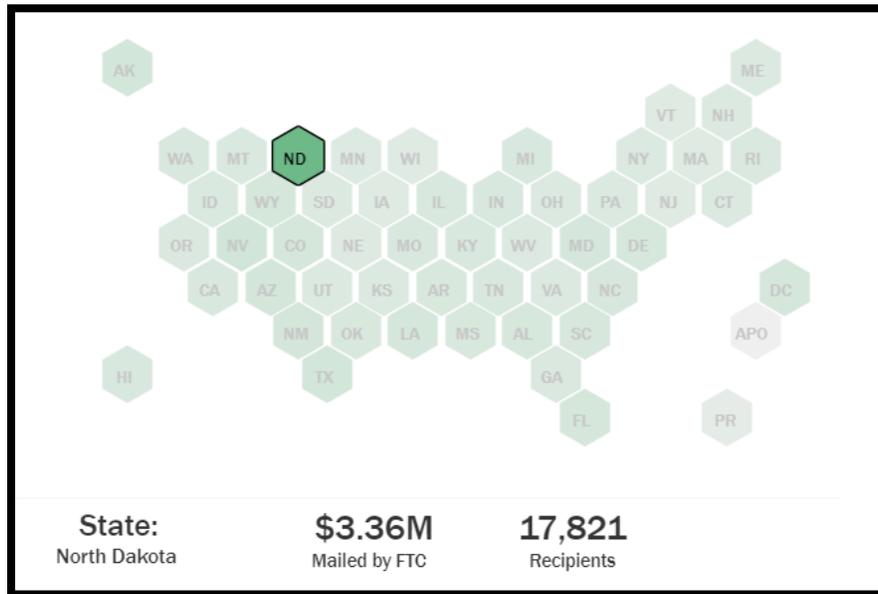
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$26,487,286	64,100
Herbalife	Multi-Level Marketing Scheme	\$4,721,854	6,340
Progressive Leasing	Rent to Own	\$7,250,504	88,477
Reckitt Benckiser	Anticompetitive Practices	\$2,097,785	1,872
University of Phoenix	Education/Job Opportunities	\$1,560,845	5,077

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	64,517	\$93,000,000	\$446
2020	56,765	\$74,200,000	\$278
2019	47,410	\$45,300,000	\$350
2018	39,279	\$30,400,000	\$312

NORTH DAKOTA



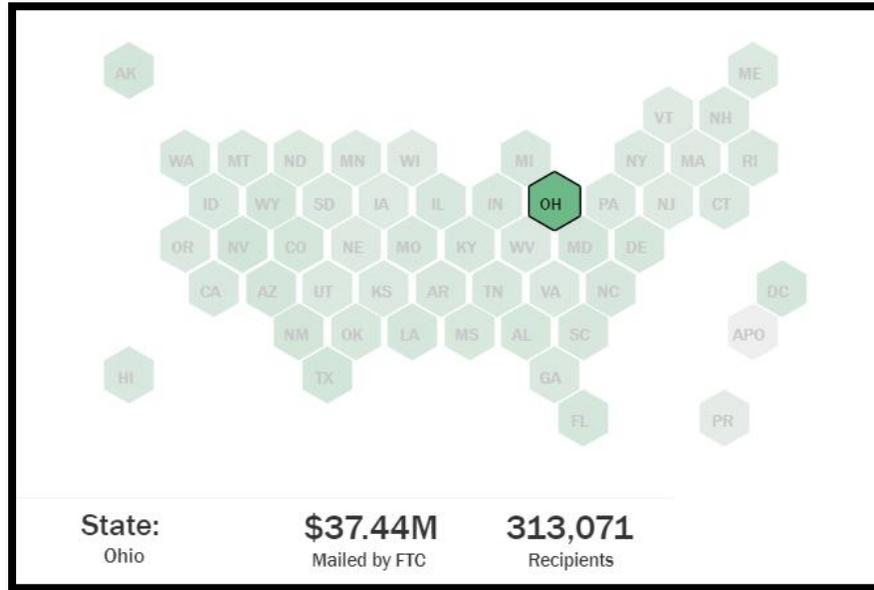
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,097,267	2,396
Herbalife	Multi-Level Marketing Scheme	\$648,237	988
Progressive Leasing	Rent to Own	\$175,774	1,870
Reckitt Benckiser	Anticompetitive Practices	\$127,341	93
University of Phoenix	Education/Job Opportunities	\$52,754	184

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	3,309	\$8,900,000	\$440
2020	2,743	\$3,200,000	\$359
2019	2,268	\$3,300,000	\$411
2018	1,860	\$2,400,000	\$484

OHIO



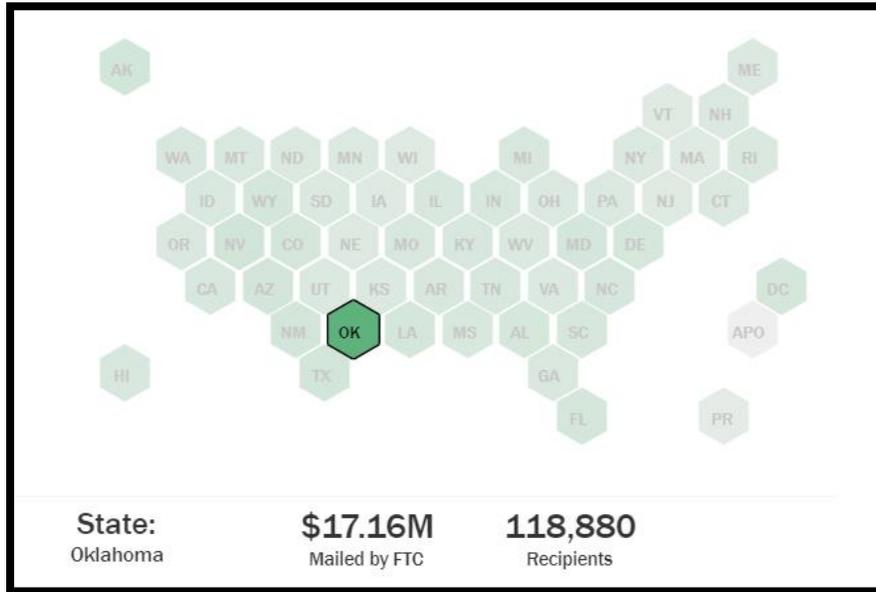
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,303,878	9,193
Herbalife	Multi-Level Marketing Scheme	\$2,123,253	3,798
Progressive Leasing	Rent to Own	\$7,032,168	88,785
Reckitt Benckiser	Anticompetitive Practices	\$3,381,668	2,823
University of Phoenix	Education/Job Opportunities	\$1,586,186	5,171

