

# **Federal Trade Commission**



**Fiscal Year 2014  
Congressional Budget Justification**

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EDITH RAMIREZ  
CHAIRWOMAN

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

April 10, 2013

The Honorable Ander Crenshaw  
Chairman  
Subcommittee on Financial Services and General Government  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Frank Lautenberg  
Chairman  
Subcommittee on Financial Services and General Government  
United States Senate  
Washington, DC 20510

Dear Chairmen Crenshaw and Lautenberg:

This letter transmits the budget justification for the Federal Trade Commission (FTC) in support of the President's fiscal year (FY) 2014 budget request.

The FTC's FY 2014 budget requests a program level of \$301,000,000 and 1,176 full-time equivalent (FTE) positions. This is a decrease of \$10,563,000 from the enacted level for FY 2013. As the justification materials describe, this budget will permit the FTC to continue to meet the increasing challenges of its goals to Protect Consumers and Maintain Competition.

By direction of the Commission.

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Edith Ramirez

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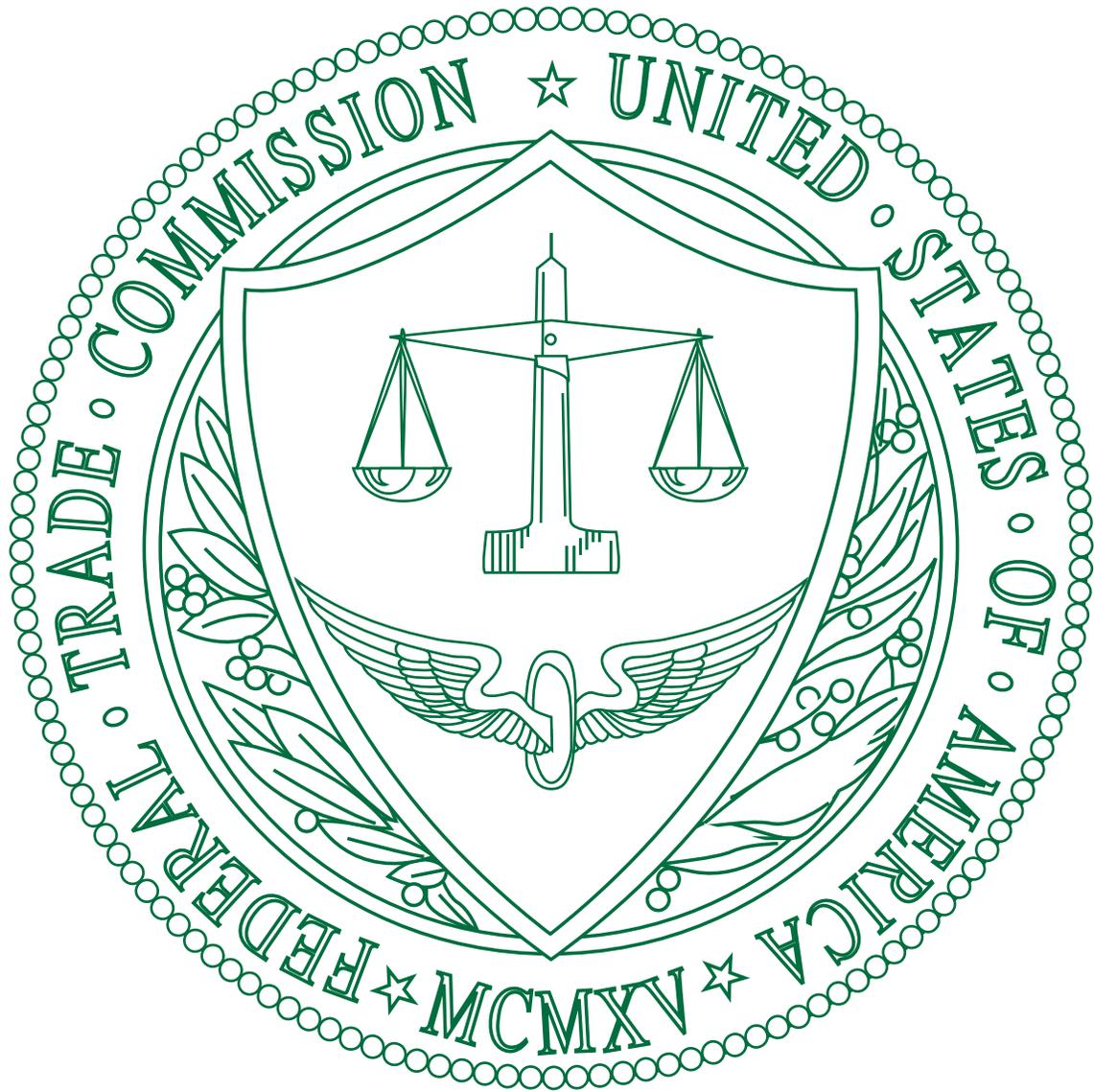
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# Budget Request



Budget Request Summary  
(\$ in thousands)

Budget by Goal:	Fiscal Year 2013		Fiscal Year 2014		Change	
	FTE	Dollars	FTE	Dollars	FTE	Dollars
Protect Consumers	638	\$175,689	638	\$170,230	---	-\$5,459
Maintain Competition	538	135,874	538	130,770	---	-5,104
<b>Total</b>	<u>1,176</u>	<u>\$311,563</u>	<u>1,176</u>	<u>\$301,000</u>	<u>---</u>	<u>-\$10,563</u>

**Budget by Funding Source:**

Offsetting Collections			
HSR Filing Fees	\$108,000	\$102,300	-\$5,700
Do Not Call Fees	21,000	15,000	-6,000
Subtotal Offsetting Collections	\$129,000	\$117,300	-\$11,700
General Fund	182,563	183,700	1,137
<b>Total</b>	<u>\$311,563</u>	<u>\$301,000</u>	<u>-\$10,563</u>

Summary of Changes  
(\$ in thousands)

	FY 2013	FY 2014	Change
Budget Authority	\$311,563	\$301,000	-\$10,563
Full-time Equivalents	1,176	1,176	---

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Explanation of Changes:	FTE	Dollars
<b>A. Decreases</b>		
Decrease in costs associated with replacement of satellite space	---	-\$25,814
Facility efficiencies such as guard services and utility costs	---	-623
<b>Subtotal</b>	---	-\$26,437
<b>B. Mandatory Expenses</b>		
Upward grade classifications pursuant to 5 C.F.R. 531.401 et seq.	---	+ \$3,308
Contract and other non-pay inflation	---	+ 2,218
<b>Subtotal</b>	---	+ \$5,526
<b>C. Non-FTE Program Needs:</b>		
Needed improvements to technology infrastructure and critical technology projects	---	+ \$9,330
Increased expert witness costs for anticompetitive merger and conduct matters and consumer demand for the Sentinel Network Services, which include the National Do Not Call Registry, the FTC's Consumer Response Center, and the Consumer Sentinel Network (including the spam database)	---	+ 1,018
<b>Subtotal</b>	---	+ \$10,348
<b>Total Change</b>	---	-\$10,563

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# Federal Trade Commission Fiscal Year 2014 Overview Statement

The Federal Trade Commission (FTC) is the only federal agency with jurisdiction to both protect consumers and maintain competition in broad sectors of the economy. It enforces laws that prohibit business practices that are anticompetitive, deceptive, or unfair to consumers, and seeks to do so without impeding legitimate business activity. The FTC also educates consumers and businesses to encourage informed consumer choices, compliance with the law, and public understanding of the competitive process. Through enforcement, advocacy, education, and policy work, the FTC protects consumers and promotes competitive markets both in the United States and around the world.

## Highlights of FY 2012 Accomplishments

In fiscal year (FY) 2012, the FTC took action on a wide variety of significant consumer protection and competition matters. The highlighted actions, detailed below, helped ensure that businesses and consumers alike reaped the full benefits of market competition and product innovation.

### PROTECT CONSUMERS

During the past fiscal year, the FTC has emphasized protecting financially distressed consumers; protecting consumer privacy, data, and computer security; prosecuting false or deceptive health claims; and protecting children in the marketplace. The Commission also focused on telemarketing, prepaid phone cards, mobile payments, cramming, and auto financing.

In FY 2012, the FTC filed 67 new complaints in federal district court and obtained 87 permanent injunctions and orders requiring defendants to pay more than \$737.1 million in consumer redress or disgorgement of ill-gotten gains, as well as 5 civil contempt orders totaling more than \$183,000. In addition, cases referred to DOJ resulted in 19 court judgments for civil penalties of more than \$40.5 million<sup>1</sup>.

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<sup>1</sup>The \$22.5 million in civil penalties obtained through a settlement with Google, Inc. to resolve charges that it violated a prior FTC order are not included in the FY 2012 totals because the order was not entered by the court until FY 2013.

Furthermore, the FTC filed 31 new administrative actions and obtained 17 administrative orders in past and new cases.

During the same timeframe, the Commission issued 10 reports, released 56 new consumer and business education publications, released 13 consumer and business education videos and audio public service announcements, and launched 3 consumer and business education websites and microsites.

### **Protecting Financially Distressed Consumers**

Fraud operators use a variety of schemes to take advantage of those consumers who were most affected by the economic downturn. The FTC has continued to take enforcement actions to stop these schemes that target financially distressed consumers.

- **Deceptive Mortgage Practices:** In FY 2012, the FTC brought several law enforcement actions against sellers of purported mortgage relief products and services. In March 2012, at the request of the FTC, a federal court halted the operation of Sameer Lakhany and five companies he controlled that allegedly made false claims that homeowners who joined others to file so-called “mass joinder” lawsuits against their lenders could stop foreclosures or obtain mortgage modifications. The FTC also took action against Consumer Advocates Group Experts, LLC in May 2012, alleging that the defendants falsely claimed they could use the results of a “forensic audit” of consumers’ mortgage documents to prevent foreclosures and renegotiate mortgages. In addition, in July 2012, a federal court halted the operations of Freedom Companies Marketing, Inc., a nationwide scam operating from the Dominican Republic, but pretending to be in Chicago, that allegedly peddled fake mortgage assistance relief to financially distressed Spanish-speaking homeowners in the United States. The FTC filed three separate suits in federal court against Prime Legal Plans/ Reaching U Network, American Mortgage Consulting Group, and Expense Management America in September 2012 to halt the allegedly deceptive tactics of the three operations that preyed on distressed homeowners by falsely claiming they could save their homes from foreclosure, and then charging them thousands of dollars up-front, while delivering little or no help and often driving them deeper into debt.

The FTC also obtained final orders in three cases involving alleged fraudulent mortgage modification and debt relief products. In February 2012, a federal court ordered the defendants in the U.S. Mortgage Funding, Inc. case to pay over \$38 million for consumer refunds, in addition to surrendering a yacht, Cadillac, and Rolex. That same month, a federal court imposed a \$3.89 million judgment against Samuel Paul Bain and his companies for their role in a fraudulent mortgage modification scheme. In December 2011, six U.S. Homeowners Relief Inc. defendants agreed to settlements in the Bain matter

that require them to pay back nearly \$4 million in ill-gotten gains and permanently ban them from selling any mortgage assistance or debt relief products.

- **Debt Collection:** The FTC has continued to take action against debt collectors engaging in deceptive and abusive collection practices. In October 2011, a federal court halted the collection practices of Rincon Debt Management, a company that targeted both English and Spanish-speaking consumers. The FTC's complaint alleged that the defendants posed as process servers, attorneys, or their employees and made bogus threats that consumers had been sued or could be arrested over debts they often did not owe. In January 2012, one of the nation's largest debt collectors, Asset Acceptance LLC, agreed to pay \$2.5 million in civil penalties to resolve allegations that it made a range of misrepresentations when trying to collect old debts. The company also agreed to tell consumers whose debt may be too old to be legally enforceable that it will not sue to collect on that debt.

The FTC also took action against two operations that allegedly collected phantom payday loan "debts" that consumers did not owe. The FTC's February 2012 complaint against American Credit Crunchers, LLC alleged that the defendants made millions of collection calls from India, often pretending to be law enforcement and falsely threatening to immediately arrest consumers if they did not agree to make a payment on a delinquent payday loan. Even though consumers did not owe any money to the defendants, the operation allegedly took in more than \$5 million from victims. In April 2012, the FTC alleged that Broadway Global Master Inc. made more than 2.7 million calls to at least 600,000 different phone numbers nationwide, and fraudulently collected more than \$5.2 million from consumers. Court orders temporarily stopped the illegal conduct and froze both operations' assets while the FTC moved ahead with the case and sought refunds for consumers. In connection with these cases, the FTC released information for consumers about how to handle callers who claim to be debt collectors in a new publication, "Who's Calling? That Debt Collector Could Be a Fake."

- **Credit-Related Offers:** The Commission took action against a number of other operators preying on financially distressed consumers, offering "financial solutions" that never materialized. In October 2011, the FTC charged RMCN Credit Services, operator of a credit repair company, with making false statements to credit bureaus about information in consumers' credit reports, and illegally collecting fees from consumers before performing any services. In December 2011, at the request of the FTC, a federal court ordered Getecash to pay more than \$294,000 for illegal garnishment of consumers' paychecks. In September 2012, the operators of a telemarketing operation, Platinum Trust Card, settled FTC charges that they sold bogus credit cards and took money from consumers' bank accounts without their consent. The settlement

requires the defendants to pay more than \$7.5 million, and permanently bans the defendants from telemarketing and from selling any type of credit card product or service.

- **Payday Lending:** A January 2012 FTC settlement ordered Michael Bruce MoneyMaker and related defendants to pay more than \$9.9 million for deceptively billing consumers who were seeking payday loans. The settlement resolves FTC allegations that the defendants deceptively obtained consumers' personal information from payday loan applications submitted on websites that claim to match consumers with payday lenders, and then used this information to enroll consumers, without their consent, in programs that purported to offer benefits such as a free stored-value Visa card and a \$10,000 secured credit line. According to the FTC, the defendants used consumers' bank account information to charge weekly or monthly recurring fees for these programs. In April 2012, the FTC took action against AMG Services, Inc., a payday lending operation that allegedly charged undisclosed and inflated fees, and collected on loans illegally by threatening borrowers with arrest and lawsuits. AMG, like some other payday lenders in recent years, claimed affiliation with Native American tribes and immunity from state law enforcement actions. However, the FTC contends that claims of tribal affiliation do not exempt defendants from complying with federal law. The FTC also released a new publication, "Fraudulent Online Payday Lenders: Tapping Your Bank Account Again and Again," to help educate consumers about payday loans and evaluating alternative credit offers.
- **Timeshare Resales:** Fraud operators have targeted financially distressed consumers who are attempting to sell their timeshares with false claims that they could sell the property quickly in exchange for a fee. In June 2012, the FTC sued Information Management Forum and its owner for allegedly deceiving thousands of consumers throughout the country into paying up to \$2,000 based on false promises that they had buyers or renters lined up for consumers' timeshare properties. In March 2012, two defendants in the case against Timeshare Mega Media agreed to settlements with the FTC that permanently ban them from telemarketing and engaging in timeshare resale services.
- **Business Opportunities:** In November 2011, the FTC amended its Business Opportunity Rule to simplify the disclosures that business opportunity sellers must provide to prospective buyers. These changes will ensure that consumers have the information they need when considering buying a work-at-home program or any other business opportunity, while minimizing compliance burdens on business opportunity sellers. In May 2012, the FTC sued North American Marketing and Associates, LLC for allegedly luring consumers into spending thousands of dollars for Internet websites and advertising by mis-

representing that they could make lots of money by linking the sites to major retailers.

- **Investment Schemes and Get-Rich-Quick Schemes:** In FY 2012, the FTC took action to halt two telemarketing operations, Premier Precious Metals Inc. and Sterling Precious Metals LLC, that allegedly took millions of dollars from senior citizens by conning them into buying precious metals on credit without clearly disclosing the significant costs and risks of doing so. In addition, in February 2012, at the request of the FTC, a federal court ordered the operators and top promoters of BurnLounge to pay \$17 million in refunds for their role in running a deceptive pyramid scheme that masqueraded as a legitimate multi-level marketing program and made misleading claims about the earnings consumers could make. In August 2012, at the request of the Federal Trade Commission, a U.S. district court ordered the marketers of three get-rich-quick systems, including “John Beck’s Free & Clear Real Estate System,” to pay \$478 million for deceiving close to one million consumers with phony claims that they could make easy money using their programs. The Order also imposes a lifetime ban that puts three of the defendants permanently out of the infomercial and telemarketing businesses. The Order represents the largest litigated judgment ever obtained by the agency.
- **Auto Financing:** In March 2012, the FTC filed its first cases against companies offering auto loan modifications. The complaints alleged that Hope for Car Owners, LLC and Auto Debt Consulting falsely claimed that they could reduce consumers’ monthly car loan payments and help avoid repossession of their vehicles in exchange for up-front fees. In May and June 2012, the FTC finalized orders settling charges that five automobile dealers made deceptive claims that they would pay off the remaining balance on consumers’ trade-ins, no matter what they owed.

### Privacy, Data Security, and Technology

Privacy, data security, and protecting consumers online are core components of the FTC’s consumer protection goal. New technologies bring vast benefits to consumers, but at the same time, they can often give rise to new threats to sensitive consumer information.

- **Privacy:** The FTC uses both law enforcement and policy efforts to achieve its goal of protecting the privacy of consumers’ personal information. On the law enforcement side, in October 2011, the Commission finalized an order settling charges that Google Inc. used deceptive tactics and violated its own privacy promises to consumers when it launched a social network, Google Buzz. In August 2012, Google agreed to pay a record \$22.5 million civil penalty (pending court approval) to settle FTC charges that it violated the 2011 order by misrepresenting to users of Apple Inc.’s Safari Internet browser that

it would not place tracking “cookies” or serve targeted ads to those users. (Although the complaint and consent order were filed in August 2012, the court did not enter the order until November 2012.) Also in August 2012, the Commission finalized an order settling charges that the social networking service Facebook deceived consumers by telling them they could keep their information on Facebook private, and then repeatedly allowing it to be shared and made public.

From the policy perspective, in March 2012, the FTC issued the final Commission report “Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers.” The report set forth best practices for businesses to protect the privacy of American consumers and give them greater control over the collection and use of their personal data. The report reemphasized support for implementation of a “Do Not Track” mechanism that would allow consumers to control the tracking of their on-line activities across websites. The report also recommended that Congress consider enacting general privacy legislation, data security and breach notification legislation, and data broker legislation. The FTC continues to explore other emerging privacy issues, and in December 2011, convened a workshop to examine the privacy and security implications raised by the increasing use of facial recognition technology.

- **Protecting Children Online:** In August 2012, the Commission published a Federal Register Notice seeking public comments on additional proposed modifications to the Children’s Online Privacy Protection Rule (COPPA Rule). The FTC previously sought comment on changes to the Rule to keep current with technology advances, and received 350 comments. In response to those comments and informed by its experience in enforcing and administering the Rule, the FTC proposed to modify certain definitions to clarify the scope of the Rule and strengthen its protections for the online collection, use, or disclosure of children’s personal information. (The FTC announced the final COPPA rule in December 2012.)

In March 2012, RockYou, the operator of a social game site, settled FTC charges that, while touting its security features, it failed to protect the privacy of its users, allowing hackers to access the personal information of 32 million users. The order bars future deceptive claims regarding privacy and data security as well as future violations of the COPPA Rule, requires the company to implement and maintain a data security program, and imposes a \$250,000 civil penalty to settle the COPPA charges.

The FTC issued a staff report in February 2012 showing the results of a survey of mobile applications (apps) for children. The survey shows that neither the app stores nor the app developers provide the information parents need to

determine what data is being collected from their children, how it is being shared, or who will have access to it. In June 2012, the FTC offered a video game primer “Kids, Parents, and Video Games” to provide resources to help parents learn about games, including mobile gaming apps, and put limits on what their kids can access.

- **Data Security:** In June 2012, the FTC filed suit against global hospitality company Wyndham Worldwide Corporation and three of its subsidiaries for alleged data security failures that led to three data breaches at Wyndham hotels in less than two years. The FTC alleges that these failures led to fraudulent charges on consumers’ accounts, millions of dollars in fraud loss, and the export of hundreds of thousands of consumers’ payment card account information to an Internet domain address registered in Russia.
- **Fair Credit Reporting Act:** In August 2012, HireRight Solutions, an employment background screening company that provides consumer reports to companies nationwide, paid \$2.6 million to settle FTC charges that it violated the Fair Credit Reporting Act by failing to use reasonable procedures to assure the maximum possible accuracy of information it provided, failing to give consumers copies of their reports, and failing to reinvestigate consumer disputes.
- **Identity Theft:** For the twelfth year in a row, identity theft was the number one category of consumer complaints received by the agency. The FTC has a vigorous program to assist federal criminal law enforcement agencies and educate consumers about identity theft. The Commission maintains the federal government’s central repository for identity theft complaints. Consumers can file complaints through the agency’s website or by calling a toll-free number (1-877-ID-THEFT). Trained counselors advise identity theft victims about their rights and the remedies available to them under federal law. To further assist consumers, in June 2012, the FTC released step-by-step guides and videos explaining how to protect your child’s information as well as your own, and the immediate steps to take to limit the damage identity thieves can cause. In addition, in March 2012, the FTC announced it is seeking information from the public on how identity theft impacts senior citizens. The agency will use this information to inform its law enforcement agenda, policy initiatives, and consumer education efforts.
- **Mobile Payments:** The Commission hosted a workshop in April 2012 to examine the use of mobile payments in the marketplace and how this emerging technology impacts consumers. The event brought together consumer advocates, industry representatives, government regulators, technologists, and academics. Staff plans to issue a report on the workshop.

- **New Mobile Applications:** The FTC published a guide, “Marketing Your Mobile App: Get It Right from the Start,” in September 2012 to help mobile app developers observe truth-in-advertising and basic privacy principles when marketing new mobile apps.

### Health Claims

The FTC places a high priority on preventing and stopping deceptive or unfair health claims.

- **Weight Loss and Toning Claims:** In November 2011, the FTC and State of Connecticut temporarily halted Leanspa, LLC from allegedly using fake news sites to make deceptive claims about acai berry weight-loss products. In addition, in September 2012, Coleadium, Inc. paid \$1 million to settle charges that the affiliate network and its owner recruited affiliate marketers that made deceptive claims on fake news sites to promote acai berry supplements, and so-called “colon cleansers,” as weight-loss products. The settlement also requires Coleadium to monitor affiliate marketers in its network to ensure that their statements are truthful and in compliance with federal advertising law.

The Commission announced in May 2012 that Skechers USA, Inc. paid \$40 million to settle charges that the company deceived consumers by making unfounded claims that Shape-ups toning shoes would help people lose weight, and strengthen and tone muscles. The settlement with Skechers is part of the FTC’s ongoing effort to stop over-hyped advertising claims, and follows a \$25 million settlement with Reebok International Ltd. that resolved similar claims last year. The FTC also filed deceptive advertising charges in August 2012 against the marketers of Ab Circle Pro, an abdominal exercise device, who promised consumers that exercising on the device for just three minutes a day would cause them to lose 10 pounds in two weeks. The defendants have agreed to settlements that provide as much as \$25 million, and at least \$15 million in consumer redress, depending on the volume of refunds consumers request.

In September 2012, Medifast unit Jason Pharmaceuticals, Inc. agreed to pay a \$3.7 million civil penalty to settle FTC charges that it violated a previous agency order by making unsupported claims regarding its weight-loss program.

- **Overhyped Concussion Claims:** In a settlement reached with the FTC in August 2012, mouthguard marketer Brain-Pad, Inc. and its President are barred from making unsupported claims that its mouthguards reduce the risk of concussions from lower jaw impacts, reduce the risk of concussions generally, or have been clinically proven to do either.

- **Prescription Drugs:** In May 2012, FTC accepted a final order with CVS Caremark settling charges that it misrepresented the prices of certain Medicare Part D prescription drugs, including drugs used to treat breast cancer symptoms and epilepsy. The settlement bars deceptive claims related to Medicare Part D drug prices and requires CVS Caremark to pay \$5 million to reimburse affected Medicare Part D consumers for the price discrepancy.
- **Dietary Supplements:** In January 2012, the FTC announced that Central Coast Nutraceuticals, Inc. will pay \$1.5 million to resolve allegations that it marketed acai berry supplements, “colon cleansers,” and other products using false claims, fraudulent free trial offers, and phony endorsements from Oprah Winfrey and Rachael Ray.
- **Alcohol:** The FTC required 14 major alcoholic beverage advertisers to provide information for the agency’s fourth major study on the effectiveness of voluntary industry guidelines for reducing advertising and marketing to underage audiences by beer, wine, and distilled spirits manufacturers. This information will be used in an upcoming report, a follow-up to the “2011 Alcohol Self-Regulation Study.”

### Telemarketing and Prepaid Phone Cards

- **Robocalls:** In October 2011, the FTC won a \$29.8 million judgment against the remaining defendants behind a deceptive marketing operation known as Grant Connect, and the court’s order also permanently bans the defendants from promoting a variety of products and services similar to those they deceptively pitched to consumers around the country. In response to charges by the FTC, in March 2012, a federal judge ordered the Cash Grant Institute defendants to pay a total of \$30 million in civil penalties and give up more than \$1.1 million in ill-gotten gains for their deceptive robocall scheme that marketed phony government and foundation grants. The \$30 million in total fines is, by far, the largest penalty ever imposed for unlawful calls to consumers on the National Do Not Call Registry. In addition, the FTC put another robocall operation, Asia Pacific Telecom, Inc., out of the telemarketing business under a settlement resolving charges that it bombarded consumers with more than two billion calls pitching a variety of products and services, including worthless extended auto warranties and credit card interest rate-reduction programs. In September 2012, the FTC also charged Jeremy R. Nelson and four companies he controlled with illegally using robocalls to pitch purported debt relief services and calling numbers on the National Do Not Call Registry.
- **Telemarketing Sales Rule Violations:** In August 2012, the FTC sued DISH Network alleging that it illegally called millions of consumers who had previously asked telemarketers from the company or its affiliates not to call them again.

- **Tech Support Scams:** In September 2012, the FTC launched a major international crackdown on tech support scams in which telemarketers masquerade as major computer companies, con consumers into believing that their computers are riddled with viruses, spyware and other malware, and then charge hundreds of dollars to remotely access and “fix” the consumers’ computers. Responding to charges by the FTC, a federal court halted six alleged tech support scams – Pecon Software Ltd., Finmaestros LLC, Zeal IT Solutions Pvt. Ltd., Virtual PC Solutions, Lakshmi Infosoul Services Pvt. Ltd., and PCCare247, Inc. – and has frozen their assets while the FTC moves ahead with the case and seeks refunds for consumers.
- **Prepaid Phone Cards:** In January 2012, Millennium Telecard Inc. agreed to pay \$2.3 million to settle FTC charges that it made false claims to consumers about the number of minutes of talk time their prepaid calling cards would deliver. In May 2012, the FTC took action against DR Phone Communications Inc. for allegedly misrepresenting the number of calling minutes its prepaid phone cards provide and failing to adequately disclose additional fees.

### Energy and the Environment

In May 2012, five window marketers settled FTC charges that they made deceptive energy efficiency and cost savings claims. The FTC warned 14 window manufacturers and one window glass manufacturer that they may be making unsupported energy savings claims for replacement windows. The warning letters were issued in August as part of an FTC effort to ensure that environmental marketing is truthful and based on solid scientific evidence. In April 2012, Green Millionaire, LLC agreed to pay almost \$2 million to settle FTC charges that it lured consumers with a supposedly “free” book falsely promising that it would show them how to power their cars and homes at no cost, and then billed them for an online magazine they never ordered.

### Funerals

The FTC enforces compliance with the Funeral Rule, which is designed to ensure that consumers have the information they need to compare and buy only the funeral goods and services they want. In FY 2012, the FTC brought actions against three funeral homes that allegedly violated the Rule by either failing to provide consumers with price lists, failing to disclose casket prices, or refusing to serve consumers unless they purchased a casket from the funeral home.

### FTC Order Enforcement

The FTC continues to place a priority on aggressively enforcing its orders against repeat offenders. Responding to charges by the FTC, in October 2011, a U.S. district court found a credit repair seller, Rick Lee Crosby, Jr., in civil contempt for violat-

ing a previous court order that required him to stop promoting worthless credit repair products and services to consumers. In addition, in March 2012, a mortgage servicing subsidiary of Bank of America Corp. agreed to settle charges that it illegally assessed more than \$36 million worth of fees against struggling homeowners, in violation of an earlier settlement with the FTC. The Commission, in April 2012, filed contempt charges against Hold Billing Services, Ltd., the nation's largest third-party billing company, alleging that it placed more than \$70 million in bogus "cramming" charges on consumers' phone bills in violation of a previous court order. In April 2012, at the request of the FTC, a federal court temporarily shut down Latrese & Kevin Enterprises Inc. for allegedly continuing to pitch bogus credit-repair services nationwide, despite a 2010 order requiring it to stop.

### **Aid to Criminal Law Enforcement**

The FTC continues to refer particularly egregious violators to criminal law enforcement agencies for prosecution. In FY 2012, federal and state criminal authorities charged 31 defendants and their associates with crimes arising from acts investigated or prosecuted by the Commission. During this period, 30 such defendants and their associates were convicted or pled guilty, and 35 defendants were sentenced to prison terms.

### **International Consumer Protection**

In FY 2012, the FTC's Office of International Affairs (OIA) supported the FTC's consumer protection mission by assisting the FTC with investigations, litigation matters, and enforcement-related projects. OIA also continued to develop strong bilateral relationships with foreign consumer, privacy, and law enforcement authorities around the globe, and represented the agency in international fora on a range of complex global consumer policy and enforcement issues, including spam, spyware, Internet and telemarketing fraud, identity theft, data security, and privacy.

In FY 2012, the FTC sought Congressional reauthorization of its authority under the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders (U.S. SAFE WEB) Act of 2006. The agency has used this authority routinely to cooperate with its foreign law enforcement counterparts in investigations and enforcement actions involving Internet fraud and other technological trickery and deceptive schemes that victimize U.S. consumers. During the past fiscal year, the FTC shared information in response to 10 requests from 9 foreign law enforcement agencies and issued 4 civil investigative demands on behalf of 3 foreign agencies in 3 investigations. Just after the end of FY 2012, Congress reauthorized the legislation, and the President signed the legislation to extend the FTC's authority under the U.S. SAFE WEB Act on December 4, 2012.

In many cases involving foreign assistance, the foreign agencies investigated conduct that directly harms U.S. consumers. In others, the FTC's assistance has led to

reciprocal assistance in other FTC investigations. The FTC worked with the FBI, the Commerce Department, and foreign law enforcement agencies to develop mechanisms to deter malicious Internet conduct that may arise from the expansion of the generic top-level domain (gTLD) space by the Internet Corporation for Assigned Names and Numbers (ICANN). The FTC also served as the Secretariat of the International Consumer Protection Enforcement Network, a network of consumer protection authorities, that combats cross-border consumer fraud, as well as Secretariat of the London Action Plan, a public-private network that addresses spam and other messaging abuses.

The FTC played a lead role in several international organizations such as the Organisation for Economic Co-operation and Development (OECD) and the Asia-Pacific Economic Cooperation (APEC) forum. In July 2012, APEC approved the United States as the first participant in its Cross-Border Privacy Rules System (CPBR), and named the FTC as its first privacy enforcement authority. By the end of FY 2012, the FTC also conducted 13 technical assistance missions for developing consumer protection and privacy agencies around the world, using a mix of funding sources from the FTC, the U.S. Agency for International Development, and the recipient agencies.

The FTC also continued to develop its International Fellows and Interns program, which enables staff from counterpart agencies to work with FTC staff on investigations, subject to confidentiality protections. During FY 2012, Fellows from Vietnam and Tanzania worked with FTC staff on a variety of consumer protection matters and Fellows from Korea's Communications Commission and the Canadian Radio-Television Commission worked on technology-related consumer protection matters.

### Law Enforcement Tools

- **Consumer Response Center:** In FY 2012, the CRC handled more than 37,000 inquiries and complaints from consumers and businesses each week, or 1.9 million annually.
- **Consumer Sentinel Network:** In FY 2012, 5.8 million fraud, identity theft, financial, and DNC complaints were added to the FTC's Consumer Sentinel Network (CSN) database. CSN is currently accessible to more than 2,000 law enforcement partner agencies worldwide.
- **National Do Not Call Registry:** The Registry has continued to protect consumers from receiving unwanted commercial telemarketing calls. In FY 2012, telephone numbers on the Registry exceeded 217 million.

## Advocacy Tools

The FTC files comments with federal and state government bodies to advocate policies that promote the interests of consumers and highlight the role of consumer and empirical research in their decision-making. In FY 2012, the Commission provided two advocacy comments to the Federal Communications Commission concerning placement of unauthorized charges on telephone bills, otherwise known as “cramming.” The FTC also files amicus briefs to aid courts’ consideration of consumer protection issues. In FY 2012, for example, the Commission filed an amicus brief before the U.S. Court of Appeals for the 5th Circuit, in a case raising constitutional challenges to provisions of the Louisiana Embalming and Funeral Directors Act. The Commission did not take a position on the ultimate issue of the Act’s constitutionality, but stated that the restraints on third-party casket sales in the Act are at odds with the policy goals of both the FTC’s Funeral Rule and the FTC Act. In FY 2012, the FTC, the Department of Justice, and the Consumer Financial Protection Bureau filed a joint amicus brief in the U.S. Supreme Court supporting consumers’ ability to protect their rights under the Fair Debt Collection Practices Act by suing debt collectors. The FTC filed an amicus brief in federal district court opposing the pending settlement of a class action cramming case *Moore v. Verizon Communications, Inc.* because the Commission found it to be unfair, inadequate, and unreasonable.

## MAINTAIN COMPETITION

The FTC actively enforces the antitrust laws in a range of industries of critical importance to American consumers, including health care, technology, energy, consumer goods and services, and manufacturing. The agency’s mission to maintain competition remained highly active in FY 2012, with the agency pursuing 29 new competition law enforcement actions (merger and nonmerger) and undertaking several important workshops, reports, and advocacy opportunities to promote competition and educate its stakeholders about the importance of competition to consumers. The FTC also continued to vigorously monitor and enforce compliance with consent orders as well as with merger and acquisition reporting obligations under the Hart-Scott-Rodino (HSR) Act.

The FTC pursued 25 merger enforcement challenges, resulting in 15 consent agreements, seven transactions abandoned or restructured as a result of antitrust concerns raised during the course of the investigation, and three cases in which the Commission issued administrative complaints. In two of these matters, the Commission contemporaneously filed motions for preliminary injunctions in federal court, winning a preliminary injunction to block a hospital merger in one of the cases and reaching a consent agreement requiring a divestiture in the other. In the third, the Commission dismissed its administrative complaint after the parties abandoned their intended transaction. In FY 2012, merger enforcement actions spanned several markets, including pharmaceuticals, hospitals, high tech

and industrial goods, supermarkets, and energy. In addition to these new enforcement actions, the FTC continued to pursue litigation begun in previous fiscal years (Polypore International/Daramic LLC, ProMedica Health System/St. Luke's Hospital, and Phoebe Putney Health System/Palmyra Park Hospital).

The FTC conducted an initial review of hundreds of mergers pursuant to the HSR Act, and granted early termination of the HSR waiting period where it appeared that competition would not be harmed.

As part of its efforts against anticompetitive practices, the FTC brought four non-merger enforcement actions in FY 2012. In November 2011, the FTC settled charges that PoolCorp, the largest distributor of swimming pool products in the United States, used its monopoly power to thwart new distributors from entering the market by blocking them from buying pool products directly from manufacturers. The FTC alleged that these actions raised the costs incurred by its distributor-rivals and resulted in higher prices and reduced choices for consumers. The FTC's settlement order prohibits PoolCorp from conditioning the purchase or sale of pool products, coercing manufacturers to stop selling or to limit their sales to any other distributor, and discriminating or retaliating against a manufacturer for selling pool products to any other distributor. In January 2012, the FTC filed complaints against the three largest U.S. suppliers of ductile iron pipe fittings, which are used in municipal water systems around the United States. The FTC charged that the three companies, McWane, Inc., Star Pipe Products, Ltd., and Sigma Corporation, illegally conspired to set and maintain prices for pipe fittings, and that McWane illegally maintained its monopoly power in the market for U.S.-made pipe fittings. The charges against Sigma and Star were resolved through consent orders; the administrative case against McWane is ongoing with closing arguments in the trial before an FTC Administrative Law Judge completed in January 2013. Finally, in August 2012, the FTC settled price-fixing charges with a group of pharmacy owners in Puerto Rico. The FTC alleged that the competing pharmacy owners had harmed competition by negotiating, entering into, and implementing agreements among the group's members to fix the prices on which they contract with insurance companies and pharmacy benefit managers. The FTC's consent order contains prohibitions on the group's conduct designed to prevent recurrence of this conduct.

### **Health Care and Pharmaceuticals**

The health care and pharmaceutical industries were again a priority area for competition enforcement as prices continued to escalate. In general, the agency works to promote competition in health care by preventing anticompetitive health care mergers, stopping harmful joint conduct by health care providers, and eliminating impediments to entry by generic drug producers. One area where the FTC has engaged in vigorous enforcement relates to collusive "pay-for-delay" settlements of patent litigation in the pharmaceutical industry, in which a brand name drug company pays a generic drug company to delay its entry into the market. These

deals cost consumers billions of dollars annually, including substantial costs to the government, which pays almost one-third of the nation's prescription drug costs.

During FY 2012, the FTC also continued to appeal its case against Solvay Pharmaceuticals, Inc., now an Abbott Laboratories subsidiary, maker of AndroGel, and two generic drug manufacturers, charging that the companies agreed that the generic manufacturers would abandon their patent challenges relating to AndroGel and delay for nine years the marketing of a generic formulation of the testosterone replacement drug in return for certain "exclusion payments." In December, the Supreme Court granted certiorari (scheduled to be heard March 25, 2013), agreeing to review the FTC's allegations, which had been dismissed by the Court of Appeals for the 11<sup>th</sup> Circuit and the district court. The FTC also continued its challenge in federal court to a "pay-for-delay" agreement by Cephalon with four generic rivals for its branded drug Provigil, a treatment for sleep apnea, narcolepsy, and shift-work sleep disorder. The case is on hold in federal district court pending the Supreme Court's decision of AndroGel. During FY 2012, the FTC reviewed numerous proposed and consummated acquisitions in the pharmaceutical industry and took action to preserve competition that otherwise would have been lost due to proposed and consummated hospital and other health care service provider mergers.

For example, in FY 2012, the FTC successfully challenged acquisitions by Valeant Pharmaceuticals International, Inc., and required the company to divest three skin ailment treatment drugs prior to completing its purchases of Ortho Dermatologics, Inc. from Johnson & Johnson, and Dermik Laboratories, Inc. from Sanofi. In another case, the FTC required Teva Pharmaceutical Industries, Ltd. to sell rights and assets related to a generic cancer pain management drug and a generic muscle relaxant before proceeding with its \$6.8 billion acquisition of rival drug firm Cephalon, Inc. The FTC also required that Teva enter into a supply agreement that will allow a competing firm to sell a generic version of Cephalon's wakefulness drug, Provigil.

In addition, the FTC initiated an action in federal court seeking to preserve competition among hospitals in Rockford, Illinois, that would otherwise have been lost as a result of an acquisition. In this matter, the FTC secured a preliminary injunction blocking the acquisition by OSF Healthcare System of rival health care provider Rockford Health System. OSF abandoned the acquisition after the district court ruling. The FTC also brought an administrative complaint challenging the combination of the two largest long-term care pharmacy providers in the United States. Omnicare, Inc. abandoned its plan to acquire rival PharMerica Corporation in the face of the FTC's challenge.

In 2012, the FTC continued to litigate two hospital merger cases filed in the previous year. In March 2012, the Commission ruled that ProMedica Health System, Inc.'s consummated acquisition of rival St. Luke's hospital in Lucas County, Ohio,

was anticompetitive and would likely result in higher health care costs for patients, employers, and employees, upholding an FTC Administrative Law Judge's initial decision. The Commission's order requires ProMedica to divest St. Luke's Hospital to an FTC-approved buyer. In May 2012, however, ProMedica filed a petition for review of the Commission's Final Order and Opinion with the U.S. Court of Appeals for the 6<sup>th</sup> Circuit. In the other matter, on February 19, 2013 in a unanimous opinion, the Supreme Court ruled that the state action doctrine did not immunize Phoebe Putney Health System, Inc.'s acquisition of its sole rival in Albany, Georgia, Palmyra Park Hospital, Inc. from the federal antitrust laws. The FTC alleged that the deal would create a monopoly and allow the combined Phoebe/Palmyra to raise prices for general acute-care hospital services charged to commercial health plans, harming patients, local employers and employees. The Supreme Court's decision reverses a decision of the 11th Circuit Court of Appeals, and remands the case for further proceedings.

In August 2012, the FTC settled its charges that Renown Health's recent acquisitions of two local cardiology groups reduced competition for the provision of adult cardiology services in the Reno area. Renown is the largest provider of acute care hospital services in northern Nevada. Renown agreed to release its staff cardiologists from "non-compete" contract clauses, allowing up to 10 of them to join competing cardiology practices.

To support its enforcement work and promote competitive outcomes in health care markets, the FTC used a wide variety of policy tools, such as research and reports, workshops, advocacy filings, amicus briefs, speeches, and testimony before Congress.

During FY 2012, the FTC continued to examine competitive issues surrounding the formation of Accountable Care Organizations (ACOs) under the Affordable Care Act. This Act encourages the formation of ACOs by a variety of market participants to provide coordinated patient care that can improve quality and lower health care costs. This coordination could also raise antitrust concerns. The FTC worked with the Department of Justice Antitrust Division to provide guidance and transparency to ACOs, issuing a joint statement of antitrust enforcement policy regarding ACOs.

In addition to these policy-related activities, staff issued eight advocacy comments to state legislators addressing health care, dental, and animal health-related issues, including scope of practice of non-physician health care professionals and collective bargaining by health care providers.