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	69,970	\$86,300,000	\$375
2020	60,802	\$59,400,000	\$222
2019	51,014	\$42,700,000	\$299
2018	40,712	\$27,700,000	\$300

OKLAHOMA



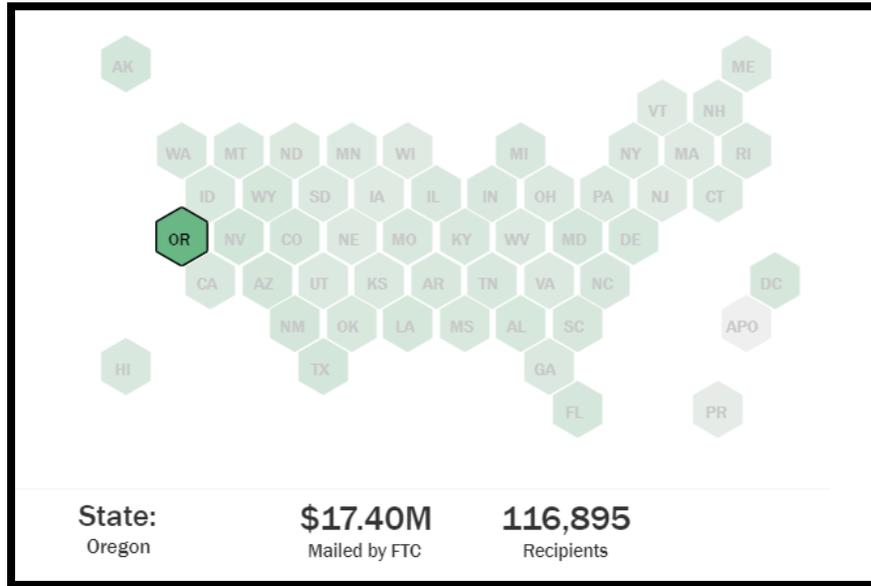
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$4,707,498	14,621
Herbalife	Multi-Level Marketing Scheme	\$3,196,760	5,166
Progressive Leasing	Rent to Own	\$2,116,703	24,558
Reckitt Benckiser	Anticompetitive Practices	\$613,916	510
University of Phoenix	Education/Job Opportunities	\$442,266	1,442

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	22,036	\$26,900,000	\$410
2020	16,925	\$19,700,000	\$260
2019	14,529	\$17,800,000	\$362
2018	11,812	\$11,000,000	\$300

OREGON



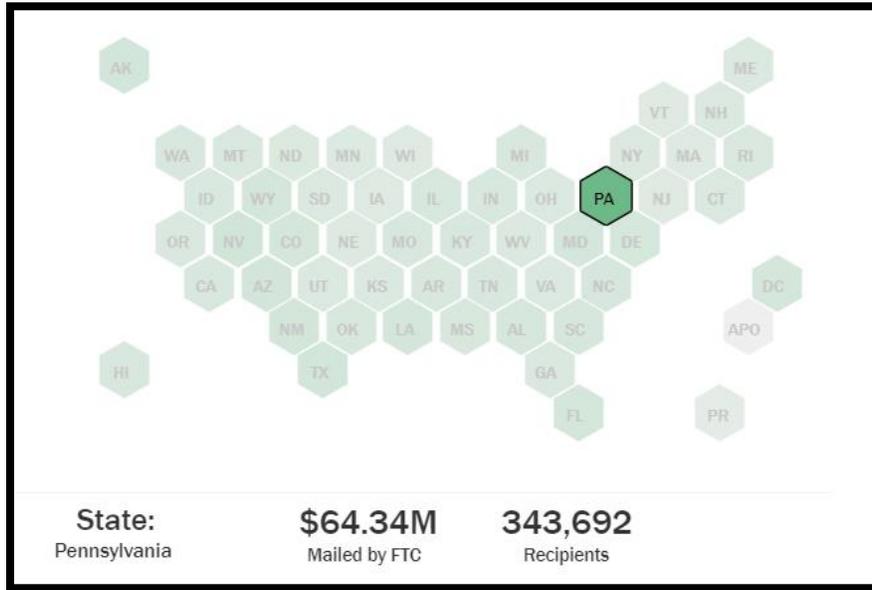
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$5,295,550	12,571
Herbalife	Multi-Level Marketing Scheme	\$2,142,709	2,745
Progressive Leasing	Rent to Own	\$1,212,203	14,827
Reckitt Benckiser	Anticompetitive Practices	\$405,277	454
University of Phoenix	Education/Job Opportunities	\$511,148	1,623

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	30,950	\$65,400,000	\$500
2020	26,808	\$36,100,000	\$300
2019	23,539	\$23,300,000	\$349
2018	17,723	\$11,900,000	\$346

PENNSYLVANIA



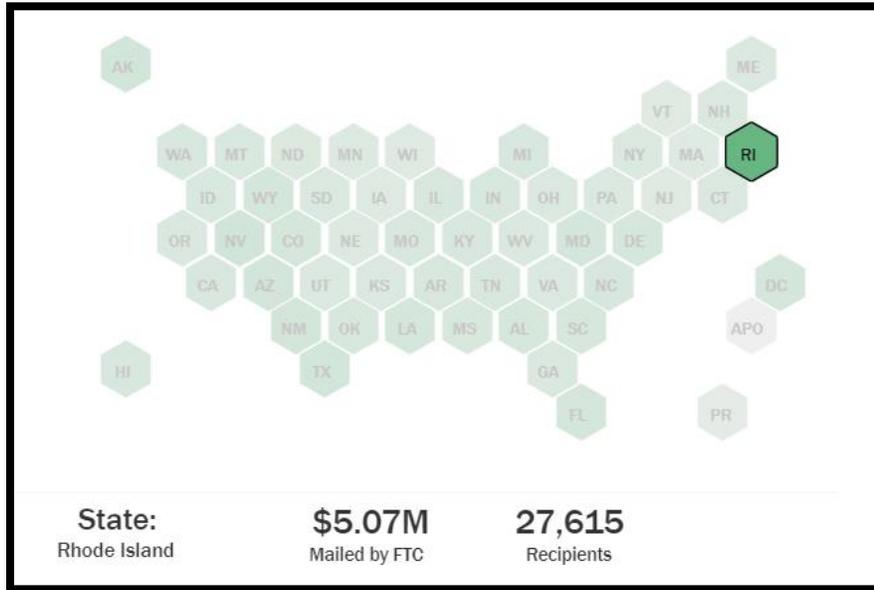
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$28,901,271	57,201
Herbalife	Multi-Level Marketing Scheme	\$2,908,192	4,488
Progressive Leasing	Rent to Own	\$5,999,606	72,124
Reckitt Benckiser	Anticompetitive Practices	\$3,502,172	2,733
University of Phoenix	Education/Job Opportunities	\$1,536,125	4,648