### **Technology and Manufacturing**

Another high priority of the FTC is the protection of competition in the technology and manufacturing sectors of the economy. In March 2012, the FTC took action to preserve competition for desktop hard disk drives used in personal computers.

The FTC required Western Digital Corporation to sell assets used to manufacture and sell desktop hard disk drives to Toshiba. The divestiture resolved the agency's charges that Western Digital's \$4.5 billion acquisition of rival Hitachi Global Storage Technologies would likely have harmed competition by leaving only two companies in control of the entire worldwide market for desktop hard disk drives. According to the FTC, Toshiba, the acquirer of the divested assets, has the ability to replace the competition otherwise lost in the acquisition. In May 2012, the FTC settled an administrative complaint it had filed against Graco Inc., a leader in the worldwide market for key industrial finishing equipment. The FTC required that Graco sell the worldwide liquid finishing business of Illinois Tool Works Inc. and ITW Finishing LLC, which Graco had previously acquired. The FTC charged that Graco's acquisition of the ITW businesses would have been anticompetitive and led to higher prices and reduced innovation for the North American manufacturers who rely on this equipment. In another matter, in July 2012 the U.S. Court of Appeals for the 11<sup>th</sup> Circuit upheld the FTC's Opinion and Order in the matter of Polypore International, Inc., finding that Polypore's 2008 acquisition of Microporous, its competitor in the market for battery components, was anticompetitive, and upholding the FTC's order that Polypore divest Microporous. In October 2012, the 11<sup>th</sup> Circuit denied Polypore's request for rehearing *en banc*.

On January 3, 2013, Google Inc. agreed to change some of its business practices to resolve FTC concerns that those practices could stifle competition in the markets for popular devices such as smart phones, tablets and gaming consoles, as well as the market for online search advertising. In a consent order resolving the charges, the FTC required Google to meet its prior commitments to allow competitors access – on fair, reasonable, and non-discriminatory terms – to patents on critical standardized technologies needed to make popular devices such as smart phones, laptop and tablet computers, and gaming consoles, patents that Google had acquired when it bought Motorola Mobility. In a separate letter of commitment to the FTC, Google agreed to remove restrictions on the use of its online search advertising platform, AdWords, that may make it more difficult for advertisers to coordinate online advertising campaigns across multiple ad platforms. Google's commitment resolves the concerns of some Commissioners that Google's restrictions may have impaired competition in search advertising.

## Energy

Energy is another important industry to which the FTC devotes significant resources. The FTC continued to review proposed acquisitions involving energy products under the HSR Act and to monitor the industry for transactions that were not subject to filings under HSR. In FY 2012, the FTC required Kinder Morgan, Inc., one of the largest U.S. transporters of natural gas and other energy products, to sell three natural gas pipelines and two gas processing plants and associated storage capacity in the Rocky Mountain region. The divestiture resolved the FTC's charges

that Kinder Morgan's \$38 billion acquisition of El Paso Corporation would harm competition in the markets for the pipeline transportation and processing of natural gas. In another matter, the FTC issued a consent order requiring that AmeriGas L.P. amend its proposed acquisition of Energy Transfer Partners' (ETP's) Heritage Propane business. AmeriGas and ETP are two of the nation's largest propane distributors, and the FTC had charged that the acquisition would reduce competition and raise prices in the market for propane exchange cylinders that consumers use to fuel barbeque grills and patio heaters.

Pursuant to the process that the Commission established in November 2009 to monitor compliance with the Petroleum Market Manipulation Rule – which prohibits manipulation in wholesale markets for crude oil, gasoline, or petroleum distillates – the agency continued to examine and assess the communications regarding the Rule received from the public for evidence of possible Rule violations.

In addition, in FY 2012, the agency continued its investigation to determine whether certain oil producers, refiners, transporters, marketers, physical or financial traders, or others have engaged in practices, including manipulation, that have lessened or may lessen competition in the production, refining, transportation, distribution, or wholesale supply of crude oil or petroleum products; or have provided false or misleading information related to the wholesale price of crude oil or petroleum products to a federal department or agency. Such actions could violate Section 5 of the FTC Act, the Commission's Petroleum Market Manipulation Rule, or Section 811 or Section 812 of the Energy Independence and Security Act of 2007.

In FY 2012, the FTC issued its seventh annual "Federal Trade Commission Report on Ethanol Market Concentration" addressing the state of ethanol production in the United States, as well as semi-annual reports on oil and gas activities.

Also in FY 2012, the Commission provided two advocacy comments to the Federal Energy Regulatory Commission on energy-related issues.

### **Retail and Distribution**

The FTC continues to work to protect competition in markets for retailing and distributing consumer goods and services, and in June 2012, the FTC required that Koninklijke Ahold N.V., the parent company of Giant Food Stores, LLC, sell a supermarket outside of Philadelphia, Pennsylvania, to settle charges that Ahold's proposed acquisition of the Genuardi's supermarket chain from Safeway Inc. otherwise would be anticompetitive. To preserve competition in the local grocery market, Ahold sold the supermarket located in Newtown, Pennsylvania, to McCaffrey's, a supermarket company.

## Competition Advocacy, Reports, Workshops, and Outreach

Providing policymakers with a framework to analyze competition issues is an important component of the FTC's mission to promote competition for the benefit of consumers. Government-imposed impediments can be among the most durable and effective restraints on competition. Therefore, in response to requests, the FTC advises state and federal entities on the potential competitive implications of pending governmental actions that may have a major impact on consumers. In addition to the health care and energy advocacy matters mentioned above, during FY 2012, the Commission submitted comments to the U.S. International Trade Commission (ITC) in conjunction with two of the ITC's patent infringement investigations. In the comments (and related Congressional testimony), the FTC discussed the potential negative impact on competition and innovation if owners of standard-essential patents can threaten to obtain injunctive relief by either a federal court or the ITC. The FTC's concern is that a patent holder may use the threat of an ITC exclusion order or an injunction issued in district court, to "hold up" licensees by demanding from them higher royalties or other more costly licensing terms after the standard is implemented than could have been obtained before its intellectual property was included in the standard. Such hold-ups can decrease innovation and increase costs in an industry.

The FTC also organizes public hearings, workshops, and conferences to gain a deeper understanding of the complex economic and legal issues surrounding various antitrust issues and to help the agency develop effective policy research and development tools. For example, in May 2012, the FTC hosted a conference on the economics of drip pricing, a pricing technique in which firms advertise only part of a product's price and reveal other charges later as the customer goes through the buying process. The additional charges can be mandatory charges, such as hotel resort fees, or fees for optional upgrades and add-ons. The conference brought together economists and marketing academics to examine the theoretical motivation for drip pricing and its impact on consumers, empirical studies, and policy issues pertaining to drip pricing.

In September 2012, the FTC hosted a joint conference with the Department of Justice's Antitrust Division on most-favored-nation clauses (MFNs), which explored the use of MFN clauses and their implications for antitrust enforcement and policy. The most commonly used MFN provisions guarantee a customer that it will receive prices that are at least as favorable as those provided to other buyers of the same seller, for the same products or services. Although at times employed for benign purposes, MFNs can under certain circumstances present competitive concerns. This is because they may, especially when used by a dominant buyer of intermediate goods, raise other buyers' costs or foreclose would-be competitors from accessing the market. Additionally, MFNs can facilitate collusion and stabilize coordinated pricing among sellers.

In October 2012, the Commission hosted a workshop examining competition and consumer protection issues in the pet medications industry. Workshop participants, including veterinarians, pharmacists, economists, lawyers, and others, discussed how current industry distribution and other business practices affect consumer choice and price competition for pet medications.

In November 2012, the FTC held its annual Microeconomics Conference. Scholars and leaders from universities throughout the world, other government agencies, and other organizations gather for the conference to discuss the economics of antitrust, consumer protection, and policy issues which FTC economists encounter in their work. The most recent conference focused on the Economics of Privacy, Advertising Markets, and Hospital Competition as well as Firm Behavior and Policy and Structural Modeling.

In an effort to provide practitioners, researchers, and other interested stakeholders with tools and guides that are easy to access and understand, the Commission continues to maintain and develop its online resources, including the FTC Guides and Fact Sheets on the Antitrust Laws and the enforcement database, which catalogs the FTC's competition enforcement actions and allows users to view short descriptions of each action, with click-through access to related documents such as press releases and case filings.

### **International Antitrust**

In FY 2012, the FTC further developed cooperative relationships with foreign antitrust agencies to ensure close collaboration on cross-border cases and convergence toward sound competition policies. The FTC engaged in effective coordination of reviews of multijurisdictional mergers, and continued to work with its international counterparts to achieve consistent outcomes in cases of possible unilateral anticompetitive conduct. The agency cooperated with international counterpart agencies on numerous cases of mutual concern, including unilateral conduct matters such as Google, mergers such as Western Digital/Hitachi and the Sony and Vivendi acquisitions of EMI businesses, and other cases currently under investigation. The FTC also held meetings with top officials from our key counterpart agencies in Europe, Asia, and the Americas.

Notably, in FY 2012, the FTC and DOJ entered into Memoranda of Understanding with both the Indian and Chinese antitrust authorities. The FTC works closely with these agencies on implementation of their competition laws, and participates in intergovernmental dialogues that implicate competition policy. The FTC's engagement with China includes joint FTC/DOJ participation in an extensive public/private sector program for the three Chinese antitrust enforcement agencies. The FTC also conducted multiple programs to train the staff of the Competition Commission of India as it begins to implement its merger review regime.

Participation in multilateral competition organizations provides valuable opportunities to promote international cooperation and convergence toward best practices on substantive analysis and on principles of due process, and for competition officials to share insights on law enforcement and policy initiatives. The FTC has further strengthened the roles that it plays in the International Competition Network (ICN) and the competition groups of the OECD, the United Nations Conference on Trade and Development (UNCTAD), and APEC. In the ICN, the FTC serves on the steering group, and FTC officials serve in various leadership capacities, including as a co-chair of the Agency Effectiveness Working Group, which shares experience and promotes best practices in building effective competition enforcement institutions. In this working group, the FTC co-chairs a new project on investigative process, and also originated and leads an ICN project that is creating a comprehensive curriculum of training materials to serve as a virtual university on competition law and practice. The FTC continues to play a key role in promoting implementation of the ICN's work on merger notification and review procedures and on convergence in the analysis of unilateral conduct.

With the rapid growth in the number of jurisdictions with competition laws, the FTC has expanded its program of technical assistance to help agencies apply their laws in ways that support competitive markets. The FTC's technical assistance program this year conducted competition programs in Armenia, China, Colombia, Dominican Republic, India, Indonesia, Mexico, Pakistan, Peru, Philippines, the Russian Federation, and Vietnam, along with regional programs for Africa and Southeast Europe, using its own funding for 10, with the remainder funded in cooperation with the United States Agency for International Development (USAID), the Commercial Law Development Program of the Department of Commerce, and the U.S. Trade and Development Agency.

As discussed above in connection with the consumer protection mission, the FTC International Fellows and Interns program enables staff from counterpart agencies to work directly with FTC staff on investigations and cases, subject to appropriate confidentiality protections. During FY 2012, Fellows and Interns from Australia, Brazil, and Mauritius worked with FTC staff on competition matters.

Using its U.S. SAFE WEB Act authority, the FTC also sends staff members to work in foreign counterpart agencies for three to six months. In FY 2012, FTC staff members worked on competition matters at the Canadian Competition Bureau and at the Mexican Federal Competition Commission.

## Planned Activities in FY 2013 and Beyond

### PROTECT CONSUMERS

To advance its consumer protection goal, the FTC focuses its efforts on identifying fraud, deception, and unfair practices that cause the greatest consumer injury; stopping fraud, deception, unfairness, and other unlawful practices through law enforcement; preventing consumer injury through education; enhancing consumer protection through research, reports, rulemaking, and advocacy; and protecting American consumers in the global marketplace by providing policy and technical input to foreign governments and international organizations to promote sound consumer policy.

#### Protecting Consumer Privacy and Improving Data Security

The FTC will continue to take a leading role in efforts to protect consumers from unfair, deceptive, or other illegal practices related to their privacy. The agency will stop unfair and deceptive consumer privacy and security practices through law enforcement. It will promote stronger privacy protections through policy initiatives on a range of topics such as data brokers, mobile devices, and comprehensive online data collection. The FTC will also participate in interagency groups, provide technical assistance to Congress on draft legislation, and participate in international privacy initiatives.

#### Stopping Harmful Uses of Technology

Technology provides countless benefits to consumers, including choice, convenience, and increased access to goods, services, and information. It also enables, however, new vehicles for fraudulent, deceptive, and unfair practices in the marketplace. If consumers are not adequately protected, not only can they suffer economic injury, but they can lose confidence in these new technologies. To respond to these challenges, the FTC will examine malware and spyware threats to mobile devices, promote technologies such as “do not track” to protect consumers online, and target online and mobile threats for enforcement, including mobile spam, mobile cramming, deceptive and unfair apps, and malware distributed through social networks.

Technological advances have made it difficult for consumers and law enforcement to identify the location of fraudsters pitching scams over the telephone. Some companies remain virtually anonymous by falsifying the phone number on a caller ID display. At the same time, technology has made it cheap and efficient to make large numbers of illegal pre-recorded calls, often from overseas. The FTC will continue to

take aggressive law enforcement action to stop illegal “robocalls” that deliver pre-recorded messages and to halt other telemarketing calls that violate the National Do Not Call Registry. Further, the FTC will work with consumer groups, legitimate industry, technologists, policymakers, and other stakeholders to develop solutions to the rise in illegal robocalls.

### **Protecting Consumers in the Financial Services Marketplace**

The FTC will continue to use the tools and authorities available to it to protect consumers in the financial services marketplace. Agency law enforcement actions will target firms that make deceptive offers to assist consumers in reducing or renegotiating secured debt, such as mortgage or car loans, and unsecured debt, such as credit card bills. The FTC will work to stop payday lending operations that employ deceptive conduct to take advantage of financially distressed consumers seeking these loans. The FTC will combat deceptive and other illegal practices involving mortgage advertising, servicing, and lending. These practices can have severe consequences for consumers, including unanticipated high-cost mortgages, ruined credit histories, and loss of their homes. The agency also will fight deceptive and abusive debt collection practices. Further, the FTC will continue to closely coordinate with the Consumer Financial Protection Bureau to ensure that consumers are protected in the financial marketplace and to avoid any duplicative efforts between the agencies. The FTC will also continue to gather information on the consumer protection issues related to buying or leasing motor vehicles, and when appropriate, take action against deceptive practices in this area.

### **Protecting Vulnerable Americans from Other Fraud**

Frauds such as those offering purported health insurance, or deceptive income opportunities through jobs, investment, government grants, or other scams affect everyone, but pose an even greater risk to those from poor and underserved communities. The FTC will continue to combat such frauds, as well as fraud targeting seniors, and examine ways to better assist older victims.

### **Combating Identity Theft**

Identity theft exacts a heavy financial and emotional toll from its victims, and the FTC will continue to assist the millions of Americans who are victimized each year. The FTC will continue to be the repository for identity theft complaints and make them available to criminal law enforcement agencies. Our trained counselors will continue to advise identity theft victims who call our toll-free number about rights and remedies available to them under federal law. The agency also will publicize its victim assistance guide for pro-bono attorneys, train local law enforcement to spot and prosecute identity theft, and update educational materials to address new and emerging issues, such as medical and children’s identity theft.

### **Promoting Compliance in New Media**

As new media open new avenues for companies to communicate with consumers, the FTC will promote compliance. The agency will conduct outreach to businesses that engage in viral, mobile, and affiliate marketing, stressing that existing advertising principles apply to new media and methods of marketing. The FTC will also monitor the marketplace and initiate investigations where appropriate.

### **Targeting Deceptive Advertising Affecting Consumers' Health**

Consumers can fall prey to fraudulent health advertising when they are desperate for medical help. The FTC, therefore, will continue to challenge deceptive advertising of health products. The agency will focus on disease prevention and treatment claims; claims aimed at baby boomers, seniors, and the uninsured; and claims exploiting emerging health threats.

### **Protecting Children in the Marketplace**

The FTC will continue to protect children and teens from deceptive, unfair, and age-inappropriate advertising. In December 2012, the agency adopted final amendments to the Children's Online Privacy Protection Rule that strengthen children's privacy protections and give parents greater control over the personal information that websites and online services may collect from children under 13. Agency staff is assessing new technologies, including mobile applications, to determine whether they are conducted in accordance with COPPA's parameters. In the alcohol advertising arena, the FTC plans to bring enforcement actions targeting unfair or deceptive practices and issue another report to Congress on self-regulation. Further, the agency will monitor the marketing of violent entertainment to children and the ability of teens under age 17 to purchase age-restricted products containing violent content.

### **Evaluating Environmental Marketing Claims**

Green claims, such as carbon offset, renewable material, and renewable energy claims, have increased in popularity. These claims can be extremely useful for consumers; however, the complexity of the issues involved creates the potential for confusing, misleading, and fraudulent claims. In October 2012, the FTC issued the updated "FTC Guides for the Use of Environmental Marketing Claims," commonly known as the Green Guides. The agency also will bring cases and law enforcement sweeps to address deceptive environmental marketing claims, working where possible with state and local partners.

### **Serving Hispanic and African-American Populations**

The FTC has conducted fraud surveys showing that Hispanic and African-American consumers are more likely to be victims of fraud than other demographic groups. The FTC will aggressively combat consumer fraud against Hispanic and

African-American consumers. The Commission will tailor its consumer education messages to different groups, and focus and strengthen its strategic partnerships.

### **Ensuring Compliance with FTC Orders**

Order enforcement is an integral part of the FTC's consumer protection goal. The agency will continue to place a high priority on enforcing orders against repeat offenders, as well as those who act with them. The FTC will continue to monitor and improve the agency's enforcement database and bring more enforcement actions.

### **Globalization and Cross-Border Enforcement**

The FTC will continue enforcement against cross-border fraud and its policy development efforts in the international arena. Using the tools provided by the U.S. SAFE WEB Act, the FTC will continue to create and sustain international partnerships and networks to pursue matters involving foreign defendants, evidence, and assets and develop new initiatives with foreign criminal enforcement counterparts on consumer fraud.

The FTC continues to promote international development of market-oriented consumer protection policies that effectively address consumer harm, and highlights the importance of enforcement as a key component of privacy protection, including data security, spam, and malware, within the OECD, APEC, the London Action Plan (LAP), and other multilateral organizations. The FTC will also continue to participate actively in several OECD committees, the International Consumer Protection Enforcement Network (ICPEN), the International Mass Marketing Fraud Working Group, and in APEC's Electronic Commerce Steering Group. Through cooperation with foreign consumer protection agencies and participation in international organizations, the FTC can engage in cooperative foreign law enforcement actions and develop policies that promote effective consumer choice in the international marketplace.

## **MAINTAIN COMPETITION**

The FTC's competition work is critical to protect and strengthen the free and open markets that are the cornerstones of a vibrant economy. Robust competition promotes lower prices, higher quality products and services, and greater innovation, all of which benefit consumers. A vigorous marketplace provides the incentive and opportunity for new ideas and innovative products and services to develop. Open and competitive markets, however, require clear rules that are fairly applied. The FTC is dedicated to that task, and uses a variety of tools to maintain competition and protect consumers from anticompetitive mergers as well as anticompetitive business conduct such as illegal agreements among competitors, misuse of government processes to hamper rivals, and illegal attempts to monopolize or maintain a monopoly.

## Promoting Competition in Health Care and Pharmaceuticals

The rapidly rising cost of health care is a matter of concern for consumers, employers, insurers, and the nation as a whole. Health-related products and services now account for a significant percentage of gross domestic product, and that share continues to grow each year as health care costs continue to rise. Preventing anti-competitive pharmaceutical mergers will continue to be an important priority for the FTC and a vital way to protect consumers from rising drug prices. The FTC will also continue to advance its enforcement program to attack collusive “pay-for-delay” settlements in the pharmaceutical industry, which, as described above, delay the introduction of generic drugs and cost billions of dollars annually to consumers and governments. In addition, the FTC will continue to stop anticompetitive agreements among health care providers and to challenge hospital, medical device manufacturer, and other mergers that are likely to raise the costs of health care.

In October 2010, the FTC began a policy project on health care reform and competition policy. The Patient Protection and Affordable Care Act, the health care reform law, establishes new programs for Medicare (and some Medicaid beneficiaries) that encourage the formation of ACOs. The purpose of ACOs is to foster higher quality and more efficient provision of health care services through, among other things, coordination of care among providers. Although the program is designed to serve Medicare patients, health care providers are more likely to form ACOs to treat Medicare beneficiaries if they can also do the same for commercially-insured patients. The FTC has focused on how ACOs could affect competition in commercial health care markets. In October 2011, the FTC and the DOJ issued a Joint Statement of Antitrust Enforcement Policy, which makes clear that the antitrust laws are not a barrier to bona fide collaborations to improve healthcare and reduce costs. The FTC staff review proposed ACOs, and are prepared to challenge those that are anticompetitive.