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	79,187	\$120,900,000	\$400
2020	71,756	\$ 78,200,000	\$256
2019	56,949	\$ 55,700,000	\$300
2018	43,906	\$ 33,700,000	\$300

RHODE ISLAND



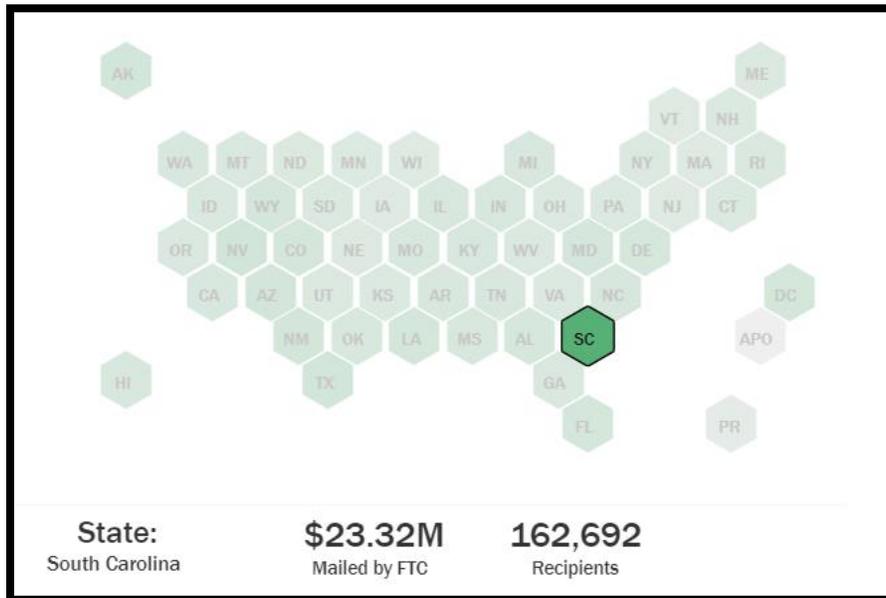
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,376,533	3,342
Herbalife	Multi-Level Marketing Scheme	\$1,018,746	1,459
Progressive Leasing	Rent to Own	\$693,505	7,635
Reckitt Benckiser	Anticompetitive Practices	\$355,886	264
University of Phoenix	Education/Job Opportunities	\$79,222	231

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	6,758	\$11,600,000	\$447
2020	5,408	\$ 4,200,000	\$225
2019	4,022	\$ 2,400,000	\$269
2018	3,320	\$ 3,300,000	\$350

SOUTH CAROLINA



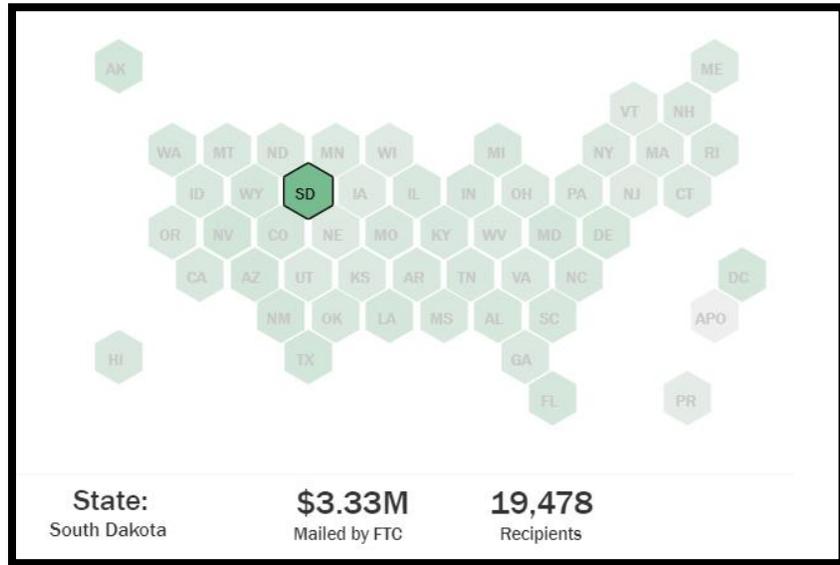
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$8,141,989	21,949
Herbalife	Multi-Level Marketing Scheme	\$1,114,734	1,635
Progressive Leasing	Rent to Own	\$3,795,280	45,805
Reckitt Benckiser	Anticompetitive Practices	\$797,806	774
University of Phoenix	Education/Job Opportunities	\$901,136	2,939

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	30,918	\$46,400,000	\$400
2020	27,656	\$36,200,000	\$285
2019	21,931	\$27,100,000	\$350
2018	18,264	\$14,000,000	\$320

SOUTH DAKOTA



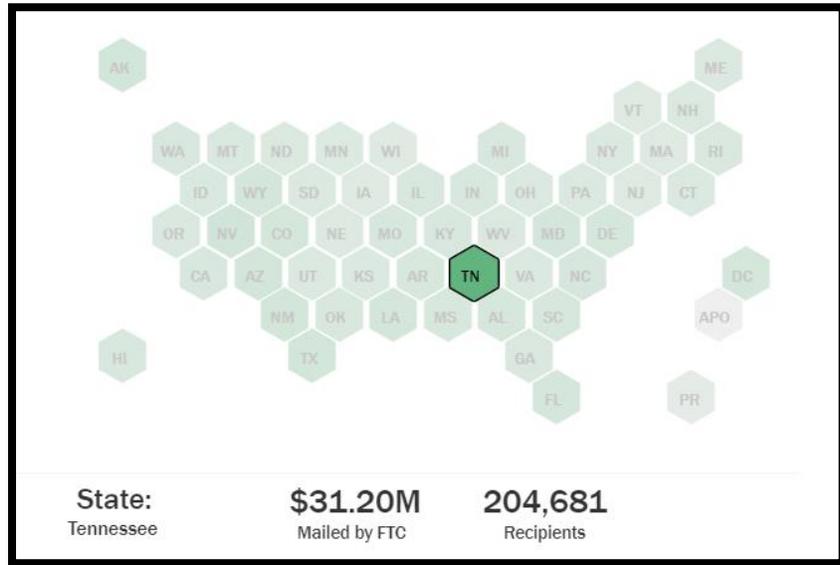
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,077,387	2,571
Herbalife	Multi-Level Marketing Scheme	\$486,791	779
Progressive Leasing	Rent to Own	\$163,170	1,915
Reckitt Benckiser	Anticompetitive Practices	\$28,737	26
University of Phoenix	Education/Job Opportunities	\$66,542	210

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	3,698	\$ 6,800,000	\$489
2020	3,073	\$ 4,600,000	\$249
2019	2,489	\$ 2,300,000	\$300
2018	2,226	\$ 2,900,000	\$412