## Aggressively Challenging Anticompetitive Mergers

Identifying anticompetitive mergers remains one of the top priorities of the agency’s Maintaining Competition mission. The premerger notification requirements of the HSR Act provide the FTC with an effective starting point for identifying anticompetitive mergers before they are consummated, preventing competitive harm. Additionally, since 2001, when amendments to the HSR Act increased the threshold for which mergers must be reported under the Act, the FTC has devoted more attention to the identification of unreported, usually consummated, mergers that could harm consumers. The number of merger filings under HSR remains high, and the FTC’s merger enforcement program remains very active. Antitrust merger litigation is highly resource-intensive because the issues litigated are increasingly complex and involve sophisticated economic theories. Necessarily, over time, the size of litigation teams as well as expenses incurred has grown. Litigating the

agency's currently filed merger cases and any new actions to their ultimate conclusion will require significant resources in FY 2014 and the years ahead.

The FTC is constantly refining its analytical approach to mergers in light of current marketplace realities. Signaling that refinement, in August 2010 the FTC and the DOJ Antitrust Division published a revision of the Horizontal Merger Guidelines that reflects the current state of merger analysis at the FTC and DOJ. It will help make the process more transparent to American businesses, the bar, and courts. Additionally, in July 2011, the FTC issued final rules giving the HSR notification form its most extensive overhaul since its creation. The changes to the form provide the agencies with some additional information that will be useful in making an initial evaluation of whether a transaction may raise competitive issues warranting further investigation, while at the same time eliminating the need for businesses to provide certain previously required information that the agencies have found less helpful than originally anticipated.

### **Continuing Emphasis on High Technology**

The growing importance of technology is placing increasing demands on the FTC's antitrust enforcement mission in both the merger and nonmerger segments. FTC antitrust investigations often involve high-technology sectors of the economy, such as computer hardware and software. The FTC is particularly vigilant where a firm may be illegally using a dominant market position to stifle competition and create or strengthen an existing monopoly. Issues in antitrust matters increasingly intersect with intellectual property concerns, raising difficult questions about how these two bodies of law can best work together to further their common goal of promoting innovation. As these trends continue, the FTC requires more and more specialized technical knowledge and expertise. In FY 2014 and beyond, the FTC expects to expend significant and specialized resources to enhance its ability to investigate and litigate complex matters involving high-tech segments of the economy by increasing both its in-house knowledge and its use of independent experts and consultants.

### **Preventing Anticompetitive Activity in Energy Industries**

The price of gasoline continues to be a concern for consumers, and is therefore a high priority for the FTC. The FTC continues to focus closely on gasoline markets, investigating industry practices and pricing, and will move quickly to address any anticompetitive mergers and other anticompetitive activities. Exercising the authority provided by Congress under the Energy Independence and Security Act of 2007, the FTC issued a Final Rule in August 2009, effective in November 2009, prohibiting market manipulation in the wholesale petroleum industry. The FTC will continue to enforce the Rule, which prohibits fraud or deceit in wholesale petroleum markets, and omissions of material information that are likely to distort petroleum markets.

Under its Gasoline and Diesel Price Monitoring Project, the FTC continues to track retail gasoline and diesel fuel prices in 360 cities nationwide and wholesale prices in 20 major urban centers to identify unusual changes in gasoline prices; if staff detect any such changes, they will promptly investigate the cause.

### **Increasing Consumer and Business Outreach**

The FTC will continue its efforts to educate consumers and businesses on the important role of competition in ensuring the mix of price, choice, and innovation valued by consumers. In addition to having specialized webpages focused on areas of the economy that consumers encounter on a regular basis, such as health care, oil and gas, and real estate, the FTC will look for opportunities to improve content on its website and create new content in response to frequently asked questions and issues of importance to consumers and business. For example, the FTC has prepared educational materials for retail merchants about changes in certain rules governing electronic payments. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 sets caps on debit card interchange fees and prohibits certain exclusivity requirements and routing and other restrictions imposed by payment card networks and issuers. The FTC seeks to notify merchants of their rights under this new law, including their ability to process debit card transactions over lower-cost networks, fostering savings which could be passed on to customers. Moreover, the FTC's Premerger Notification Office responds to thousands of calls seeking guidance about premerger filing requirements. The FTC and its staff also provide advisory opinions to businesses that request review of proposed conduct. These letters provide a detailed antitrust analysis of the particular conduct that the requester may wish to pursue, and may facilitate the requesters' engaging in competitive activities from which they might otherwise refrain.

### **Promoting Global Competition**

The FTC will continue to develop its cooperative relations with key international counterpart agencies, and will update and develop additional cooperation tools, as needed. Additionally, the FTC will continue to work with competition agencies worldwide to promote best practices and to minimize procedural and policy divergences. The FTC plays a lead role in pursuing convergence toward best practices through its participation in international bodies, such as the ICN and OECD. The FTC is substantially strengthening its international competition outreach efforts in order to build cooperative relationships with our counterpart agencies through the International Fellows and Interns program and the technical assistance program.

### **Ongoing Administrative and Federal Litigation**

Administrative and federal litigation enables the FTC to apply its institutional expertise to the development of antitrust jurisprudence. Currently, the FTC has a number of competition matters in various stages of administrative and federal litigation. The FTC expects this litigation workload to continue at high levels, particularly in the merger area. Antitrust litigation, whether in an administrative proceeding or in federal court, is highly complex and requires significant agency resources. The costs of litigation, including travel, stenographic reporting, and particularly the hiring of expert witnesses, which is key to successfully litigating competition cases, are increasing. Moreover, the FTC's recent amendments to its administrative litigation rules require that cases proceed at a fast pace. These amendments help the FTC serve consumers more effectively, but require the agency to devote increased resources to meet this faster pace. To ensure that the rules governing administrative proceedings are as fair and effective as possible, the FTC has established an internal standing committee to examine its rules for administrative proceedings and make bi-annual recommendations for changes.

### **Advocating for Competition before the Courts and Other Government Agencies**

In addition to efforts to police private conduct, the FTC also works to minimize government-imposed impediments to a competitive marketplace by, upon request, advising government policy-makers about how to apply sound competition principles as they make decisions affecting consumer welfare. Among its activities, the FTC will continue to file comments on proposed government action (legislation, regulation, and other rules) affecting competition in a broad range of industries. In addition to these activities, FTC staff will continue to provide guidance on important competition policy issues, by issuing reports and filing amicus briefs to help courts resolve important competition issues.

### **Enforcing FTC Orders**

The FTC must maintain an effective compliance program to ensure that consumers receive the benefits of FTC orders entered to restore or maintain competition. The FTC focuses on devising and drafting effective orders for each individual matter; this is a highly fact-specific process. In addition, the agency conducts general and historical analyses on the effectiveness of various kinds of remedies, such as divestiture orders. This analysis allows the FTC to design more effective remedies for future cases. The FTC also must litigate, when necessary, to vindicate its authority to order relief to protect competition.

## Needed Resources for FY 2014

The FTC is a highly productive and efficient small agency with a large mission. Indeed, in recent years, the agency has faced growing challenges and a host of new Congressionally-imposed responsibilities. The FTC's mission to promote competition and protect consumers is critical to the short and long-term health and vibrancy of the marketplace and the national economy. To maintain its high level of performance in FY 2014, the FTC is requesting \$301,000,000 and 1,176 FTE. This is an overall decrease of \$10,563,000 below the FTC's FY 2012 enacted appropriation level. Specifically, the FTC's FY 2014 budget request consists of:

Decreases of \$26,437,000 related to replacement of satellite space and facility efficiencies:

- \$25,814,000 decrease from the \$35,200,000 amount included in the FY 2012 enacted appropriation for requirements associated with replacing the 601 New Jersey Avenue building. The remaining \$9,386,000 in FY 2014 will support increases in annual rent, operating and holdover costs at the 601 New Jersey Avenue building and unanticipated infrastructure costs at Constitution Center. The FTC has continued to partner with the General Services Administration on this endeavor and is anticipating that the FTC's satellite space in Washington, DC will be consolidated within the Constitution Center in 2014.
- \$623,000 decrease reflecting streamlined guard services and lower anticipated utility costs in the FTC's Headquarters Building, stemming from our sustainability efforts.

Increases of \$5,526,000 for mandatory expenses:

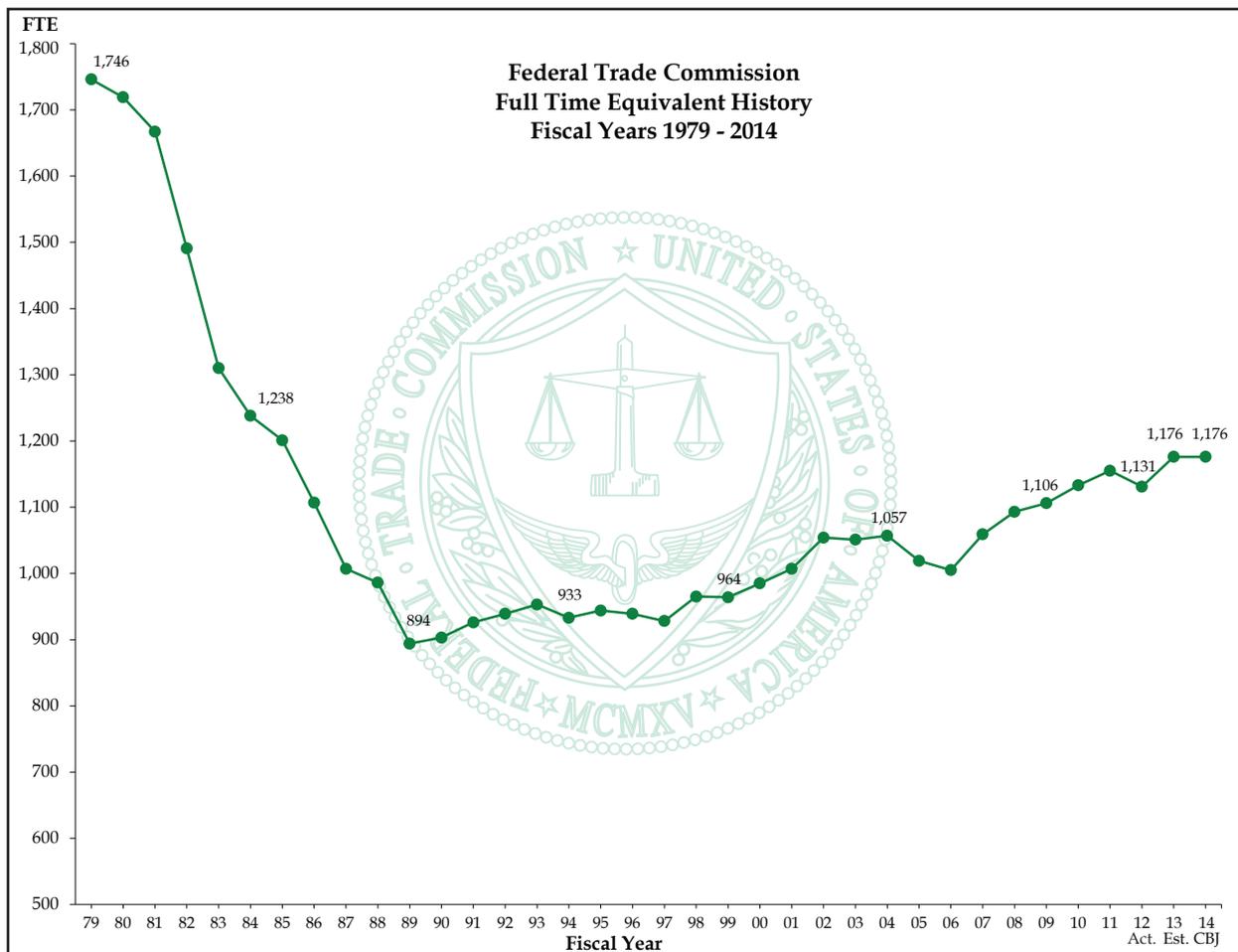
- \$3,308,000 for pay adjustments related to a 2014 pay raise and upward grade classifications pursuant to 5 C.F.R. 531.401 et seq.
- \$2,218,000 for contracts and other non-pay inflation.

Increases of \$10,348,000 for needed technology investments in support of protecting consumers and maintaining competition.

- \$9,330,000 for much needed and long overdue improvements to the FTC's technology infrastructure and critical technology projects. The infrastructure

improvements are essential as the FTC strives to keep pace with fast-moving technology and equip staff with the tools needed to get the job done more effectively and efficiently. Critical technology projects include, but are not limited to, replacing or modernizing our matter management system, expanding our e-filing capability for administrative proceedings, development of a logical access solution for legacy FTC systems to bring the agency into compliance with Homeland Security Presidential Directive-12, replacement of the FTC's electronic document repository to an enterprise content management system, and transitioning to a mobile computing environment.

- \$1,018,000 to support increased expert witness costs for anticompetitive merger and conduct matters, as well as the increased consumer demand for the Sentinel Network Services, which include the National Do Not Call Registry, the FTC's Consumer Response Center, and the Consumer Sentinel Network online complaint database.



## Appropriations Language Provisions

**Federal Deposit Insurance Corporation Improvement Act:** The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) amended the Federal Deposit Insurance Act. As originally enacted, the FDICIA imposed various statutory responsibilities on the FTC that the agency did not have the resources or expertise to perform effectively. Accordingly, since 1992, Congress, with Administration support, has prohibited the FTC from spending funds on some or all of the responsibilities assigned to it under section 151 of the Act.

The requested appropriations language for FY 2014 continues the revised spending restriction, reflecting legislation enacted in October 2006, which maintains an appropriately narrow role for the FTC under section 151. This role enables the FTC to continue to enforce the provisions requiring non-federally-insured depository institutions to disclose that they do not have federal insurance and that the federal government does not guarantee the depositor will get back his or her money, and retains the implementation ban with respect to “look-alike” provisions.

**Other Provisions:** The requested appropriations language continues in effect provisions in prior-year appropriation acts that (1) allow for the purchase of uniforms and hire of motor vehicles; (2) allow for services as authorized by 5 U.S.C. 3109; (3) limit to \$300,000 the amount available for contracts for collection services in accordance with 31 U.S.C. 3718; (4) allow up to \$2,000 for official reception and representation expenses; (5) allow for the collection of offsetting fees; (6) allow for the gross sum appropriated to be reduced as offsetting fees are collected; and (7) allow all funding to be available until expended.

## Offsetting Fee Collections

This submission assumes that total offsetting collections from HSR filing fees and Do Not Call fees will provide the FTC with \$117,300,000 in FY 2014. The FTC assumes the \$183,700,000 difference between offsetting collections and the \$301,000,000 request will be funded through a direct appropriation.

**HSR Premerger Filing Fees.** This submission assumes offsetting HSR fee collections will provide the FTC with \$102,300,000 in FY 2014 under the current fee structure. These fees are authorized by section 605 of Public Law 101-162, as amended effective February 1, 2001, in the FY 2001 Commerce-Justice-State Appropriations Act (Section 630, Public Law 106-553). The HSR Act requires that fees be split 50-50 between the FTC and DOJ's Antitrust Division.

In FY 2015, the President's Budget proposes to increase the HSR fees and index them for the percentage annual change in the gross national product. The fee proposal would also create a new merger fee category for mergers valued at over \$1 billion. Under the proposal, the fee increase would take effect in FY 2015.

**Do Not Call Fees.** This submission assumes offsetting collections of \$15,000,000 from Do Not Call fees. These fees, first collected in FY 2003, will be used to maintain and enforce a national database of telephone numbers of consumers who choose not to receive telephone solicitations from telemarketers and to carry out other Telemarketing Sales Rule activities.

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# Performance Plan



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## Government Performance And Results Act (GPRA)

The FY 2014 budget request is based on the FTC's GPRA Strategic Plan for FYs 2009 to 2014 and is supported by the FY 2013 and FY 2014 Performance Plans included in this submission. In FY 2009, the FTC updated and revised its Strategic Plan and sought input from Congress, the Office of Management and Budget, and its stakeholders to ensure that its strategic goals, objectives, and measures continue to provide relevant information that reflects the FTC's performance.

In 2011, the FTC developed an FY 2012 Addendum to the 2009 to 2014 Strategic Plan that reflects interim adjustments to individual measures and targets. Collectively, these adjustments more accurately measure our progress in pursuit of our mission: to protect consumers and maintain competition in a fair and open marketplace. For the FY 2012 Addendum to the 2009 to 2014 Strategic Plan, please see <http://www.ftc.gov/opp/gpra/index.shtm>.

In 2013, the agency will draft a FY 2014 to 2018 Strategic Plan that will be published with the agency's FY 2015 budget. Changes and adjustments to performance measures and strategies in FY 2014 due to the new strategic plan will be identified as appropriate.

Budgeted Resources by Objective  
(\$ in thousands)

Protect Consumers

Strategic Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace	FY 2013 FTE	FY 2013 Amount	FY 2014 FTE	FY 2014 Amount
Objective 1.1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury	89	\$34,325	89	\$34,223
Objective 1.2: Stop fraud, deception, unfairness and other unlawful practices through law enforcement	444	\$110,942	444	\$106,820
Objective 1.3: Prevent consumer injury through education	51	\$15,123	51	\$14,676
Objective 1.4: Enhance consumer welfare through research, reports, rulemaking, and advocacy	46	\$11,505	46	\$11,083
Objective 1.5: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy	8	\$3,794	8	\$3,428
<b>Total</b>	<b>638</b>	<b>\$175,689</b>	<b>638</b>	<b>\$170,230</b>

Maintain Competition

Strategic Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace	FY 2013 FTE	FY 2013 Amount	FY 2014 FTE	FY 2014 Amount
Objective 2.1: Take actions against anticompetitive mergers and practices that may cause significant consumer injury	481	\$119,563	481	\$115,326
Objective 2.2: Prevent consumer injury through education	26	\$6,524	26	\$6,279
Objective 2.3: Enhance consumer welfare through research, reports, and advocacy	19	\$4,727	19	\$4,552
Objective 2.4: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy	12	\$5,060	12	\$4,613
<b>Total</b>	<b>538</b>	<b>\$135,874</b>	<b>538</b>	<b>\$130,770</b>

Objectives by FTE  
(\$ in thousands)

Protect Consumers

	Fiscal Year 2013						Fiscal Year 2014					
	Objective Number					Total FTE	Objective Number					Total FTE
	1	2	3	4	5		1	2	3	4	5	
Privacy and Identity Protection	6	40	2	9	0	57	6	40	2	9	0	57
Financial Practices	4	83	3	6	0	96	4	83	3	6	0	96
Marketing Practices	5	86	2	3	0	96	5	86	2	3	0	96
Advertising Practices	5	46	1	6	0	58	5	46	1	6	0	58
Enforcement	3	48	1	2	0	54	3	48	1	2	0	54
Planning and Information	38	10	3	0	0	51	38	10	3	0	0	51
Consumer and Business Education	0	0	22	1	0	23	0	0	22	1	0	23
Economic and Consumer Policy Analysis	1	1	1	3	0	6	1	1	1	3	0	6
Management	4	14	3	4	0	25	4	14	3	4	0	25
Support	23	116	13	12	8	172	23	116	13	12	8	172
<b>Total</b>	<b>89</b>	<b>444</b>	<b>51</b>	<b>46</b>	<b>8</b>	<b>638</b>	<b>89</b>	<b>444</b>	<b>51</b>	<b>46</b>	<b>8</b>	<b>638</b>

Maintain Competition

	Fiscal Year 2013						Fiscal Year 2014					
	Objective Number					Total FTE	Objective Number					Total FTE
	1	2	3	4	1		2	3	4			
Premerger Notification	16	2	1	0	19	16	2	1	0	19		
Merger and Joint Venture Enforcement	184	8	4	1	197	184	8	4	1	197		
Merger and Joint Venture Compliance	9	1	1	0	11	9	1	1	0	11		
Nonmerger Enforcement	127	5	3	1	136	127	5	3	1	136		
Nonmerger Compliance	2	0	0	0	2	2	0	0	0	2		
Antitrust Policy Analysis	3	1	3	0	7	3	1	3	0	7		
Other Direct	16	2	2	0	20	16	2	2	0	20		
Support	124	7	5	10	146	124	7	5	10	146		
<b>Total</b>	<b>481</b>	<b>26</b>	<b>19</b>	<b>12</b>	<b>538</b>	<b>481</b>	<b>26</b>	<b>19</b>	<b>12</b>	<b>538</b>		

## Annual Performance Measures: Fiscal Years 2010 to 2014

For additional performance information, please see the reports available at <http://www.ftc.gov/opp/gpra/index.shtm>.