TENNESSEE



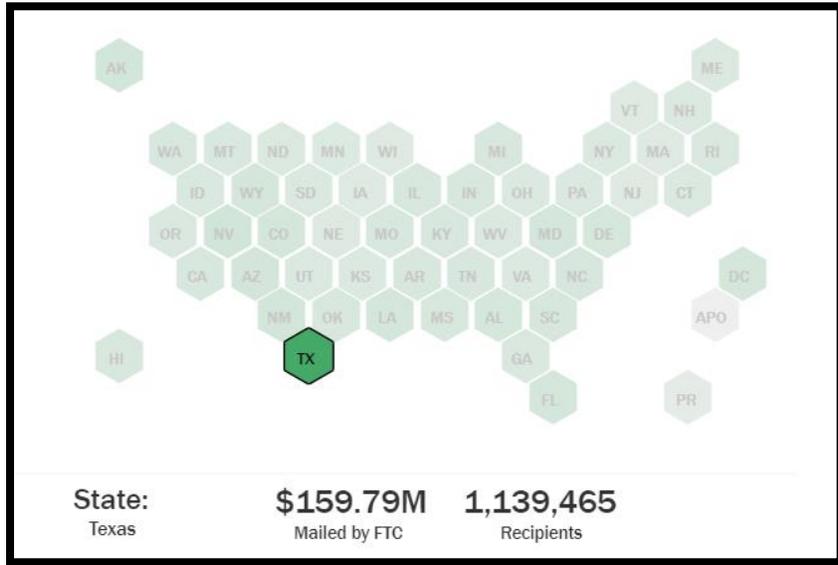
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$11,699,122	29,493
Herbalife	Multi-Level Marketing Scheme	\$1,326,693	1,936
Progressive Leasing	Rent to Own	\$3,771,427	46,019
Reckitt Benckiser	Anticompetitive Practices	\$2,156,648	1,818
University of Phoenix	Education/Job Opportunities	\$1,129,817	3,507

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	42,606	\$62,600,000	\$400
2020	36,413	\$41,500,000	\$270
2019	29,941	\$28,000,000	\$318
2018	24,458	\$18,700,000	\$324

TEXAS



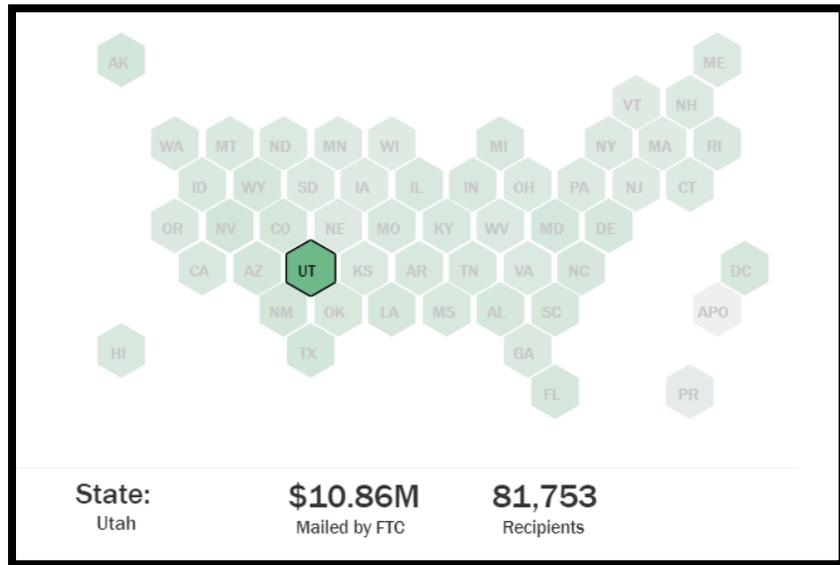
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$37,187,516	100,219
Herbalife	Multi-Level Marketing Scheme	\$26,735,652	35,602
Progressive Leasing	Rent to Own	\$31,977,820	354,333
Reckitt Benckiser	Anticompetitive Practices	\$2,286,732	2,150
University of Phoenix	Education/Job Opportunities	\$4,618,821	12,947

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	169,503	\$369,400,000	\$500
2020	139,523	\$213,100,000	\$340
2019	111,167	\$154,500,000	\$422
2018	87,343	\$ 98,600,000	\$390

UTAH



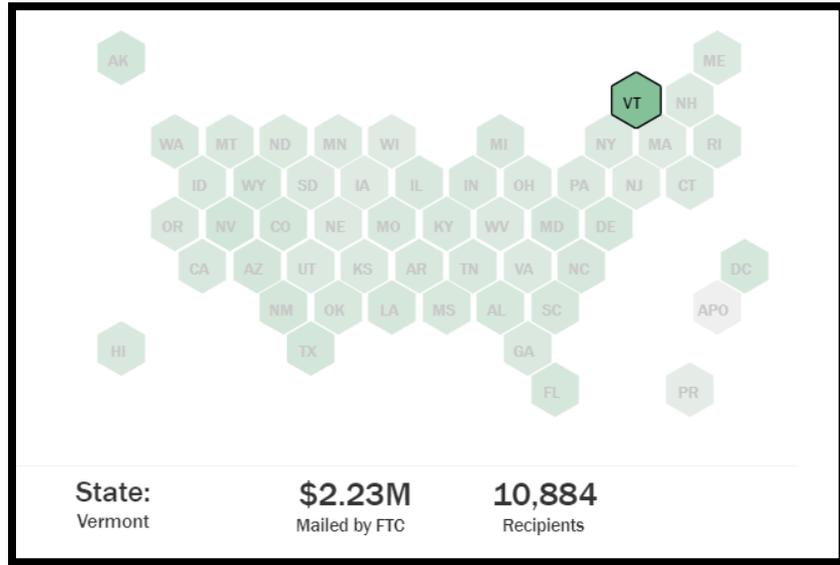
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,621,333	6,606
Herbalife	Multi-Level Marketing Scheme	\$1,646,536	2,298
Progressive Leasing	Rent to Own	\$948,961	12,298
Reckitt Benckiser	Anticompetitive Practices	\$435,510	377
University of Phoenix	Education/Job Opportunities	\$602,615	1,734

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	19,327	\$37,300,000	\$500
2020	16,126	\$24,500,000	\$322
2019	12,016	\$14,700,000	\$400
2018	9,892	\$14,300,000	\$376