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
<b>Strategic Goal 1: Protect Consumers: Prevent fraud, deception, and unfair business practices in the marketplace.</b>					
<b>Objective 1.1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury:</b>					
Measure 1.1.1: Complaints collected and entered into the Consumer Sentinel Network database. <sup>†</sup>	3.1 million	4.0 million	5.8 million	3.0 million	
Key Measure 1.1.2: The percentage of the FTC's consumer protection law enforcement actions that are the subject of consumer complaints to the FTC. <sup>†</sup>	95.9%	80.4%	90.6%	70%	
Measure 1.1.3: The rate of customer satisfaction with the FTC's Consumer Response Center.	(a) For the website, exceeded average citizen satisfaction rate as published in the American Customer Satisfaction Index E-Government Satisfaction Index			(a) For the website, exceed average citizen satisfaction rate as published in the American Customer Satisfaction Index E-Government Satisfaction Index	
	(b) For the call center, met standards for call centers developed by the Citizen Service Levels Interagency Committee	(b) For the call center, exceeded standards for call centers developed by the Citizen Service Levels Interagency Committee		(b) For the call center, meet or exceed standards for call centers developed by the Citizen Service Levels Interagency Committee	
<b>Objective 1.2: Stop fraud, deception, unfairness, and other unlawful practices through law enforcement:</b>					
Key Measure 1.2.1: The percentage of all cases filed by the FTC that were successfully resolved through litigation, a settlement, or issuance of a default judgment. <sup>†</sup>	99.2%	100%		80-90%	
Measure 1.2.2: The FTC's effectiveness in stopping prohibited business practices in three high priority areas over the next five years.	Not applicable		On track	Statistically significant decrease in the prevalence of the practice	
Measure 1.2.3: The percentage of redress cases in which the FTC distributes redress dollars designated for distribution to consumers within 6 months.	96% of cases	100% of cases	95% of cases	90% of cases	
Measure 1.2.4: Investigations or cases in which the FTC obtains foreign-based evidence or engaged in mutual assistance that contributes to FTC law enforcement actions or in which we cooperate with foreign agencies and/or multilateral organizations.	39	53	56	30	

<sup>†</sup>Performance targets updated as of FY 2012 in the FTC's Strategic Plan Addendum at [www.ftc.gov/opp/gpra/spfy09fy14add.pdf](http://www.ftc.gov/opp/gpra/spfy09fy14add.pdf).

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
<b>Objective 1.3: Prevent consumer injury through education:</b>					
Measure 1.3.1: Consumer protection messages accessed online or in print.	43.9 million	41.4 million	39.4 million	50 million	
Key Measure 1.3.2: Customer satisfaction rate with an FTC consumer education website or microsite.	Exceeded average citizen satisfaction rate as published in the American Customer Satisfaction Index E-Government Satisfaction Index			Exceed average citizen satisfaction rate as published in the American Customer Satisfaction Index E-Government Satisfaction Index	
Measure 1.3.3: Organizations requesting consumer education publications. <sup>†</sup>	15,372	14,818	11,298	12,300	12,600
<b>Objective 1.4—Enhance consumer welfare through research, reports, rulemaking, and advocacy</b>					
Measure 1.4.1: Workshops and conferences convened or cosponsored that address consumer protection problems. <sup>†</sup>	11	14	14	8	
Measure 1.4.2: Advocacy comments and amicus briefs on consumer protection issues filed with entities including federal and state legislatures, agencies, or courts.	6	3	8	6	
Measure 1.4.3: The percentage of respondents finding the FTC’s advocacy comments and amicus briefs “useful.” <sup>†</sup>	100%		N/A (no responses received)	75%	
Key Measure 1.4.4: The percentage of proposed Administrative Procedure Act (APA) rulemakings, conducted solely by the FTC, completed in 9 months of receipt of final comments in the Final Notice of Proposed Rulemaking.	100%	83.3%	N/A (no APA rulemakings conducted)	75%	
<b>Objective 1.5—Protect American consumers in the global marketplace by providing sound policy and technical input to foreign governments and international organizations to promote sound consumer policy</b>					
Key Measure 1.5.1: Policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations, through substantive consultations, written submissions, or comments. <sup>†</sup>	64	52	65	60	
Measure 1.5.2: Technical assistance to foreign consumer protection and privacy authorities.	23	15	18	8	

<sup>†</sup>Performance targets updated as of FY 2012 in the FTC’s Strategic Plan Addendum at [www.ftc.gov/opp/gpra/spfy09fy14add.pdf](http://www.ftc.gov/opp/gpra/spfy09fy14add.pdf).

## Annual Performance Measures: Fiscal Years 2010 to 2014

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
<b>Strategic Goal 2: Maintain Competition: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.</b>					
<b>Objective 2.1: Take action against anticompetitive mergers and practices that may cause significant consumer injury</b>					
Key Measure 2.1.1: Actions to maintain competition including litigated victories, consent orders, abandoned transaction remedies, restructured transactions remedies, or fix-it-first transactions remedies in a significant percentage of substantial merger and nonmerger investigations.	40%	31.8%	43.1%	40-60%	
Measure 2.1.2: Consumer savings of at least \$500 million through merger actions to maintain competition.	\$586 million	\$531.5 million	\$504.9 million	\$500 million	
Measure 2.1.3: Actions against mergers likely to harm competition in markets with at least \$25 billion in sales.	\$22.5 billion	\$22.7 billion	\$20.2 billion	\$25 billion	
Measure 2.1.4: Consumer savings of at least six times the amount of FTC resources allocated to merger program. <sup>†</sup>	1,670%	1,417.3%	1,492.4%	1,300%	
Measure 2.1.5: Consumer savings of at least \$80 million through nonmerger actions taken to maintain competition. <sup>†</sup>	\$508 million	\$444.9 million	\$439.8 million	\$450 million	
Measure 2.1.6: Actions against anticompetitive conduct in markets with a total of at least \$8 billion in annual sales. <sup>†</sup>	\$11.7 billion	\$11.6 billion	\$11.7 billion	\$12 billion	
Measure 2.1.7: Consumer savings of at least four times the amount of FTC resources allocated to nonmerger program over a five-year period. <sup>†</sup>	2,418%	1,917.7%	1,831.7%	2,000%	
Measure 2.1.8: The percentage of cases in which the FTC had at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.	100%			90%	

<sup>†</sup>Performance targets updated as of FY 2012 in the FTC's Strategic Plan Addendum at [www.ftc.gov/opp/gpra/spfy09fy14add.pdf](http://www.ftc.gov/opp/gpra/spfy09fy14add.pdf).

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
<b>Objective 2.2: Prevent consumer injury through education:</b>					
Key Measure 2.2.1: Competition resources accessed via the FTC's website.†	21.5 million	22.6 million	23.2 million	24 million	
<b>Objective 2.3: Enhance consumer through research, reports, and advocacy:</b>					
Key Measure 2.3.1: Workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues.	6	4	3	4	
Key Measure 2.3.2: Reports and studies issues on key competition related topics.	9	11	9	8	
Key Measure 2.3.3: Advocacy comments and amicus briefs on competition issues filed with entities including federal and state legislatures, agencies or courts.†	17	16	18	10	
Measure 2.3.4: The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful."†	100%		83.3%	75%	
Measure 2.3.5: The volume of traffic on www.ftc.gov relating to competition research, reports, and advocacy.	2.2 million	1.8 million	3.4 million	1.7 million	
<b>Objective 2.4: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy</b>					
Key Measure 2.4.1: Policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments.†	76	112	146	60	
Measure 2.4.2: Technical assistance provided to foreign competition authorities.	60	27	27	10	

†Performance targets updated as of FY 2012 in the FTC's Strategic Plan Addendum at [www.ftc.gov/opp/gpra/spfy09fy14add.pdf](http://www.ftc.gov/opp/gpra/spfy09fy14add.pdf).

Annual Performance Measures: Fiscal Years 2010 to 2014

	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
<b>Strategic Goal 3: Advance Performance: Advance the FTC's performance through organizational, individual, and management excellence.</b>					
<b>Objective 3.1: Provide effective human resources management</b>					
Measure 3.1.1: The extent employees believe their organizational culture promotes improvements in processes, products and services, and organizational outcomes.	Exceeded the government-wide results on the Federal Human Capital Survey's Results-Oriented Performance Culture Index			Exceed the government-wide results on the Federal Human Capital Survey's Results-Oriented Performance Culture Index	
Key Measure 3.1.2: The extent employees think the organization has the talent necessary to achieve organizational goals.	Exceeded the government-wide results on the Federal Human Capital Survey's Talent Management Index			Exceed the government-wide results on the Federal Human Capital Survey's Talent Management Index	
<b>Objective 3.2: Provide effective infrastructure and security management</b>					
Key Measure 3.2.1: A favorable Continuity of Operations (COOP) rating.	85%	75%	90%	75%	
Key Measure 3.2.2: Availability of information technology systems.	99.77%	99.82%	99.86%	99.5%	
<b>Objective 3.3: Provide effective information resource management:</b>					
Key Measure 3.3.1: The percentage of Commission-approved documents in ongoing and newly initiated public FTC proceedings available via the Internet within 15 days of becoming part of the public record.	93.8%	82%	80.2%	80%	
<b>Objective 3.4: Provide effective financial and acquisition management</b>					
Measure 3.4.1: Independent auditor's financial statement audit results.	Unqualified			Unqualified	
Key Measure 3.4.2: The percentage of Bureau/ Offices that establish and maintain an effective, risk-based internal control environment.	100%			100%	
Measure 3.4.3: Performance against the Small Business Administration's government-wide small business procurement goals.	58.9%	46.3%	57.7%	23%	

## Annual Performance Measures: Historical

	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual
<b>Protect Consumers</b>			
<b>Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace.</b>			
<b>Objective 1.1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury</b>			
Measure 1.1.1: Collect and enter complaints and inquiries entered into the consumer database.	1,100,000	3,050,000	3,300,000
Measure 1.1.2: The percentage of the agency's consumer protection law enforcement actions that are responsive to complaint information gathered by the agency.	76%	71%	79%
<b>Objective 1.2: Stop fraud, deception, unfairness, and other unlawful practices through law enforcement</b>			
Measure 1.2.1: Stop economic injury to consumers each year through law enforcement.	\$519 million	\$474 million	\$505 million
Measure 1.2.2: Stop fraudulent, deceptive, unfair, and other unlawful practices by obtaining orders or conducting other direct interventions with businesses resulting in a change in business conduct.	137	132	---
<b>Objective 1.3: Prevent consumer injury through education</b>			
Measure 1.3.1: Track consumer protection messages accessed online or in print.	47 million	49.2 million	43.1 million
Measure 1.3.2: Track consumer protection messages related to identity theft, accessed online or in print.	9.6 million	11.4 million	10.1 million
Measure 1.3.3: Track consumer protection messages in Spanish, accessed online or in print.	2.2 million	2.0 million	1.8 million
Measure 1.3.4: Track (a) the number of times print media publish articles that refer to FTC consumer protection activities and (b) the circulation of media that publish those articles.	(a) 3,066 articles (b) 863 million circulation	(a) 3,100 articles (b) 791 million circulation	(a) 2,484 articles (b) 702 million circulation
<b>Objective 1.4: Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange</b>			
Measure 1.4.1: Convene or participate substantially in workshops and conferences on novel or challenging consumer protection problems or issues.	10	16	9
Measure 1.4.2: Issue reports on novel or challenging consumer protection problems or issues.	8	12	14
Measure 1.4.3: File public and advocacy comments with other federal and state government agencies.	7	6	2
Measure 1.4.4: Cooperate with foreign government agencies on enforcement matters with cross-border components.	23	46	39
Measure 1.4.5: Provide consumer protection related policy or technical input to foreign government agencies or international organizations.	34	88	81

## Annual Performance Measures: Historical

	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual
<b>Maintain Competition</b>			
<b>Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.</b>			
<b>Objective 2.1: Identify anticompetitive mergers and practices that cause the greatest consumer injury</b>			
Measure 2.1.1: Achieve positive outcomes in matters in which HSR requests for additional information are issued.	100%	100%	100%
Measure 2.1.2: Percentage of significant nonmerger investigations that result in a positive outcome.	100%	100%	100%
Measure 2.1.3: Track the number of enforcement actions for the total mission, for the (a) merger and (b) nonmerger actions.	a) 22 b) 11	a) 21 b) 4	a) 19 b) 7
Measure 2.1.4: Report the number of (a) second requests, (b) reportable transactions for which premerger notifications were received, (c) HSR investigations that resulted in enforcement action, (d) transactions in which antitrust issues were resolved through voluntary abandonment or restructuring because of FTC concerns, and (e) investigations closed because the evidence indicated that a competitive problem was unlikely.	a) 31 b) 2,108 c) 20 d) 5 e) 11	a) 21 b) 1,656 c) 12 d) 2 e) 7	a) 15 b) 684 c) 13 d) 1 e) 3
Measure 2.1.5: Track the number of significant nonmerger investigations closed each year, (a) with enforcement action and (b) without enforcement action.	a) 11 b) 17	a) 4 b) 14	a) 7 b) 27
<b>Objective 2.2: Stop anticompetitive mergers and business practices through law enforcement</b>			
Measure 2.2.1: Positive result of cases brought by FTC due to alleged violations.	100%	96%	96%
Measure 2.2.2: Achieve savings for consumers through merger enforcement.	\$805 million	\$360 million	\$791 million
Measure 2.2.3: Take action against mergers likely to harm competition in markets with a total of at least \$125 billion in sales over a five-year period; \$25 billion in sales each year.	\$ 42.6 million	\$14.9 million	\$22.3 million
Measure 2.2.4: Achieve savings for consumers through nonmerger enforcement.	\$75 million	\$28 million	\$188 million
Measure 2.2.5: Take action against anticompetitive conduct in markets with a total of at least \$40 billion in annual sales over five-year period; \$8 billion each year.	\$2.6 billion	\$0.4 billion	\$14.6 billion
Measure 2.2.6: Save consumers at least six times the amount of agency resources allocated to merger activity.	2,500%	1,121%	2,132%
Measure 2.2.7: Save consumers at least four times the amount of agency resources allocated to nonmerger enforcement activity.	424%	164%	1,035%

	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual
<b>Objective 2.3: Prevent consumer injury through education</b>			
Measure 2.3.1: Quantify number of hits on antitrust information on FTC website.	15.7 million	12.5 million	11.9 million
Measure 2.3.2: Track (a) the number of times print media publish articles that refer to FTC competition activities and (b) the circulation of the media that publish those articles.	(a) 2,982 articles (b) 635 million	(a) 1,858 articles (b) 397 million	(a) 1,569 articles (b) 360 million
<b>Objective 2.4: Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange</b>			
Measure 2.4.1: Convene or participate substantially in workshops, conferences, seminars, and hearings involving significant competition-related issues.	7	5	8
Measure 2.4.2: Issue studies, reports, and working or issues papers on significant competition-related issues.	18	7	20
Measure 2.4.3: Make advocacy filings with other federal and state government agencies urging them to assess the competitive ramifications and costs and benefits to consumers of their policies.	11	12	10
Measure 2.4.4: Issue advisory opinions to persons seeking agency review of proposed business actions.	2	1	1
Measure 2.4.5: File amicus briefs with courts addressing competition-related issues.	4	1	2
Measure 2.4.6: Track the volume of traffic on ftc.gov relating to competition research, reports, advocacy, and international cooperation and exchange.	1.1 million	1.2 million	1.6 million
Measure 2.4.7: Track the number of (a) cases on which the FTC cooperated with a foreign competition authority, (b) consultations with or comments to foreign competition authorities, (c) written submissions on international fora, (d) international events attended, and (e) leadership positions held by FTC staff in international competition organizations.	(a) 61 (b) 70 (c) 19 (d) 48 (e) 8	(a) 79 (b) 89 (c) 30 (d) 68 (e) 9	(a) 87 (b) 56 (c) 19 (d) 125 (e) 10

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## Strategic Goal 1: Protect Consumers

### Prevent fraud, deception, and unfair business practices in the marketplace

The FTC has jurisdiction over a wide range of consumer protection issues. To carry out its broad mission, it must make effective use of limited resources by targeting its law enforcement and education efforts for maximum impact and by working closely with federal, state, international, and private sector partners in joint initiatives. In addition, the agency engages in dialogue with a variety of stakeholders to understand industry concerns, and engages in and encourages study of, and empirical research on, consumer protection topics.

#### Objective 1.1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury

To fulfill its goal of protecting consumers, the FTC must identify consumer protection problems and trends in the fast-changing, increasingly global marketplace. The agency strives to understand the issues affecting consumers, including any newly emerging methods of fraud or deceit, so that it can target its enforcement, education, and advocacy to those areas where consumers suffer the most harm. The FTC reports this information to other law enforcement authorities and encourages those authorities to assist in its efforts, either independently or jointly. In this way, the FTC can leverage its resources by ensuring multiple “cops on the beat.”

To fulfill this objective, the FTC is using new technologies creatively and building on its broad base of private and public sector partners. The agency continues to collect consumer complaint information directly through four principal sources: (1) a toll-free helpline (1-877-FTC-HELP); (2) an identity theft hotline (1-877-ID-THEFT); (3) the National Do Not Call Registry (1-888-382-1222); and (4) the online consumer complaint forms that support each of these efforts, as well as online forms dedicated to complaints from members of the U.S. Armed Forces and to cross-border fraud complaints. In addition, the FTC continues to gather consumer complaint information from other sources, including state and federal law enforcement agencies, Better Business Bureaus, and private entities. Further, the FTC maintains an electronic mailbox (spam@uce.gov) to which Internet users are encouraged to forward spam.

The agency makes consumer complaint data and other information available to other law enforcers through the secure website of the Consumer Sentinel Network, which is currently accessible to more than 2,000 law enforcement partner agencies worldwide. The agency augments identification of targets from its databases with other strategies for generating enforcement leads, such as ad monitoring, Internet surfs (monitoring the Internet for potentially false or deceptive advertising for a targeted product or service), and direct referrals from government and private sector partners.

### **Strategies**

- Continue to upgrade and enhance the Consumer Sentinel Network.
- Expand the pool of entities that make their consumer complaint data available to the law enforcement community through the Consumer Sentinel Network.
- Monitor the marketplace to identify illegal practices that may not be fully captured by the consumer complaint database, for example, through the FTC Internet Lab, Internet surfs, and consumer surveys.
- Make comprehensive consumer complaint information, as well as the analysis of that information, available to the FTC's law enforcement partners through the Consumer Sentinel Network.
- Review current functions and determine what changes or upgrades to the Consumer Sentinel Network would be helpful.
- Assess whether the FTC's law enforcement and education efforts are addressing the leading areas identified by the consumer complaint information gathered by the agency.

### **FY 2013 and FY 2014 Implementation Plan**

- Continue to upgrade and enhance the Consumer Sentinel Network to meet the increasing volume of consumer complaints, larger number of users, and increased demands on access to pertinent data, and maintain it as the premier consumer protection law enforcement complaint database.
- Recruit state, local, federal, and foreign law enforcement agencies to join the Consumer Sentinel Network and contribute complaint data, and train them to take full advantage of its features.
- Improve the capacity to receive and integrate complaints from U.S. and foreign sources and facilitate the exchange of that data with law enforcement officials in the U.S. and other countries.

- Encourage consumers to report fraud, identity theft, financial and Do Not Call Registry complaints by increasing public awareness of the complaint process.
- Analyze the complaint data to identify enforcement targets and provide pertinent information to public and private sector partners.
- Ensure the quality, security, and integrity of the Consumer Sentinel Network.
- Coordinate with enforcement partners and other sources of case generation leads, and conduct test shopping, Internet surfs, and consumer surveys.
- Monitor national advertising in print, television, radio, and online to identify illegal practices that may not be captured fully by the complaint database.
- Identify novel or challenging consumer protection problems.
- Identify fraud targeting seniors through Consumer Sentinel Network complaints, reviewing “FTC Fraud Survey” data, and developing relationships with key organizations.

### **Performance Measures**

- The number of complaints collected and entered into the Consumer Sentinel Network database.
- The percentage of the FTC’s consumer protection law enforcement actions that target the subject of consumer complaints to the FTC.
- The rate of customer satisfaction with the FTC’s Consumer Response Center.

The first performance measure will ensure that the agency assimilates a large number of consumer complaints, including complaints about Do Not Call violations. The agency will receive these complaints from a variety of sources, including direct consumer complaints to the FTC and complaints received by the FTC’s partners. In this manner, the FTC will collect robust information to inform its law enforcement efforts. The second measure will ensure that FTC law enforcement actions target the subject of concerns identified by consumers. The third measure will ensure that the agency’s Consumer Response Center is providing satisfactory service responding to consumers.

### **Evaluations**

- Assess the extent to which the consumer complaint and other information made available by the agency is used by its staff and law enforcement partners. The FTC reviews the complaint data and other information it collects to

identify and target the most serious cases of fraud and deception and respond quickly to emerging problems. The agency also makes this information available to its law enforcement partners. Information sharing helps the agency coordinate its efforts to fight the many serious problems facing consumers. It also helps the agency leverage law enforcement resources, as other agencies who have access to the complaint data can take appropriate action to address consumer problems.

- Assess security and integrity protections for the Consumer Sentinel Network and proposed enhancements to the database and evaluate the policies in place.

## Objective 1.2: Stop fraud, deception, unfairness, and other unlawful practices through law enforcement

The FTC protects consumers by enforcing Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce, as well as by enforcing an increasing number of statutes and rules proscribing specific unlawful practices. The agency initiates civil cases, primarily by filing actions in federal court, which allege that defendants have violated these laws and rules and seek injunctions and other relief. The Commission also brings enforcement actions via administrative proceedings.

### Strategies

- Stop injury to consumers through aggressive law enforcement.
- Enforce consumer credit statutes and rules to protect consumers from deceptive lending practices, illegal credit practices, and unfair and deceptive mortgage loan practices.
- Challenge practices that threaten consumer privacy.
- Halt advertising and marketing practices that are most injurious to consumers or that prey on specific groups of vulnerable consumers.
- Target those individuals and corporations that violate federal court and administrative orders obtained by the FTC.