VERMONT



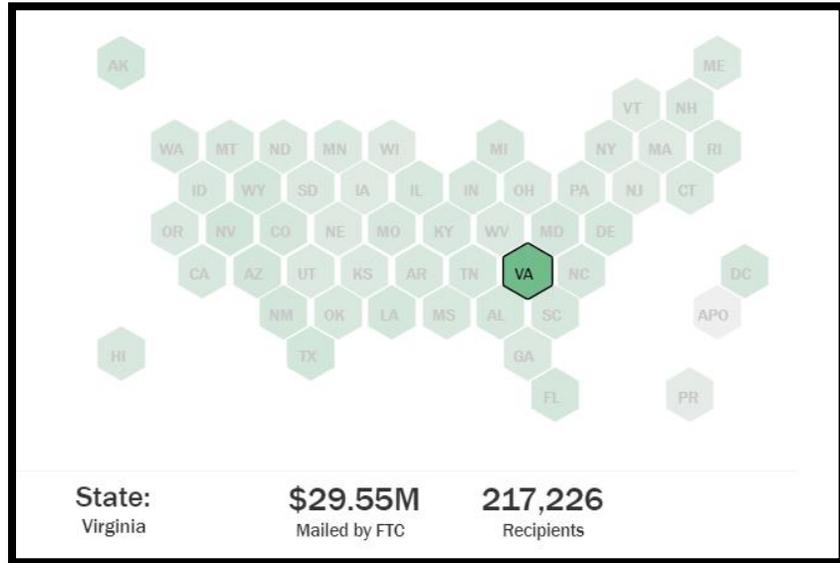
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$827,323	1,829
Herbalife	Multi-Level Marketing Scheme	\$227,550	369
Progressive Leasing	Rent to Own	\$7,990	103
Reckitt Benckiser	Anticompetitive Practices	\$316,288	207
University of Phoenix	Education/Job Opportunities	\$29,968	97

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	4,132	\$10,000,000	\$337
2020	3,382	\$ 4,000,000	\$280
2019	2,338	\$ 3,700,000	\$350
2018	1,924	\$ 2,200,000	\$340

VIRGINIA



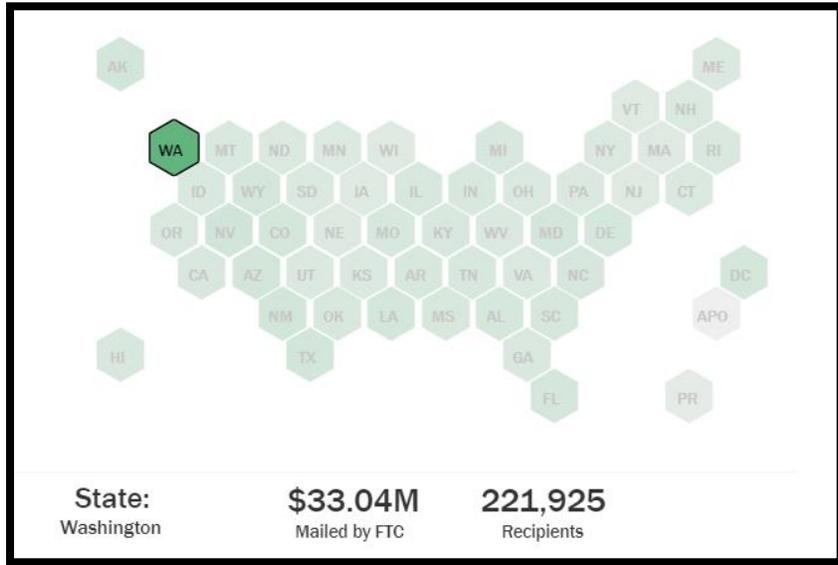
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,785,238	7,223
Herbalife	Multi-Level Marketing Scheme	\$2,995,929	3,977
Progressive Leasing	Rent to Own	\$3,901,972	47,247
Reckitt Benckiser	Anticompetitive Practices	\$1,324,906	1,154
University of Phoenix	Education/Job Opportunities	\$1,403,286	4,331

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	59,345	\$112,900,000	\$500
2020	14,430	\$ 20,700,000	\$360
2019	10,830	\$ 13,500,000	\$458
2018	8,210	\$ 7,200,000	\$395

WASHINGTON



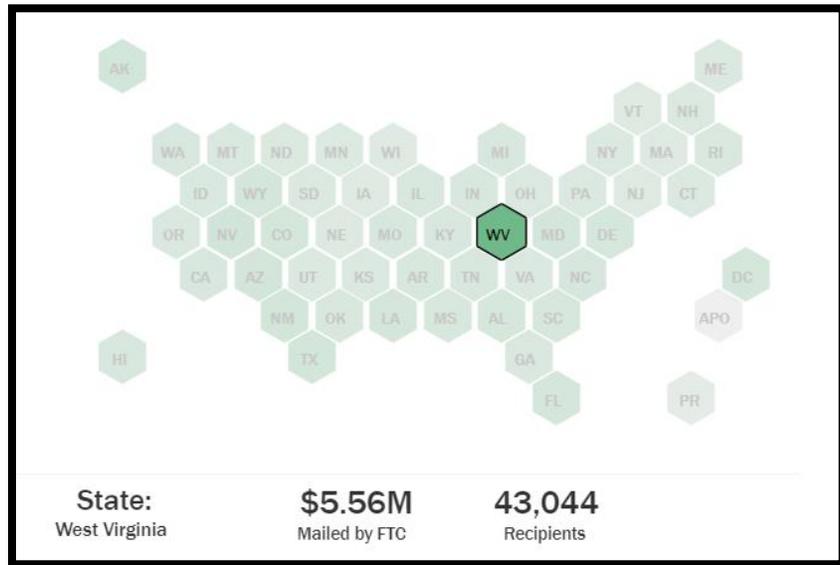
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$10,341,600	23,719
Herbalife	Multi-Level Marketing Scheme	\$2,864,241	3,843
Progressive Leasing	Rent to Own	\$3,016,151	35,302
Reckitt Benckiser	Anticompetitive Practices	\$1,057,047	995
University of Phoenix	Education/Job Opportunities	\$980,736	2,958

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	57,453	\$135,700,000	\$500
2020	48,448	\$ 70,500,000	\$399
2019	39,466	\$ 45,500,000	\$395
2018	28,326	\$ 28,300,000	\$350

WEST VIRGINIA



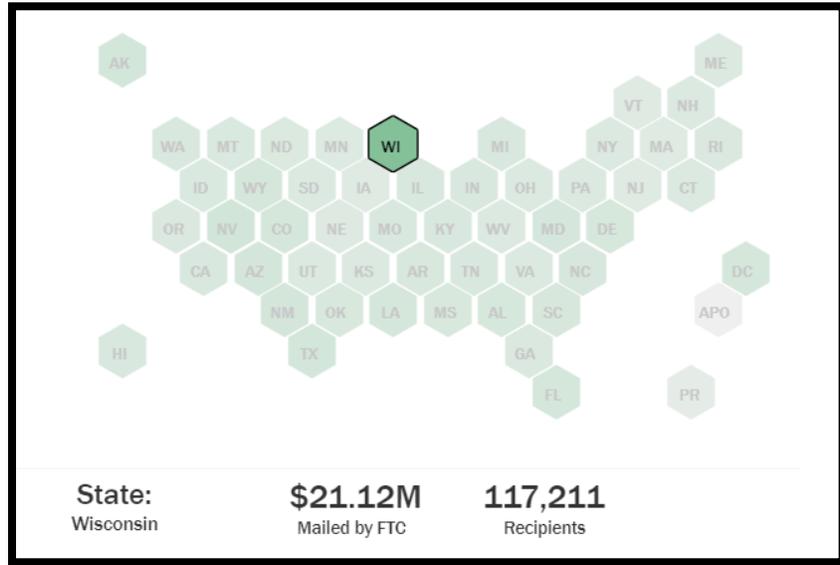
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$317,497	778
Herbalife	Multi-Level Marketing Scheme	\$110,901	192
Progressive Leasing	Rent to Own	\$1,261,493	14,696
Reckitt Benckiser	Anticompetitive Practices	\$1,268,677	949
University of Phoenix	Education/Job Opportunities	\$167,422	587

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	10,219	\$10,200,000	\$350
2020	8,695	\$ 9,500,000	\$202
2019	7,618	\$ 8,800,000	\$348
2018	7,574	\$ 4,400,000	\$300

WISCONSIN



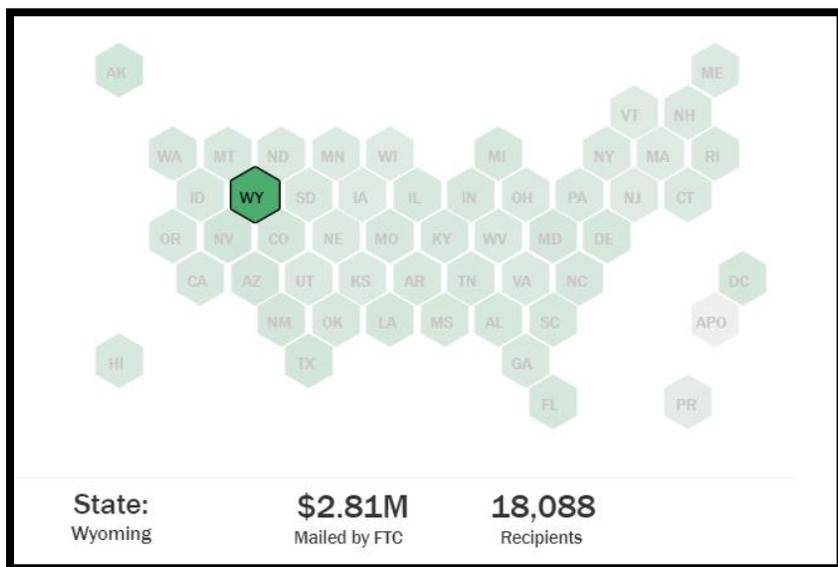
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$7,110,894	17,997
Herbalife	Multi-Level Marketing Scheme	\$2,561,185	4,303
Progressive Leasing	Rent to Own	\$47,181	572
Reckitt Benckiser	Anticompetitive Practices	\$883,484	772
University of Phoenix	Education/Job Opportunities	\$565,038	1,824

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	33,942	\$48,700,000	\$390
2020	29,542	\$35,300,000	\$249
2019	24,119	\$21,600,000	\$300
2018	19,180	\$13,400,000	\$300

WYOMING



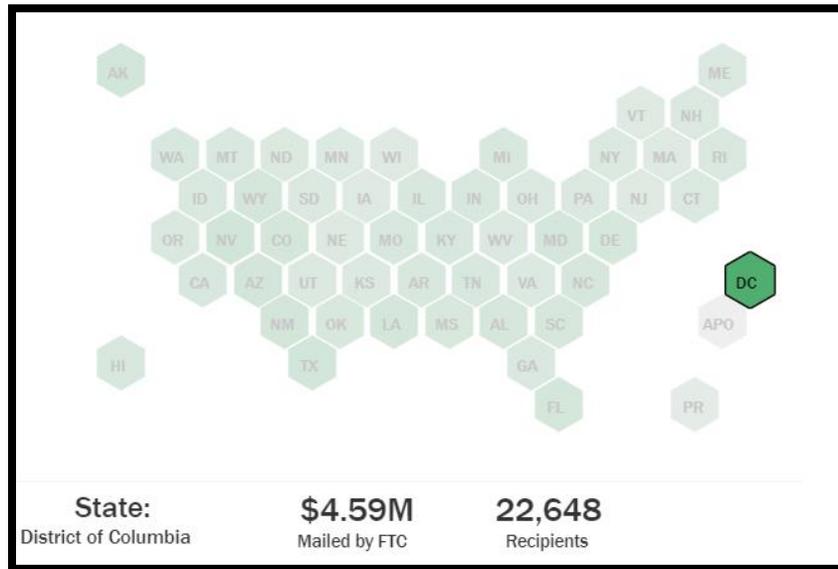
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$1,122,738	2,564
Herbalife	Multi-Level Marketing Scheme	\$192,525	280
Progressive Leasing	Rent to Own	\$26,414	345
Reckitt Benckiser	Anticompetitive Practices	\$56,193	48
University of Phoenix	Education/Job Opportunities	\$86,928	266

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	3,221	\$ 7,800,000	\$500
2020	2,705	\$ 4,400,000	\$308
2019	2,175	\$ 2,800,000	\$400
2018	1,988	\$ 1,900,000	\$400

DISTRICT OF COLUMBIA



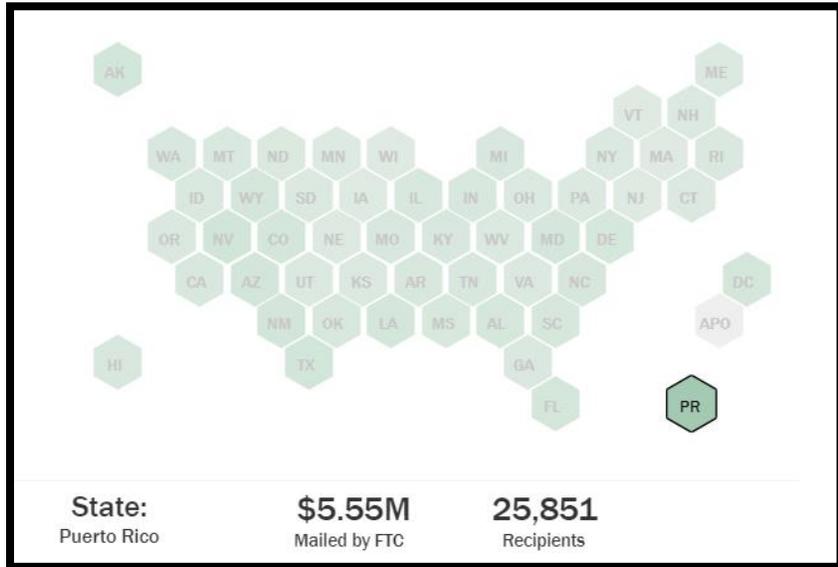
FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$2,589,437	5,024
Herbalife	Multi-Level Marketing Scheme	\$191,965	194
Progressive Leasing	Rent to Own	\$372,901	4,255
Reckitt Benckiser	Anticompetitive Practices	\$252,689	237
University of Phoenix	Education/Job Opportunities	\$81,803	256