- Promote the criminal prosecution of the most egregious fraud violators through coordination with domestic and foreign criminal law enforcement authorities.

### **FY 2013 and 2014 Implementation Plan**

- Target law enforcement toward violations that create the greatest risks to consumer health, safety, and economic well-being by reviewing complaints, evaluating practices in the marketplace, and monitoring industry data and other information.
- Focus on fraud causing serious consumer injury, including business opportunities and get-rich-quick investment schemes, prepaid phone cards, deceptive health insurance or medical discount programs, and sham charities and charitable solicitations.
- Stop financial fraud by targeting foreclosure “rescue” and loan modification scams; enforcing the debt relief services amendments to the Telemarketing Sales Rule; and targeting payday lenders, credit repair outfits, and other non-traditional creditors that are violating statutes the FTC enforces.
- Fight deceptive and abusive debt collection practices.
- Combat fraud affecting the poor and under-served communities, such as those offering income opportunities through jobs, investment, government grants, and other scams.
- Combat harmful practices by automobile dealers.
- Target unfair and deceptive mortgage advertising, servicing, and lending practices.
- Pursue enforcement action in cases in which companies have misrepresented their policies about the use of personal information they collect from consumers or failed to take appropriate steps to protect the security of personal information.
- Use law enforcement to promote better data security practices through enforcement of the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, and Section 5 of the FTC Act.
- Administer and enforce the National Do Not Call Registry and associated rules. Work with government agencies and industry groups to help stem the tide of illegal robocalls.

- Protect consumers from online and mobile threats, such as mobile spam, mobile cramming, apps utilized for deceptive and unfair practices, and malware distributed through social networks.
- Promote compliance with consumer protection laws in the online and mobile marketplace.
- Reduce deceptive marketing through “negative options” imposing unauthorized charges.
- Target deceptive advertising affecting consumers’ health and safety, focusing on disease prevention and treatment claims; claims aimed at baby boomers, seniors, and the uninsured; and claims exploiting emerging health threats.
- Pursue enforcement action involving deceptive environmental and energy claims.
- Target the “gatekeepers” and facilitators that make fraud possible.
- Aggressively combat fraud against Latino consumers through the FTC’s Hispanic Outreach and Law Enforcement Initiative, and pursue additional outreach to African-American consumers.
- Address fraud targeting older Americans and those affected by the economic downturn.
- Monitor and enforce compliance with federal court and administrative orders.
- Train FTC staff to improve investigative and litigation skills through formal activities that teach best practices used in government and private industry.
- Increase the FTC’s capacity to respond rapidly to fast-moving technology-based scams by continuing to enhance the Internet Lab with mobile devices and increase tech-savvy litigation support.
- Leverage FTC enforcement resources by recruiting, supporting, and coordinating local, state, federal, and international law enforcement partners for initiatives and sweeps.
- Work with criminal prosecutors and investigators to promote criminal prosecution of FTC fraud defendants and those who assist their deceptive practices.
- Distribute redress dollars to consumers in a timely manner.

- Continue to create and sustain international partnerships and networks to pursue matters involving foreign defendants, evidence, and assets, using the tools provided by the U.S. SAFE WEB Act of 2006, which was reauthorized for an additional seven years in December 2012.
- Expand enforcement cooperation with foreign consumer protection counterparts, criminal enforcement authorities and other important stakeholders, especially in countries that are increasingly the source of fraud directed at American consumers.
- Increase the FTC's forensic accounting capabilities to analyze financial documents and structure monetary settlements, and increase the FTC's collections capabilities to increase the amount of money recovered for consumers.

### Performance Measures

- The percentage of all cases filed by the FTC that were successfully resolved through litigation, a settlement, or issuance of a default judgment.
- The FTC's effectiveness in stopping prohibited business practices in three high priority areas over the next five years.
- The percentage of redress cases in which the FTC distributes redress dollars designated for distribution to consumers within 6 months.
- Investigations or cases in which the FTC obtains foreign-based evidence or engages in other mutual assistance that contributes to FTC law enforcement actions or in which we cooperate with foreign agencies and multilateral organizations.

The first measure will ensure that the FTC successfully resolves cases, though it aims to file large, challenging, or precedent-setting cases when appropriate, including cases that raise novel legal and factual issues. The second measure will ensure the agency's success in changing business practices within priority areas and demonstrate the change through research methods. The high priority areas will be identified by Bureau of Consumer Protection management in consultation with Commissioners. The third measure will ensure that the FTC returns redress dollars to consumers as quickly as possible. Dollars are considered "designated for distribution" when the FTC is in receipt of all funds, legal issues are resolved, and a usable claimant list is ready. The last measure helps gauge law enforcement efforts from an international perspective, including continuing to use and further develop new powers authorized under the U.S. SAFE WEB Act of 2006 to achieve the objective.

## Evaluations

Evaluate whether enforcement activities are tracking the areas of greatest concern and injury to consumers and whether there are new practices or technologies that require additional consumer protection law enforcement.

### Objective 1.3: Prevent consumer injury through education

Consumer and business education serves as the first line of defense against fraud, deception, and unfair practices. Most FTC law enforcement initiatives include a consumer and/or business education component aimed at preventing consumer injury and unlawful business practices, and mitigating financial losses. The agency also conducts pre-emptive consumer and business education campaigns to raise awareness of new or emerging marketplace issues that have the potential to cause harm. The agency creatively uses new technologies and private and public partnerships to reach new and underserved audiences, particularly those who may not seek information directly from the FTC. The FTC will continue to publicize its consumer complaint and identity theft website addresses and toll-free numbers in an ongoing effort to increase public awareness of its activities and inform the public of the ways to contact the FTC to obtain information or file a complaint.

## Strategies

- Focus consumer and business education efforts on areas where fraud, deception, unfair practices, and information gaps cause the greatest injury.
- Leverage resources (by working with federal, state, local, international, and private sector partners) to maximize the reach of consumer and business education campaigns.
- Target particular demographic groups with messages about marketplace issues that impact their health, safety, and economic well-being.

## FY 2013 and FY 2014 Implementation Plan

- Deliver efficiently and effectively educational information in English and Spanish to consumers, industry members, and law enforcement partners on how to prevent consumer injury, avoid unlawful business practices, and enhance consumer welfare.
- Focus on key strategic areas – financial services, health and safety, privacy, identity theft, mobile, new technologies, green advertising, negative option

marketing, telemarketing fraud, Do Not Call, affiliate marketing, immigration fraud, and financial issues/expenses (including funerals).

- Continue education programs to meet the demand for information about significant events in the marketplace, such as scams targeting consumers affected by the economic downturn, and directing outreach to financially distressed consumers.
- Monitor, review, and provide guidance to parents and children on marketing that may affect children and teenagers.
- Find new and creative ways to reach consumers with information about marketplace issues that can cause them financial injury and to reach businesses with information that increases compliance.
- Build partnerships with industry and advocacy organizations to distribute publications and lead more visitors to the FTC's website ([www.ftc.gov](http://www.ftc.gov)) and to other issue-oriented websites developed by the FTC such as [www.DoNotCall.gov](http://www.DoNotCall.gov) and [www.OnGuardOnLine.gov](http://www.OnGuardOnLine.gov).
- Build relationships with international organizations to educate consumers and businesses about cross-border consumer protection issues.
- Increase media coverage to broadcast the agency's education message to a broader audience.
- Tailor messages to different groups and populations, including Latino and African-American consumers.
- Highlight fraud commonly affecting seniors through consumer education.
- Use different media to enhance outreach (webinars, tutorials, videos, blogs, articles, podcasts) and update the FTC's presence on the web, mobile, and other platforms.
- Develop education projects with state and local partner agencies to allow states and the FTC to benefit from comparative advantages enjoyed by the other and provide consumers with a level of service that neither working alone could provide.
- Educate media and advertising companies on "rules of the road" for advertising.

- Conduct outreach to businesses that engage in word-of-mouth, mobile, and affiliate marketing, stressing that existing advertising principles (including the Endorsement Guides) apply to new media and methods of marketing.

### **Performance Measures**

- Consumer protection messages accessed online or in print.
- Customer satisfaction rate with an FTC consumer education website or microsite.
- Organizations requesting consumer education publications.

Consumer and business education are crucial tools in preventing and reducing consumer harm efficiently and effectively. The first performance measure will help ensure that the agency is engaging in a sufficient amount of educational activity. The second measure will ensure that the agency’s consumer education websites are effective and helpful for consumers. The third measure will ensure that the FTC is publicizing its activities in the best way possible, and that the agency has a wide array of partners to leverage resources.

### **Evaluations**

- Measure the number of education messages disseminated each year relating to high-profile or emerging issues, such as mortgage rescue foreclosure scams, where consumer and business education can help alleviate consumer injury.
- Assess whether the appropriate mix of media is being used to communicate consumer education messages and whether the FTC is making the most efficient use of available media and technology.
- Assess the range of public and private sector organizations that partner with the FTC on outreach.
- Determine whether the FTC needs to reach new audiences, in light of any changes in demographics, advertising, and marketing practices, and what strategies or partnerships may allow the FTC to reach those audiences.
- Review the focus of FTC education efforts and adjust them based on changing consumer and business needs.
- Continue to assess and address the consumer information needs of the Hispanic, African-American, and elderly populations.

## Objective 1.4: Enhance consumer protection through research, reports, rulemaking, and advocacy

The FTC uses a variety of strategies in addition to law enforcement and education to enhance consumer protection. The agency convenes and co-sponsors conferences and workshops through which experts and other experienced and knowledgeable parties identify novel or challenging consumer protection issues and discuss ways to address those issues. The FTC also issues reports that analyze consumer protection problems and provide recommendations to address them. The FTC develops, reviews, and enforces a variety of consumer protection rules. The FTC recognizes that stakeholders other than government are at times better placed to address certain consumer protection issues, and the agency therefore encourages self-regulatory efforts. Further, the FTC files comments with federal and state government bodies advocating policies that highlight the role of consumer and empirical research in their decision making and promote the interests of consumers. The agency regularly testifies before Congress on consumer protection issues. The FTC also files amicus briefs to aid courts' considerations of consumer protection issues.

### Strategies

- Focus workshops and conferences on emerging or challenging consumer protection problems, especially those related to new technologies and financial concerns.
- Issue reports mandated by law and other reports that articulate concrete measures that the public and private sectors can take to address consumer protection problems, particularly those related to new technologies or financial concerns.
- Continue to encourage industry members to engage in self-regulation in order to protect consumers.
- Continue to enhance the agency's Regulatory Review Program and update, rescind, or promulgate trade regulation rules and other agency rules in response to regulatory reviews, Congressional mandates, and emerging consumer protection issues.
- Target advocacy activities to encourage state, federal, and foreign government policymakers to evaluate both the costs and benefits of their policies for consumers.

- Use letters and public comments to urge state, federal, and foreign governments to consider consumer research and other empirical data regarding the costs and benefits of their policies for consumers.

### **FY 2013 and 2014 Implementation Plan**

- Convene and co-sponsor workshops and conferences and issue reports, including those required by law, on emerging or challenging consumer protection issues, such as the privacy and other issues related to entities that collect vast amounts of consumer data.
- Study new technologies to enable the FTC to take a lead role in addressing the privacy, security, and other risks of consumer harm associated with the technologies. Promote stronger privacy protections through policy initiatives, participate in interagency groups, provide technical assistance to Congress on draft legislation, and participate in international privacy discussions and initiatives, develop international frameworks and enforcement cooperation agreements. Continue to work with Internet browser vendors, the advertising industry, and standards setting bodies to complete implementation of an easy-to use, persistent, and effective Do Not Track system.
- In rulemakings, evaluate the regulatory effect on industry, consumers, and other parties, invite public comment, coordinate with other agencies, and promulgate rules accordingly.
- Review Rules/Guides, including those scheduled to be reviewed under the 10-year Regulatory Review Program, and consider ways to reduce the compliance burden while maintaining important protections.
- Analyze federal and state government policies and identify those that impose costs on consumers that may exceed their benefits to consumers, especially policies that affect the dissemination of truthful, non-misleading information to consumers.
- File comments or otherwise engage in advocacy with state, federal, and foreign governments that evaluate both the costs and benefits of proposed policies on consumers, with a particular emphasis on the role of consumer research and other empirical data in their policy development, and an awareness of the intersection of competition and consumer protection concerns.
- Publicize advocacy comments to increase public awareness of consumer protection problems and solutions.
- File amicus briefs urging adoption of legal principles that promote consumer welfare.

- Present major policy speeches that discuss emerging or challenging consumer protection problems and explain the FTC's approach to them.
- Furthered the FTC's Congressionally-endorsed efforts to promote industry self-regulation in the marketing of entertainment and food to children in early FY 2013 by issuing a follow-up report on food and beverage companies' marketing activities and expenditures targeting children.

### Performance Measures

- Workshops and conferences convened or co-sponsored that address consumer protection problems.
- Advocacy comments and amicus briefs on consumer protection issues filed with entities including federal and state legislatures, agencies, or courts.
- The percentage of respondents finding the FTC's advocacy comments and amicus briefs "useful." (Note that "usefulness" is assessed by the recipient; the target percentage recognizes that comments critiquing a recipient's proposed action may not be assessed positively.)
- The percentage of proposed Administrative Procedure Act (APA) rulemakings, conducted solely by the FTC, completed within 9 months of receipt of final comments in the Final Notice of Proposed Rulemaking.

Public policy that enhances consumer protection is based on a thorough understanding of complex issues, which arises from dialogue, study, and empirical research. Such policy also appreciates that stakeholders other than government, such as industry associations or private standard-setting organizations, are at times better placed to address certain consumer protection issues. These performance measures will help ensure that the agency augments its enforcement and education efforts by encouraging discussions among all interested parties, through careful study of and empirical research on novel or challenging consumer protection problems, by urging adoption of policies and legal principles that promote consumers' interest, and by conducting rulemaking as appropriate. These activities will help guide the FTC's consumer protection policy decisions, as well as those of other state, federal, and international policymakers.

### Evaluations

- Evaluate whether the FTC is filing comments or otherwise engaging in advocacy with state, federal, and foreign government bodies on consumer protection policies that will have a significant impact on consumers.
- Assess whether industry gives weight to the FTC's evaluation, monitoring, and advocacy and whether market interests are affected.

**Objective 1.5: Protect American consumers in the global marketplace by providing sound policy and technical input to foreign governments and international organizations to promote sound consumer policy**

The FTC increasingly works around the globe to address new and emerging consumer protection and privacy challenges and concerns. Numerous issues, including spam, phishing, spyware, telemarketing fraud, identity theft, data security and privacy, cross national borders. The resulting challenges require the FTC to cooperate with counterparts in foreign agencies and international organizations. The FTC addresses these challenges with a broad-based international program that strives to develop a global marketplace that provides consumers with consistent and effective protections and that helps foreign governments and international organizations improve their capacity to develop and implement sound consumer protection policies.

**Strategies**

- Pursue the development of an international consumer protection and privacy model that focuses on protecting consumers while maximizing economic benefit and consumer choice.
- Focus on understanding cutting-edge issues in technology and globalization that present challenges to American consumer interests.
- Influence policy development and implementation by advising multilateral organizations, regional entities, and foreign government agencies through substantive consultations and written comments.
- Provide technical assistance to newer consumer protection and privacy agencies to enhance their ability to apply sound consumer protection and privacy policies.

**FY 2013 and 2014 Implementation Plan**

- Engage through the Organization for Economic Cooperation and Development (OECD) to develop the next generation of policy principles in the area of consumer protection and electronic commerce on issues such as emerging online and mobile payments systems, digital content products, and interactive digital media.
- Work with international partners to strengthen cooperation among enforcement partners, including through new initiatives with foreign criminal

authorities particularly in countries that are increasingly the source of fraud directed at American consumers.

- Engage in enforcement cooperation pursuant to the Asia-Pacific Economic Cooperation (APEC) cross-border data privacy rules system.
- Consult with international authorities on developing new approaches to privacy and cross-border data transfers through the OECD and other international organizations such as the International Conference of Data Protection and Privacy Commissioners and the Global Privacy Enforcement Network.
- Continue to explore the use of enforceable codes of conduct, including voluntary industry codes, public-private hybrid arrangements, and international standards to protect consumers in cross-border commerce.
- Continue to build and expand a robust consumer protection and privacy technical assistance program for newer consumer protection agencies.
- Further develop the International Fellows, intern, and international staff exchange programs.

### **Performance Measures**

- Policy advice provided to foreign consumer protection and privacy agencies, directly and through international organizations, through substantive consultations, written submissions, or comments
- Technical assistance to foreign consumer protection and privacy authorities.

These measures address the scope of our contact with international counterparts and help determine if our efforts are sufficiently broad-based.

### **Evaluations**

- Where feasible, evaluate whether the advice and comments that the FTC provides to foreign government agencies and international organizations have been considered by the recipients in their policy development.
- Evaluate completed technical assistance missions to determine, from the perspective of participants and their managers, whether the assistance was deemed valuable.

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## **Strategic Goal 2: Maintain Competition**

### **Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace**

#### **Objective 2.1: Take action against anticompetitive mergers and practices that may cause significant consumer injury**

The FTC takes action to block or remedy anticompetitive mergers and to stop anticompetitive conduct. This antitrust enforcement provides substantial benefits to consumers by preventing anticompetitive mergers and other coordinated or unilateral conduct that are likely to lessen competition and innovation and cause consumers to pay higher prices or obtain lower quality goods and services than they otherwise would.

The FTC investigates proposed and consummated mergers, as well as anticompetitive conduct and agreements, and takes action when it has reason to believe that mergers or conduct will likely harm consumers. The FTC's enforcement actions result in litigation, consent orders, and abandoned or restructured transactions or agreements. The FTC strives to maintain strong litigation capabilities to stop anticompetitive conduct and mergers and works to ensure that the remedies imposed by its consent orders are effective in maintaining competition in the marketplace.

The Hart-Scott-Rodino (HSR) Premerger Notification Act provides the FTC an effective starting point for identifying anticompetitive mergers and taking action to block or remedy these mergers before they are consummated. The FTC administers the HSR program both for itself and for the Department of Justice's (DOJ) Antitrust Division, which shares authority to challenge anticompetitive mergers. The FTC also uses trade press articles, consumer and competitor complaints, and other means to identify potentially anticompetitive mergers that were not required to be reported under HSR, or that were not reported in violation of HSR.

On the nonmerger side, there is no comparable statutorily mandated program to help identify anticompetitive business practices. The FTC must instead employ a variety of methods to identify potentially anticompetitive practices (for example, consumer and competitor complaints, referrals from other government agencies, and monitoring the trade press).

## Strategies

- Make efficient use of the initial period after HSR filings to determine whether a more detailed investigation is needed to assess whether a merger is likely to harm competition.
- Use trade press articles, consumer and competitor complaints, and other means to identify potentially anticompetitive mergers that were not required to be reported under HSR, or that were not reported in violation of HSR.
- Use and improve existing techniques for identifying potentially anticompetitive business practices, such as monitoring the trade press, responding to and following up on case leads by Congressional offices, other Executive Branch agencies, state and local governments, and potentially aggrieved parties.
- When appropriate, use compulsory process in merger and nonmerger investigations to obtain additional information needed to make an informed judgment about the anticompetitive potential of mergers and nonmerger practices.
- Negotiate consent orders and win litigated orders that have significant remedial, precedential, and deterrent effects and ensure that administrative litigation and adjudication reach a timely resolution.
- Continue to seek improvements in both the substantive aspects of remedies, as well as the process by which they are derived.
- Monitor and enforce compliance with consent decrees and orders and monitor and enforce compliance with HSR reporting obligations.

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- Resolve anticompetitive mergers and practices, where possible, by negotiating consent orders that secure relief with significant remedial, precedential, and deterrent effects without the need for litigation.
- Challenge anticompetitive mergers and business practices in federal court or through administrative litigation, and obtain relief with significant remedial, precedential, and deterrent effects.
- Continue effective administration of the review of nonmerger practices so that the FTC may investigate those that raise potentially significant competitive issues.
- Employ integrated teams of lawyers, economists, and other professionals to conduct an economically sound, fact-based analysis of mergers and other potentially anticompetitive business practices.

- Continue to improve the investigative skills and antitrust analysis training programs and continue to improve negotiation and litigation skills and refine investigative and decisional tools through continuous learning and identification of “best practices.”
- Retain outside experts and consultants in relevant fields of expertise, as needed, when enforcement outcomes would be enhanced by specialized supplementary resources.
- Work with state or local officials, other federal agencies, and foreign agencies to maximize resources in taking action against anticompetitive mergers and business practices, and to minimize, to the extent possible, burdens on enforcers and business and duplication of effort, and to avoid conflicting remedies.
- Expedite the investigatory process by, among other things, implementing recent revisions to Part 2 of the FTC Rules of Practice.
- Assess whether revisions to the enforcement guidelines are required.
- Apply the merger process reforms to conduct investigations more efficiently, and continue to assess areas where improvements can be implemented in order to enhance enforcement outcomes while minimizing burdens on business.
- Continue to integrate e-government initiatives into mission activities.
- Apply the results of hearings, conferences, reports, studies, and workshops on significant competition issues to FTC case generation, investigation, and enforcement practices.
- Continue to monitor implementation of divestitures and other requirements of the FTC’s merger consent orders. Seek civil penalties where appropriate if a respondent fails to fulfill its obligations under an order in a timely fashion.
- Improve the integration of budget and performance by linking goals and objectives to results; develop improved processes for use and analysis of management data.
- Collect data, for management review, regarding the FTC’s efficiency in conducting investigations, such as the amount of time required to complete the HSR review process, the number of HSR matters requiring issuance of an investigative second request, the number of HSR and significant nonmerger investigations that result in enforcement action, the number of hours of staff time spent on investigations, and other costs associated with investigations.