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	6,840	\$10,200,000	\$500
2020	5,831	\$10,100,000	\$394
2019	4,965	\$ 5,800,000	\$371
2018	3,924	\$ 3,900,000	\$379

PUERTO RICO



FTC Cases Resulting in Significant Refunds

Case Name	Case Type	Dollar Amount	Number of Recipients
AMG Services	Payday Lending Scheme	\$561,035	1,167
Herbalife	Multi-Level Marketing Scheme	\$3,872,134	4,940
Progressive Leasing	Rent to Own	\$8,758	111
Reckitt Benckiser	Anticompetitive Practices	\$15,633	24
University of Phoenix	Education/Job Opportunities	\$77,762	305

Scope and Scale of Consumer Fraud

Year	Total number of reports	Total \$ reported lost	Median reported loss
2021	3,428	\$ 6,700,00	\$508
2020	3,851	\$ 8,100,000	\$369
2019	2,489	\$ 5,100,000	\$350
2018	1,807	\$ 1,800,000	\$358

VI. SMALL BUSINESS VICTIMS

Using Section 13(b), the FTC has returned millions of dollars to small businesses and budding entrepreneurs that bad actors specifically targeted with unscrupulous practices. For example, the Commission launched a 2018 initiative to stop small business scams in “Operation Main Street,” in collaboration with eight state attorneys general, the New York Division of the U.S. Postal Inspection Service, two U.S. Attorneys’ Offices and the Better Business Bureau (BBB).

Former Republican FTC Chairman Simons highly praised this initiative and stressed the FTC’s commitment to protecting small businesses:⁴⁹

Millions of U.S. consumers either own or work at small businesses nationwide, and the FTC is happy to join with our law enforcement partners and the BBB to help stop scams and spread the word about how they can identify and avoid scams targeting their livelihood.... A top FTC priority is to stem the tide of fraud against small businesses.

⁴⁹ Press Release, Fed. Trade Comm’n, FTC, BBB, and Law Enforcement Partners Announce Results of Operation Main Street: Stopping Small Business Scams Law Enforcement and Education Initiative (June 18, 2018), <https://www.ftc.gov/news-events/press-releases/2018/06/ftc-bbb-law-enforcement-partners-announce-results-operation-main>.

Select Cases in Which the FTC Obtained Refunds for Small Businesses Using Section 13(b)

Case name	Case Description	Number of Recipients	Total Refunds
Premium Business Pages ⁵⁰	<i>Payment Scam</i> —Defendants made unsolicited calls to small businesses to induce them to pay for services they never ordered or received.	17	\$55,336.88
Corporate Compliance Services ⁵¹	<i>Government Imposter Scam</i> —Defendants tricked business owners into paying for labor law posters by sending fake mailers that looked like government invoices and threatening large fines for failure to pay.	26,817	\$1,094,133.60
Commerce Planet ⁵²	<i>Unauthorized Billing Scheme</i> —Defendants deceptively enrolled entrepreneurs in a monthly subscription plan by offering a “free” kit with information on how to start a business selling products on online auctions.	24,335	\$722,330.52
Digital Altitude ⁵³	<i>Business Coaching Scheme</i> —Defendants tricked consumers with a marketing program disguised as a purported business coaching program that would enable consumers to earn substantial income with an online business.	10,154	\$4,634,489.29
World Patent Marketing ⁵⁴	<i>Invention Promotion Scam</i> —Defendants charged inventors thousands of dollars to patent and market inventions based on bogus “success stories” and failed to deliver what they promised.	5,479	\$1,001,240.47
*Fleetcor Technologies (<i>pending in litigation</i>) ⁵⁵	<i>Hidden Fee Scheme</i> —Defendants falsely promised to help many companies and small businesses save on fuel costs and charged numerous hidden fees.	Tens of thousands of customers	Hundreds of millions of dollars at risk

⁵⁰ Press Release, Fed. Trade Comm’n, FTC Obtains Court Order Barring U.S. and Canadian Scammers from Marketing, Selling Internet-related Services and Misrepresenting Their Relationship with Consumers (Dec. 18, 2018), <https://www.ftc.gov/news-events/press-releases/2018/12/ftc-obtains-court-order-barring-us-canadian-scammers-marketing>.

⁵¹ Press Release, Fed. Trade Comm’n, Operators of Government Imposter Scheme to Pay \$1.2 Million in Settlement With FTC, State of Florida (Dec. 9, 2019), <https://www.ftc.gov/news-events/press-releases/2019/12/operators-government-imposter-scheme-pay-12-million-settlement>.

⁵² Press Release, Fed. Trade Comm’n, FTC Returns More than \$748,000 to Consumers Who Signed Up for a ‘Free’ Internet Auction Kit with Hidden Charges (July 31, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/ftc-returns-more-748000-consumers-who-signed-free-internet>.

⁵³ Press Release, Fed. Trade Comm’n, FTC Obtains Court Order Halting Business Coaching Scheme (Feb. 8, 2018), <https://www.ftc.gov/news-events/press-releases/2018/02/ftc-obtains-court-order-halting-business-coaching-scheme>.

⁵⁴ Press Release, Fed. Trade Comm’n, FTC Halts Invention Promotion Scheme Charged With Bilking Millions of Dollars from Consumers (Mar. 14, 2017), <https://www.ftc.gov/news-events/news/press-releases/2017/03/ftc-halts-invention-promotion-scheme-charged-bilking-millions-dollars-consumers>.

⁵⁵ Press Release, Fed. Trade Comm’n, FTC Alleges Fuel Card Marketer FleetCor Charged Hundreds of Millions in Hidden Fees (Dec. 20, 2019), <https://www.ftc.gov/news-events/press-releases/2019/12/ftc-alleges-fuel-card-marketer-fleetcor-charged-hundreds-millions>.