## Performance Measures

- Actions to maintain competition, including litigated victories, consent orders, abandoned, restructured, or fix-it-first transactions in a significant percentage of substantial merger and nonmerger investigations.
  - » Filed Preliminary Injunctions or Permanent Injunctions, administrative litigations that are still pending, and abandoned, restructured, and fix-it-first enforcement actions that occurred without a second request or compulsory process are not included in “actions.”
  - » “Significant percentage” refers to the 40 to 60 percent target.
  - » “Substantial investigation” includes, for merger investigations, second request, and compulsory process investigations. For nonmerger investigations, this refers to investigations where staff logged more than 150 hours.
- Consumer savings of at least \$500 million through merger actions to maintain competition.\*
- Actions against mergers likely to harm competition in markets with a total of at least \$25 billion in sales.\*
- Consumer savings of at least 13 times the amount of FTC resources allocated to the merger program.\*
- Consumer savings of at least \$450 million through nonmerger actions taken to maintain competition.\*
- Actions against anticompetitive conduct in markets with a total of at least \$12 billion in annual sales.\*
- Consumer savings of at least twenty times the amount of FTC resources allocated to the nonmerger program.\*
- The percentage of cases in which the FTC had at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.

These measures evaluate agency performance in several ways: the percentage of substantial investigations that have positive results (i.e., litigated victories, consent orders, or abandoned, fix-it-first, or restructured transactions), the volume

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\*External factors may cause the results to fluctuate significantly from year to year. As a result, the agency’s performance for these measures will be assessed each year by calculating the average of current year plus the previous four years.

of commerce affected (benefitted) by merger and nonmerger actions to maintain competition, the estimated dollar savings to consumers resulting from merger and nonmerger actions, and the estimated dollar savings to consumers per dollar of enforcement resources.

In the absence of case-specific information, the dollar savings to consumers is conservatively estimated as one percent of the volume of commerce in the affected markets (for two years in merger cases and for one year in nonmerger cases). It is not intended as a precise estimate of consumer savings, but, rather, as an indication of general magnitude. A more precise estimate based on case-specific information will be used whenever possible. The use of a volume of sales performance measure does not mean that the FTC will only investigate and take enforcement action in markets with large sales volumes. The FTC will continue to investigate and take enforcement action as necessary in all markets where considerable consumer harm is likely. The benchmarks for the estimated dollar savings to consumers per dollar of enforcement resources for merger and nonmerger actions are based on historical experience, reflecting the different mix of cases and the different investigative and enforcement processes.

These measures will help guide the agency in challenging conduct that causes substantial consumer injury through targeting of its resources effectively and efficiently. These measures evaluate appropriate investigation, case selection, and resolution, whether through litigation or settlement, as well as the crafting of sufficient and effective remedies.

### Evaluations

- Assess the scope of the FTC's annual merger actions to maintain competition, as reflected by the volume of commerce in markets in which the agency took merger actions.
  - » Determine whether the total volume of commerce in such markets is likely to reach \$25 billion and determine whether the level of consumer savings is likely to reach \$500 million.
  - » Compare the likely impact in these markets to the resources spent on the mission.
- Assess the scope of the FTC's annual nonmerger actions to maintain competition, as reflected by the volume of commerce in markets in which the agency took nonmerger actions.
  - » Determine whether the total volume of commerce in such markets is likely to reach \$12 billion and determine whether the level of consumer savings is likely to reach \$450 million.

- » Compare the likely impact in these markets to the resources spent on the mission.
- Assess qualitatively the deterrence value and precedential significance of the enforcement actions brought during each year.
- Evaluate litigation performance for lessons that may be applicable to future litigation.
- Assess markets where investigations were closed without enforcement action and consider whether competition was harmed in the markets resulting in substantial consumer injury, and use this information to guide and enhance the agency's future investigations and enforcement actions.
- Assess the burden imposed on merger parties by the HSR merger investigation process, explore ways of reducing that burden without compromising effectiveness of investigations, and explore methods of measuring HSR compliance burden.
- Assess the FTC's efficiency in conducting antitrust investigations, explore ways to increase efficient use of investigatory resources and reduce burdens on business including through international cooperation mechanisms, and explore whether efficiency in conducting investigations can more meaningfully be measured.

## Objective 2.2: Prevent consumer injury through education

Educating consumers and businesses about competition law and policy is a critical part of the FTC's mission. Informing businesses and their legal advisers about potential antitrust violations deters anticompetitive mergers and anticompetitive business practices from being proposed and reduces businesses' cost of compliance. Educating consumers about their rights and their ability to bring violations to the FTC's attention reduces the cost of identifying anticompetitive conduct. Providing consumers and businesses with information about how antitrust enforcement benefits the common good and also encourages cooperation with the FTC's investigations and enforcement actions.

### Strategies

- Educate consumers and businesses about antitrust issues through traditional means such as guidelines, advisory opinions, reports, articles in professional

or other publications, speeches, and participation in professional organizations as well as through the FTC website, emails, and in press releases.

- Engage in outreach to lay groups and other stakeholders to provide information about the work of the FTC and basic principles of economics and competition.
- Engage in outreach to foreign competition agencies to facilitate the agency's efforts to promote convergence toward sound consumer-welfare-based competition enforcement and policy.

### **FY 2013 and FY 2014 Implementation Plan**

- Monitor the content of complaints, press releases, and analyses to aid public comment to ensure they are "transparent," that is, that they explain in sufficient detail and with sufficient clarity the evidence and theory of a case, within the constraints of confidentiality requirements.
- Expand the use of other public statements to explain why the Commission elected not to take enforcement action in certain matters to further improve the public's understanding of the FTC's enforcement policies.
- Issue guidance to help businesses understand and comply with the application of the antitrust laws in certain areas, such as horizontal mergers, international operations, intellectual property, and health care.
- Continue to provide Commission and staff advisory opinions on various competition issues; continue to provide guidance in response to informal requests, particularly concerning HSR matters.
- Publish guidance issued by the FTC, including written releases, texts of speeches, Bureau of Economics reports, and other materials that explain the FTC's policies and procedures on the FTC website.
- Seek the participation of businesses and consumer groups in conferences, workshops, and hearings and continue to disseminate the materials relating to these events, including transcripts, written submissions, and reports.
- Continue to have Commissioners and staff speak at and participate in seminars, panel discussions, and conferences to explain how the FTC analyzes mergers and other business practices.
- When opportunities arise, engage in outreach to lay groups to provide information about the work of the FTC and basic principles of economics and competition.

- Engage in outreach to foreign competition authorities, practitioners, and international competition organizations.
- Develop and implement increasingly sophisticated web metric and analytical tools that will allow for a more accurate and representative view of the volume of traffic on the FTC’s antitrust related webpages. Monitor the results generated by the new web metric applications and, where necessary, make adjustments to the corresponding target.

### Performance Measure

- Competition resources accessed via the FTC’s website.

### Evaluations

- Evaluate what antitrust content on the FTC website generates the largest amount of public interest, and why, and use this information in setting future priorities.
- Seek input from consumer groups, business groups, bar groups, international competition organizations, and other FTC “customers” on the effectiveness of FTC educational efforts.
- Evaluate the transparency of FTC merger review policy by assessing the extent to which significant changes in such policy are communicated to stakeholders.

## Objective 2.3: Enhance consumer benefit through research, reports, and advocacy

In addition to its enforcement authority, the FTC utilizes various policy, advocacy, and education tools to promote competition and consumer welfare. The FTC has jurisdiction to gather, analyze, and disseminate certain information concerning competition issues that affect U.S. commerce. The FTC uses that authority to hold public workshops, conferences, seminars, and hearings, conduct economic and legal studies on competition issues of significant public importance, and issue reports of its findings. This authority advances the competition mission in numerous ways. The agency uses the information internally to refine the theoretical framework for analyzing competition issues and the empirical understanding of industry practices, which contributes substantially to an effective response to changing marketplace conditions. The information gained through this authority, combined with the agency’s professional expertise on competition issues, also contributes to a better understanding of business practices and their competitive and economic implications on various entities, including the business sector, the legal community,

other enforcement authorities, the judiciary, and governmental decision makers and policymakers at the federal, state, and local levels.

The agency frequently convenes and co-sponsors conferences and workshops. Industry experts, academics, and other knowledgeable parties are invited to identify novel or challenging competition issues and discuss ways to address those issues. The FTC also issues reports that synthesize available information, analyze competition problems, and provide recommendations to address them.

When asked to do so, or in response to public comment opportunities, the FTC shares its competition expertise with state, local, and other federal government legislative and administrative bodies. These comments advocate for policies that take competition principles into account, evaluate both costs and benefits, and promote the interests of consumers in the marketplace. The FTC also files amicus briefs to aid courts' consideration of competition issues. The agency regularly testifies before Congress on competition matters, and staff regularly engage in formal and informal dialogue with state and federal policymakers.

### **Strategies**

- Conduct public workshops, conferences, seminars, and hearings that bring together interested parties to enhance understanding of various practices and developments in the marketplace.
- Conduct studies and issue reports as requested by Congress, and other studies and reports, as appropriate, that address significant competition issues.
- Conduct economic studies of the effects of business actions on competition and consumers in accordance with agency data quality standards, as applicable, to ensure the quality of information that may be disseminated publicly.
- Target advocacy activities to encourage state, federal, and foreign government policymakers to evaluate both the costs and the benefits of their policies for consumers, emphasizing the impact on consumers of policies that unnecessarily restrict competition.
- File amicus curiae briefs with state and federal courts considering important competition policy issues, urging them to adopt legal rules that benefit consumers by promoting competition.

### **FY 2013 and FY 2014 Implementation Plan**

- Conduct public workshops, conferences, seminars, and hearings and issue reports, including those required by law, on significant competition issues.

- Continue to support outreach efforts to international bodies and foreign agency officials and practitioners to explain U.S. antitrust perspectives on competition theories and approaches, participate in dialogue with competition authorities of other countries and international organizations on transnational competition issues that affect American consumers and businesses, continue to aid young competition regimes with the development of antitrust laws and policies by designing and conducting technical assistance programs.
- When asked to do so, or in response to public comment opportunities, file comments or otherwise engage in advocacy with state, federal, and foreign government policymakers to encourage them to adopt policies that maximize consumer welfare by evaluating both the costs and the benefits of their policies for consumers.
- Publicize advocacy comments to increase public awareness of how competition benefits consumers.
- Prepare and file amicus briefs in state and federal courts addressing important competition policy issues under consideration in court proceedings.
- Present major policy speeches that discuss significant competition issues and explain the FTC's approach to them.

### Performance Measures

- Workshops, seminars, conferences, and hearings convened or co-sponsored that involve significant competition-related issues.
- Reports and studies issued on key competition-related topics.
- Advocacy comments and amicus briefs on competition issues filed with entities including federal and state legislatures, agencies, or courts.
- The percentage of respondents finding the FTC's advocacy comments and amicus briefs useful. (Note that "usefulness" is assessed by the recipient; the target percentage recognizes that comments critiquing a recipient's proposed action may not be assessed positively.)
- The volume of traffic on [www.ftc.gov](http://www.ftc.gov) relating to competition research, reports, and advocacy.

These performance measures will help ensure that the agency is engaging in appropriate types and sufficient levels of research, reports, and advocacy to ensure that they are relevant to consumers, policymakers, business, and the legal community.

## Evaluations

- Include evaluation forms with workshop and conference materials to help assess whether the workshops and conferences are an effective means of joining the debate relating to these issues.
- Seek input from consumer groups, business groups, bar groups, and others on the value of the agency's research, reports, advocacy submissions, and international activities relating to the competition mission.
- Assess whether the recipients of advocacy comments give weight to the views expressed in these comments in making policy decisions that affect consumers.

**Objective 2.4: Protect American consumers in the global marketplace by providing sound policy recommendations and technical advice to foreign governments and international organizations to promote sound competition policy**

The FTC continues to build cooperative relationships with foreign antitrust agencies to ensure close collaboration on cross-border cases and convergence toward sound competition policies and practices. The FTC seeks effective, coordinated reviews of multijurisdictional mergers, and works toward achieving consistent outcomes in cases of potential unilateral anticompetitive conduct. Participation in multilateral competition organizations provides valuable opportunities to promote international cooperation and convergence and for competition officials to share insights on law enforcement and policy initiatives.

## Strategies

- Pursue the development of an international market-based competition model that focuses on the maximization of consumer benefit.
- Influence policy development and implementation through multilateral organizations and bilateral relations.
- Provide technical assistance to newer competition agencies to enhance their ability to apply sound competition policies.

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- Maintain the FTC leadership role in the International Competition Network, including through participating in substantive groups on agency effective-

ness, unilateral conduct, merger procedures, investigative process, the online curriculum project, and the Steering Group.

- Enhance our participation in other key multilateral and regional fora, including the OECD, UNCTAD, and APEC.
- Advance cooperation and convergence with foreign competition agencies by further improving cooperation in merger matters and on single firm conduct policy and enforcement, including through leadership on multilateral initiatives to promote cooperation and convergence.
- Strengthen relations with the Chinese and Indian competition agencies through dialogue on legislative initiatives and case cooperation as appropriate, and the provision of technical assistance.
- Work with other US agencies in intergovernmental fora that address competition issues.
- Further develop the FTC technical assistance program.
- Further develop the International Fellows and exchange programs.

### **Performance Measures**

- Policy advice provided to foreign competition agencies, directly and through international organizations, through substantive consultations, written submissions, or comments.
- Technical assistance provided to foreign competition authorities.

These measures address the scope of our contact with international counterparts and help determine if our efforts are sufficiently broad-based.

### **Evaluations**

- Where feasible, evaluate whether the advice and comments that the FTC provides to foreign government agencies and international organizations have been considered by the recipients in their policy development.
- Evaluate completed technical assistance missions to determine, from the perspective of participants and their managers, whether the assistance was deemed valuable.

## Strategic Goal 3: Advance Performance

Advance the FTC's performance through organizational, individual, and management excellence

The FTC recognizes that a strong foundation of organizational, individual, and management excellence is a driver of mission success. Goal 3 embodies cross-cutting, ongoing efforts to advance mission performance and enable Goal 1 and Goal 2 to focus on protecting consumers and maintaining competition. Collaborative in nature, this goal captures shared responsibility for agency excellence on behalf of all who rely on the FTC to be an effective guardian of informed consumer choice and free and open markets.

The four objectives supporting this goal align with four key functional areas: human resources, infrastructure and security, information resources, and finance and acquisition. In carrying out our strategies, we will undertake a range of efforts – from managing employees effectively to exercising responsible stewardship of taxpayer dollars. Work in these areas is intended to foster a culture of leadership and accountability and to create conditions that enable decision making while establishing a framework of planning, administration, and management. At the individual level, all employees are expected to assume leadership roles in their areas of responsibility by exhibiting a willingness to develop and coach others, a commitment to teamwork and collaboration, and a drive to meet challenges with innovation and urgency. Collectively, these efforts lay the groundwork for achieving organizational, individual, and management excellence.

### Objective 3.1: Provide effective human resources management

This objective is aligned with our Human Capital Plan, which encompasses leadership and knowledge management, a results-oriented performance culture, talent management, and job satisfaction. We use an integrated approach that ensures human capital programs and policies are linked to the mission, goals, and strategies, while providing for continuous improvement in efficiency and effectiveness. This objective captures our work ensuring that we have the right talent in the right positions at the right time to meet the challenges of the 21st century by attracting, developing, motivating, and retaining a highly skilled and diverse workforce.

## Strategies

- Implement programs and processes that will enable the agency to quickly recruit, develop, and retain a qualified, diverse workforce through an integrated workforce plan.
- Use the integrated workforce plan to identify and fulfill current and future human resources needs to carry out the mission.
- Create an agency-wide performance culture focused on individual and organizational accountability toward the achievement of the FTC's programmatic goals and priorities.
- Implement an employee survey to measure employees' perceptions about conditions that characterize successful organizations, such as leadership quality, performance culture, and talent capacity at the FTC.
- Provide human resources management training and outreach to staff.
- Support employees' efforts to improve their knowledge base and skills in a variety of ways, e.g., by participating in professional activities related to the FTC's mission.

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- Promote and expand the use of human resources flexibilities throughout the FTC.
- Use innovative ways to reach out to managers, supervisors, and employees on human resources issues.
- Identify and implement business process improvements through effective use of technology to facilitate FTC's human resources. For example, we will modernize our time-keeping and attendance system to more fully automate related processes (working closely with our shared service provider, the Interior Business Center).

## Performance Measures

- The extent employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes.
- The extent employees think the organization has the talent necessary to achieve organizational goals.

These performance measures address central aspects of this objective. The FTC recognizes that its employees are its greatest asset and places great emphasis on the

importance of human resources management to the successful accomplishment of its mission. The FTC seeks employee feedback on the extent they believe the organization culture promotes improvement in processes, products and services, and outcomes and the extent the FTC has the right talent in the right positions at the right time to carryout the mission.

### Evaluations

- Assess whether the FTC’s human capital policies, programs, and processes are addressing the areas identified by employees gathered by the agency annually through the employee survey.
- Review current programs and processes, identify what changes would be helpful, and implement those changes.

## Objective 3.2: Provide effective infrastructure and security management

This objective encompasses building, modernizing, and maintaining physical and information technology infrastructure to ensure a safe and secure workplace, to achieve mission goals, and to respond to and anticipate both routine and emergency agency requirements. The agency’s Continuity of Operations Plan (COOP) represents a principal initiative under this objective. The Federal Emergency Management Agency (FEMA) conducts annual testing of all federal agency COOP programs. Each federal agency is graded on its responses to the questions and their communication methods by FEMA staff. A second important initiative involves facilities management and space usage. The FTC works with General Services Administration (GSA) to lease space and assesses staff requirements to anticipate needs for outfitting the buildings with adequate work space, conference space and storage space. Finally, managing technical infrastructure and ensuring the availability and reliability of the agency computer and communication facilities represents another important dimension of our work under this initiative.

### Strategies

- Promote staff awareness by regularly participating in COOP testing.
- Continue incorporating best practices and making process improvements in partnership with FEMA.
- Continue to take advantage of cost-effective IT solutions.
- Increase internal network performance auditing and monitoring.

- Inform and educate customers within the agency about IT systems vulnerabilities and/or unusual network activity.
- Provide annual information security and privacy awareness training and outreach to staff.
- Ensure that staff has continued access to current, authoritative reference materials in FTC mission areas.

### **FY 2013 and FY 2014 Implementation Plan**

- Evaluate COOP rating and determine support requirements.
- Continue partnership with GSA and OMB in executing the previously coordinated relocation of FTC staff from the 1800 M Street and 601 New Jersey Avenue buildings to Constitution Center in Washington, DC.
- Research alternatives such as telework participation, job sharing, and housing staff off-site.

### **Performance Measures**

- A favorable Continuity of Operations (COOP) rating.
- Availability of information technology systems.

These measures gauge important dimensions of maintaining physical and information technology infrastructure and security. A COOP rating offers insight to agency preparedness across a wide spectrum of issues related to facility and operations management. Network availability addresses the reliability of the FTC computer and communications systems.

### **Evaluations**

- Assess COOP funding against results, determine further staffing requirements, and determine cost to further maintain the program.
- Collect feedback from GSA Tenant Surveys and from FTC staff.
- Perform periodic reviews of the percentage of utilized space.

### Objective 3.3: Provide effective information resources management

The FTC recognizes that sound management of information resources is essential to meeting its strategic goals. The agency manages information in order to enable staff to make thoughtful decisions and perform their work, to facilitate appropriate public access, and to protect sensitive information from inappropriate access and release. The agency is undergoing a multiyear transition to managing information resources in an electronic format as one of the best means of meeting this objective.

#### Strategies

- Implement a comprehensive retention schedule authorizing maintenance and disposition of agency records in electronic format that has been approved by the National Archives and Records Administration (NARA).
- Utilize an electronic document management system (EDMS) to house work product and official records.
- Identify and implement business process improvements through effective use of technology.
- Develop and implement additional information management policies and procedures.
- Provide information and records management training and outreach to staff.

#### FY 2013 and FY 2014 Implementation Plan

- Promote and expand the use of the EDMS to house work product and official records.
- Identify and implement business process improvements through effective use of technology to facilitate the Commission's decision making processes and its management of cases.
- Promote the use of web-based e-filing of public comments in FTC rulemakings and other proceedings which seek public comments, to facilitate public participation and web posting of comments.
- Promote the use of web-based e-filing in FTC adjudicative proceedings under Part 3 of the Rules of Practice, to facilitate filing by participants in those proceedings and web posting of public filings.