Case name	Case Description	Number of Recipients	Total Refunds
	*Because refunds are no longer available under Section 13(b), the FTC moved to dismiss its federal court lawsuit and filed an administrative complaint under Section 19, which means it will be many years before victims can potentially obtain refunds. ⁵⁶		
Pointbreak Media ⁵⁷	<i>Deceptive Robocalls</i> —Defendants called small business owners, claimed to be acting on Google’s behalf, and offered to verify their Google listing and give them unique “keywords” so their business would appear prominently on the search engine, for a one-time fee ranging from \$300 to \$700.	4,467	\$707,000
Yellowstone Capital LLC ⁵⁸	<i>Cash Advance Scheme</i> —A provider of cash advances took money from businesses’ bank accounts without permission and deceived them about the amount of financing business owners would receive and other features of its financing products.	TBD	More than \$9.8 million

⁵⁶ Press Release, Fed. Trade Comm’n, FTC Sues FleetCor and Its CEO for Fleecing Small Businesses With Mystery Fuel Card Fees (Aug. 11, 2021), <https://www.ftc.gov/news-events/press-releases/2021/08/ftc-sues-fleetcor-its-ceo-fleecing-small-businesses-mystery-fuel>.

⁵⁷ Press Release, Fed. Trade Comm’n, FTC Action Halts Robocalls Aimed at Small Business Owners (May 23, 2018), <https://www.ftc.gov/news-events/news/press-releases/2018/05/ftc-action-halts-deceptive-robocalls-aimed-small-business-owners>.

⁵⁸ Press Release, Fed. Trade Comm’n, FTC Alleges Merchant Cash Advance Provider Overcharged Small Businesses Millions (Aug. 3, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/08/ftc-alleges-merchant-cash-advance-provider-overcharged-small-businesses-millions>.

VII. CONGRESSIONAL SOLUTION

In *AMG Capital*, the Supreme Court ruled that the FTC should ask Congress to fully restore its Section 13(b) authority. In 2020, prior to the Supreme Court’s decision, all five sitting FTC Commissioners wrote to Congress on a bipartisan basis requesting immediate clarification of the FTC’s authority.⁵⁹

[W]e urge Congress to take quick action to amend Section 13(b) to make clear that the Commission can bring actions in federal court under Section 13(b) even if conduct is no longer ongoing or impending when the suit is filed and can obtain monetary relief, including restitution and disgorgement, if successful.

Some have contended that the Court’s ruling in *AMG Capital* is a statement of its policy views on FTC enforcement authority. On the contrary, this passage acknowledges that it is Congress—not the Court—that sets policy. Justice Breyer put the situation simply in his *AMG Capital Management, LLC v. FTC* opinion:⁶⁰

If the Commission believes that [§5 and §19] authority too cumbersome or otherwise inadequate, it is, of course, free to ask Congress to grant it further remedial authority. Indeed, the Commission has recently asked Congress for that very authority, see Hearing before the Senate Committee on Commerce, Science, and Transportation on Oversight of the Federal Trade Commission, Prepared Statement of the FTC, 116th Cong., 2d Sess., 3–5 (2020), and Congress has considered at least one bill that would do so, see S. 4626, 116th Cong., 2d Sess., §403 (2020) (revising §13 to expressly authorize restitution and disgorgement).

⁵⁹ Letter from Chairman Joseph J. Simons and Commissioners Noah Joshua Phillips, Rohit Chopra, Rebecca Kelly Slaughter & Christine S. Wilson to Representative Frank Pallone, Jr., Representative Greg Walden, Senator Roger Wicker & Senator Maria Cantwell (Oct. 22, 2020), <https://www.adlawaccess.com/wpcontent/uploads/sites/793/2020/10/2020.10.22-FTC-Letter-Section-13b-of-the-FTC-Act.pdf>.

⁶⁰ *AMG Capital Mgmt., LLC v. Fed. Trade Comm’n*, 593 U.S. __ (2021).

Bipartisan consumer protection and competition experts have lauded the importance of a complete restoration of Section 13(b). Former FTC Chair Leibowitz, a Democrat, stated in 2020 testimony addressed to then-U.S. Senate Commerce Committee Chairman Roger Wicker:⁶¹

Congress should step in and make the FTC's authority to seek such redress [under §13(b)] unambiguous in legislation. Mr. Chairman, I am glad to see that language confirming the FTC's authority to obtain equitable relief in federal court has been included in your recently introduced bill, and I hope everyone on the Committee can support that.

Former FTC Chair William Kovacic, a Republican, emphasized the same in 2021 testimony:⁶²

If the Court rules against the Commission, Congress should amend the FTC Act to make clear its intent to give the FTC power to obtain the full range of equitable remedies, including monetary recoveries as remedies for consumer protection violations. The ability to deprive wrongdoers of the financial gains from misconduct provides compensation for victims and increases deterrence by diminishing the returns to fraud and other forms of oppressive behavior.

⁶¹ *Revisiting the Need for Data Privacy Legislation: Hearing Before the Senate Comm. on Commerce, Sci., and Transp.*, 116th Cong. (2020) (statement of Jon Leibowitz, former Commissioner and Chair of the Federal Trade Commission), <https://www.commerce.senate.gov/services/files/3171C7DB-9845-46A1-B519-3A4DDDA41385>.

⁶² *Safeguarding American Consumers: Fighting Frauds and Scams During the Pandemic: Hearing Before the Subcomm. on Consumer Protection and Commerce of the H. Comm. on Energy and Commerce*, 117th Cong. (2021) (statement of William Kovacic, Global Competition Professor of Law and Policy, Professor of Law, Director of the Competition Law Center, George Washington University Law School), <https://docs.house.gov/meetings/IF/IF17/20210204/111139/HHRG-117-IF17-Wstate-KovacicW-20210204.pdf>.

VIII. CONCLUSION

Congress must act immediately to restore this critical authority. On July 20, 2021, the U.S. House of Representatives passed a bill⁶³ to restore 13(b) and the Senate must do the same.

- The FTC has no effective means to return money to consumers without an amendment to Section 13(b).
- The FTC returned over **\$11.2 billion** in refunds to U.S. consumers in recent years under previous judicial interpretation of Section 13(b).
- Absent an amendment to Section 13(b), bad actors that violate the law will be able to keep their ill-gotten gains.
- FTC enforcement actions provide meager protection for the marketplace if the agency's only remedy is an injunction to stop the conduct.
- The FTC's ability to obtain an injunction to guard against future misconduct is endangered where the bad actor stops the conduct before litigation.
- Other remedy provisions of the FTC Act, and proposals modeled after those provisions, provide far less protections and recourse for consumers.

⁶³ Press Release, House Committee on Energy & Commerce, Pallone and Schakowsky on House Passage of Legislation Restoring FTC's 13(b) Consumer Protection Powers (July 20, 2021), <https://energycommerce.house.gov/newsroom/press-releases/pallone-schakowsky-on-house-passage-of-legislation-restoring-ftc-s-13b>.