- Provide information and records management training and outreach to staff, with special emphasis on managing information electronically throughout its lifecycle.

### Performance Measure

- The percentage of Commission approved documents in ongoing and newly initiated FTC proceedings available via the Internet within 15 days of becoming part of the public record.

This performance measure facilitates public awareness of and participation in Commission activities. Timely availability of public documents gauges the depth and scope of our transparency in this area.

### Evaluations

- Assess whether particular e-file structures are appropriate for organizing various types of information.
- Review the means by which FTC maintains and monitors access restrictions to sensitive electronic files.
- Assess training needs.

## Objective 3.4: Provide effective financial and acquisition management

Resource stewardship and financial oversight are fundamental to establishing the accountability and transparency through which organization, individual, and management excellence are fostered. Effective financial and acquisition management means that the FTC protects American consumers and maintains competition in a fiscally responsible manner. Doing so remains one of our top priorities.

Our work in this area covers a wide range of administrative and operational efforts such as formulating and executing the agency budget, managing acquisition activities, overseeing the internal control program, managing accounting operations, spearheading audit resolution, and ensuring compliance with various financial management laws and regulations. By promoting consistency and integrity throughout the organization, these initiatives and others like them contribute not only to efficient program delivery, but also to effective and efficient agency administration overall. These efforts are critical to maintaining the management infrastructure needed to carry out our mission.

## Strategies

- Integrate disparate systems, such as the agency's procurement system, with the agency's financial system.
- Align resources to strategic priorities and outcomes so we will be focused on our most important tasks and programs.
- Enhance the internal control environment through developing and maintaining appropriate guidance and training for all staff.
- Implement the best business solutions to accomplish our goals through world-class acquisition and business processes.
- Cooperate with the Office of Inspector General on audits and investigations of FTC programs and operations.

## FY 2013 and FY 2014 Implementation Plan

- Enhance the reporting capabilities within the integrated financial system to provide more accurate, reliable, and timely financial information to agency decision makers.
- Document improved processes and policies for financial and acquisition management that promote integrity, transparency, efficiency, and effectiveness.

## Performance Measures

- Independent auditor's financial statement audit results.
- The percentage of Bureaus/Offices that establish and maintain an effective, risk-based internal control environment.
- Performance against the Small Business Administration's government-wide small business procurement goals.

Together, these measures address the most important aspects of this objective. The financial statement audit determines whether our financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles. The audit also addresses internal controls and compliance with applicable laws and regulations. The internal control measure demonstrates our commitment throughout the agency to promote integrity, efficiency, effectiveness, and economy. Achieving our small business procurement goal demonstrates that our procurements meet or exceed a major federal acquisition standard.

## Evaluations

- Assess internal administrative and programmatic operations to address areas that need improvement.
- Assess our acquisition procedures to see if federal regulations and standards are met and that contracting officer's representatives (CORs) meet mandatory training requirements.
- Review financial and feeder system implementation goals to ensure that user needs and federal standards and requirements are met.

# Descriptions



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## Protect Consumers

The FTC's goal to protect consumers is advanced by five law enforcement functions (Financial Practices, Privacy and Identity Protection, Marketing Practices, Advertising Practices, and Enforcement) augmented by Planning and Information, Consumer and Business Education, Economic and Consumer Policy Analysis, and Management. Staff in the FTC's seven regions also support this goal by bringing a variety of consumer protection cases and maintaining important contacts with state Attorneys General and other state and local consumer protection officials.

### Budget by Activity (\$ in thousands)

	Fiscal Year 2013		Fiscal Year 2014	
	FTE	Dollars	FTE	Dollars
Privacy and Identity Protection	57	\$9,785	57	\$10,002
Financial Practices	96	16,277	96	16,617
Marketing Practices	96	16,247	96	16,580
Advertising Practices	58	9,945	58	10,163
Enforcement	54	9,292	54	9,500
Planning and Information	51	20,868	51	21,765
Consumer and Business Education	23	6,383	23	6,476
Economic and Consumer Policy Analysis	6	983	6	1,001
Management	25	4,329	25	4,427
<b>Subtotal Direct</b>	<b>466</b>	<b>\$94,109</b>	<b>466</b>	<b>\$96,531</b>
Support	172	81,580	172	73,699
<b>Total</b>	<b>638</b>	<b>\$175,689</b>	<b>638</b>	<b>\$170,230</b>

## PRIVACY AND IDENTITY PROTECTION

The goal of Privacy and Identity Protection is to protect consumers' privacy, while balancing the benefits to consumers and competition from the flow of information in our marketplace economy, and to help consumers prevent, mitigate, and remediate the damage caused by theft of their identities. This program uses a mixture of law enforcement, rulemaking, consumer and business education, victims' assistance, information gathering, and industry outreach to accomplish this goal.

- **Consumer Privacy:** Privacy and Identity Protection takes a leading role in nationwide efforts to protect consumers from unfair, deceptive, or other illegal practices related to their privacy. A central part of this program is law enforcement under Section 5 of the FTC Act, including cases in which companies have misrepresented their policies about the use of personal information they collect from consumers or failed to take appropriate steps to protect the security of sensitive personal information. In addition to its enforcement efforts, the FTC has promoted transparency and informed consumer choice about companies' privacy practices and continued to encourage the development of effective self-regulatory approaches in this area. In the area of financial privacy, the FTC enforces its rule implementing the privacy provisions of the Gramm-Leach-Bliley Act. The FTC also enforces its Safeguards Rule, which requires financial institutions to implement reasonable administrative, technical, and physical safeguards to protect customer records and information.
- **Accuracy and Privacy of Credit Information:** Privacy and Identity Protection works to ensure the accuracy and privacy of consumer information used to screen applicants for loans, jobs, insurance, and other benefits. This effort is pursued through enforcement of the Fair Credit Reporting Act (FCRA), which holds credit bureaus and furnishers of information responsible for the accuracy of credit report information, gives consumers the right to check and correct their credit reports, limits how such information may be used, and requires reasonable procedures to ensure that such information is obtained only by entities with a permissible purpose to use it.
- **Identity Theft:** In the years since the Identity Theft and Assumption Deterrence Act of 1998 charged the FTC with developing a centralized consumer complaint, victim assistance, and education service for the public on avoiding identity theft, the FTC has become the leading source of this information for consumer assistance and law enforcement training. A toll-free number and online complaint form enable consumers to report incidents of identity theft and receive information on ways to minimize their exposure to identity theft and repair the harm inflicted by this crime. The complaints are

entered into the FTC's Consumer Sentinel Network, which is accessible to domestic law enforcers.

- **Children's Privacy:** Responding to the increasing popularity of social networking websites where consumers provide their personal information, Advertising Practices vigorously enforces the Children's Online Privacy Protection Act (COPPA) Rule, and is currently evaluating whether the rule needs to be revised in light of emerging technologies. Advertising Practices is also investigating the mobile marketplace to ensure companies are complying with the law in that medium.

## FINANCIAL PRACTICES

Financial services play an important role in the daily lives of virtually all Americans. Financial Practices promotes truthfulness and fairness in the provision of these services by entities within the FTC's jurisdiction, so that consumers can make better-informed decisions.

- **Debt Collection:** The Fair Debt Collection Practices Act prohibits deceptive, unfair, and abusive debt collection practices that can harm consumers who are unable to pay their debts due to job loss or other financial problems. Financial Practices uses enforcement and education to protect consumers from such harmful practices. It also conducts public workshops and makes policy recommendations on developments in the debt collection marketplace.
- **Mortgage, Credit Card, and Other Debt Relief Services:** Financial Practices targets firms that make deceptive offers to assist consumers in reducing or renegotiating secured debt, such as a mortgage or car loan, and unsecured debt, such as credit card bills. These claims mislead consumers already in financial distress as to who is providing these services, what services they will provide, and how much they charge for them. The scams vary, and include offers to provide mortgage loan modification, foreclosure relief, short sales, mortgage refinancing, debt settlement, debt negotiation, and credit counseling. Victims often find themselves in even more dire financial straits than before.
- **Pay Day Lending:** Many consumers who need cash quickly turn to payday loans – short-term loans with very high interest rates (i.e., 400% or more) that are generally due on the consumer's next payday after the loan is taken out. In recent years, the availability of payday loans via the Internet has markedly increased. Unfortunately, some payday lending operations have employed deception and other illegal conduct to take advantage of financially distressed consumers seeking these loans.

- **Motor Vehicle Sales, Financing, and Leasing:** For most consumers, the purchase of a car or truck is their most expensive financial transaction, other than the cost of housing. Financial Practices leads the FTC's regulatory and law enforcement efforts with respect to the practices of motor vehicle dealers, most of which were exempted from the authority of the Consumer Financial Protection Bureau by the Dodd-Frank Act.
- **Deception Relating to Other Financial Services:** Financial Practices broadly targets deception and unfairness in the marketing and provision of a diverse array of other financial products and services, such as credit repair and mortgage lending and servicing.
- **Mobile Technologies:** Financial Practices is home to the Bureau of Consumer Protection's Mobile Technology Unit, which leads the Bureau's efforts to promote better consumer protections in the mobile environment. Among other things, the Unit identifies potential targets for enforcement; coordinates and provides guidance on the Bureau's mobile enforcement and policy work; holds public workshops on emerging mobile issues; and develops surveys, reports, and educational materials to highlight mobile practices of concern. As new mobile financial products emerge, Financial Practices is examining these developments and targeting unfair and deceptive practices in the mobile payments and m-commerce ecosystems.

## MARKETING PRACTICES

Marketing Practices fights frauds that target consumers impacted by the economic downturn and tight labor market, protects consumers using the Internet and new technologies, spearheads the FTC's efforts to fight spam and violations of the Do Not Call Rule, attacks telemarketing and online frauds, and enforces the Commission's rules that protect purchasers of franchises and business opportunities, funeral services, and certain products with warranties.

- **Economic Fraud:** Marketing Practices litigates against frauds affecting the poor and under-served communities, such as deceptive offers of health insurance or income opportunities through jobs, investment, government grants, or other scams. It also leads the FTC's efforts to combat deception in the sale of prepaid phone cards. Marketing Practices coordinates its work with the state Attorneys General, other federal enforcers, and private sector partners, to obtain maximum impact.
- **Internet Fraud:** Marketing Practices leads the FTC's law enforcement efforts to prevent and halt online fraud. The core of this activity rests on staff initiatives to keep pace with the latest Internet schemes, as well as undercover surveillance and rapid law enforcement response when fraudulent and unfair

schemes are detected. Along with Advertising Practices, Marketing Practices also challenges the deceptive and unfair use of spyware.

- **Telecommunications and New Technologies:** Marketing Practices uses Section 5 of the FTC Act to challenge practices – such as cramming – that use various components of the telecommunications system to victimize consumers. Studying new communications technologies helps staff anticipate and prevent fraud. The convergence of various applications onto single devices, using any type of Internet access service, whether for communications, payment, entertainment, or other purposes, raises important consumer protection issues. Do Not Call: Marketing Practices developed the FTC’s Do Not Call amendments to the Telemarketing Sales Rule (TSR), including amendments relating to prerecorded calls (“robocalls”), and leads the enforcement, compliance, and education efforts to implement these amendments.
- **Telemarketing Fraud:** Marketing Practices enforces the TSR, and uses Section 5 of the FTC Act to halt deceptive telemarketing schemes. Working closely with the state Attorneys General, other federal law enforcers, and private sector partners, Marketing Practices targets areas for law enforcement, organizes enforcement sweeps, and helps publicize consumer and business education to reduce telemarketing fraud.
- **Payment Processors:** Marketing Practices targets law enforcement against third-party entities that facilitate fraud, such as payment processors that provide fraudulent merchants with access to the banking or credit card systems.
- **Spam:** Marketing Practices enforces the CAN-SPAM (Controlling the Assault of Non-Solicited Pornography and Marketing) Act of 2003, and coordinates the FTC’s development of law enforcement strategies to deter the deceptive or unfair use of unsolicited commercial email, typically sent in bulk. It also studies and prepares reports, and works with domestic and foreign partners to identify the most egregious spam problems, takes action to stop them, and encourages technological advances, such as Domain Level Email Authentication, to address the harms resulting from spam.
- **Rule Enforcement:** Marketing Practices enforces the FTC’s Franchise Rule, amended in 2007, and is developing a separate rule to require a streamlined disclosure document covering business opportunities. Marketing Practices also is responsible for enforcement of the Magnusson-Moss Warranty Act relating to warranties, and it coordinates the agency’s enforcement of the Funeral Rule.

## ADVERTISING PRACTICES

Advertising Practices enforces the nation's "truth-in-advertising" laws and, through reports, advocacy, and industry outreach, articulates the FTC's policies on the regulation of advertising, including marketing to children. Whether ads appear on television or radio, in newspapers or magazines, on the Internet, or through word-of-mouth, these laws require companies to tell the truth and to back up their claims with reliable, objective evidence. Advertising Practices uses a variety of tools to protect consumers from misleading claims, including bringing law enforcement actions in federal and administrative courts, providing guidance to industries, advocating effective self-regulation by the advertising industry and better ad screening by the media, and providing consumer and business education. Working to protect consumers' health, safety, and economic interests, these efforts span a broad range of products and practices.

- **Advertising for Foods, Over-the-Counter Drugs, Dietary Supplements, and Medical Devices:** Advertising Practices devotes substantial resources to ensuring the accuracy of health claims in advertising and takes action against companies making deceptive representations. In addition to traditional law enforcement actions, the FTC creates education materials to help companies understand the need for adequate substantiation and information to help consumers spot deceptive claims.
- **Health Care and Weight Loss:** Each year consumers spend billions of dollars purchasing pills, potions, and therapies to treat and prevent serious diseases such as cancer and diabetes, and to achieve weight loss. The FTC works with other federal agencies and partners to combat misleading claims by providers of these products and services by sending warning letters targeting the scams "du jour" and bringing law enforcement actions. Other activities include conducting consumer education campaigns to assist consumers in avoiding fraudulent health care and weight loss products.
- **Advertising High-Tech Products and Services:** New high-tech products and services emerge every year. Consumers may have little information about how these products and services work, and also may not understand the possible ramifications of using those products and services. In this rapidly evolving marketplace, the FTC Act's basic principle, that advertising must be truthful and substantiated, takes on even more importance. Advertising Practices has held public workshops, issued reports, brought law enforcement actions, encouraged industry self-regulation, and engaged in consumer education in many emerging market areas.
- **Childhood Obesity and Food Marketing to Children:** Advertising Practices has been leading the FTC's efforts to support self-regulation in the area of food marketing to children. In 2008, the FTC issued a report on the expendi-

tures of 44 major food and beverage companies for food marketing to children ages 2 to 17 during 2006. In 2012, Advertising Practices issued a follow-up study which included a section analyzing the nutritional profile of foods marketed to children.

- **Marketing Violent Entertainment to Children:** The FTC has long been a leader in protecting children from unfair or deceptive advertising and marketing practices. In recent years, Advertising Practices has been an important voice in the ongoing debate about the marketing of violent entertainment to children. Advertising Practices has created a page on the FTC's website providing information on this issue, as well as access to an online consumer complaint form and a consumer alert on decoding the video game rating system. The FTC publishes periodic reports on the ability of teens under age 17 to purchase age-restricted violent products.
- **Tobacco and Alcohol Advertising:** Advertising Practices leads the FTC's efforts to stop the deceptive or unfair marketing of tobacco and alcohol, administers federal laws governing the rotation of health warnings on ads and packaging for cigarettes, and publishes reports on cigarette and smokeless tobacco advertising and marketing. The FTC is coordinating with FDA as FDA assumes some tobacco-related responsibilities pursuant to the Family Smoking Prevention and Tobacco Control Act. Advertising Practices also monitors self-regulation of the alcohol advertising industry, encourages improved standards and compliance, and reports to Congress on this issue.

## ENFORCEMENT

Enforcement litigates civil contempt and civil penalty actions to enforce federal court injunctions and administrative orders in consumer protection cases; coordinates actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules and guides; administers the Bureau's green marketing program; coordinates the Hispanic and negative option initiatives; and handles bankruptcy issues that arise in consumer protection cases.

- **Order Enforcement:** Enforcement is responsible for ensuring compliance with all administrative and federal court orders entered in FTC consumer protection cases. To carry out this mission, Enforcement actively monitors compliance with consumer protection orders, conducts investigations of possible order violations, litigates civil contempt actions in federal court to enforce injunctions, and initiates court actions to obtain civil penalties for administrative order violations.

- **Criminal Liaison Unit:** The Criminal Liaison Unit (CLU) encourages criminal prosecution of those responsible for consumer fraud by identifying fraudulent activities, bringing them to the attention of criminal law enforcement authorities, and coordinating civil and criminal enforcement actions. CLU works closely with prosecutors, criminal investigative agents, and FTC staff to ensure the smooth progress of parallel prosecutions. In addition to identifying and referring specific fraudulent activity, CLU also educates criminal law enforcement authorities about the FTC and its mission, and provides legal and practical advice to FTC staff.
- **Rules and Guides:** Enforcement develops, reviews, and enforces a variety of consumer protection rules and guides. For example, in the energy arena, Enforcement is responsible for rules requiring the disclosure of operating costs of home appliances (the Appliance Labeling Rule), octane ratings for gasoline (the Fuel Rating Rule), and the efficiency rating of home insulation (the R-Value Rule). Enforcement also has responsibility for rules and guides as diverse as the Mail or Telephone Order Merchandise Rule, which requires companies to ship goods when promised; the Textile, Wool, Fur, and Care Labeling Rules, which require proper origin and fiber content labeling of textile, wool, and fur products; and the Jewelry Guides, which provide guidance on the marketing of precious metals, gemstones, and pearls.
- **Green Marketing:** The FTC's Green Marketing program focuses on advertising claims that tout the environmental benefits of products and services. Enforcement administers the program by developing the Commission's Environmental Marketing Guides, litigating enforcement actions, and conducting consumer research and other studies to better understand the marketplace.
- **Hispanic Law Enforcement Initiative:** Enforcement coordinates the Hispanic initiative to prosecute unfair or deceptive practices targeting Hispanic consumers, which FTC data show are twice as likely as non-Hispanic whites to be victims of consumer frauds. The program monitors Spanish language media and complaints filed by Spanish speakers to identify deceptive practices. Enforcement then initiates and coordinates law enforcement actions against a variety of frauds, including immigration-related fraud, deceptive pre-paid phone card sales, business directory scams, and work-at-home and business opportunity scams. The FTC has filed more than 50 actions as part of this initiative since it was established in 2002.
- **Negative Option Marketing:** Enforcement coordinates the Negative Option Marketing initiative that addresses deceptive practices in the use of negative option offers (i.e., any offer in which a seller interprets consumers' silence, failure to take an affirmative action to reject goods or services, or failure to

cancel a sales agreement as acceptance of an offer). To accomplish this mission, Enforcement litigates civil actions against marketers that deceive consumers; hosts workshops with industry representatives, consumer groups, and members of the academic community; and issues reports that discuss marketing trends and provide guidance to industry.

- **Bankruptcy:** Enforcement's bankruptcy/commercial law attorneys represent the Commission in federal bankruptcy court and advise staff generally on a host of bankruptcy and commercial law issues. The bankruptcy group preserves and enforces the Commission's claims for monetary relief, ensures that defendants do not use bankruptcy as a haven from law enforcement actions, and counsels staff on a wide variety of bankruptcy and commercial law issues related to monetary relief.

## PLANNING AND INFORMATION

Planning and Information develops, analyzes, and supplies information to assist in targeting law enforcement and educational efforts, measuring the impact of mission activities, and allocating resources. Planning and Information also offers litigation support, manages an Internet lab, and provides other assistance to the Bureau's law enforcement mission. Planning and Information is responsible for various efforts and activities, including:

- **Consumer Response Center:** The Consumer Response Center collects consumer complaints and inquiries received by the toll-free consumer complaint lines, 877-FTC-HELP and 877-ID-THEFT, the FTC's Internet complaint forms, and postal mail. Information from these complaints is entered into the FTC's Consumer Sentinel Network and used to target law enforcement and consumer and business education activities.
- **National Do Not Call Registry:** Planning and Information is responsible for operation and maintenance of the National Do Not Call Registry. Through this registry, consumers can elect not to receive many telephone solicitations from telemarketers. Telemarketers are required to remove any telephone numbers included in the registry from their calling lists. The registry currently has over 217 million active telephone number registrations.
- **Consumer Sentinel Network:** The Consumer Sentinel Network is a secure website that provides more than 2,000 law enforcement partner agencies worldwide access to more than 20 million consumer fraud, identity theft, financial, and Do Not Call Registry complaints that the FTC has collected during the past five years. The site provides law enforcement access to complaints received by the FTC and other organizations, information from the National Do Not Call Registry, a database of unsolicited commercial e-mail

(spam) submitted by the public to spam@uce.gov, as well as other information useful for investigations and prosecutions.

- **Data Analysis:** Data analysts examine the complaint data included in the Consumer Sentinel Network and respond to numerous requests for information about that data. They also provide analytical support to the Bureau's law enforcement efforts and measure the impact of activities related to the FTC's consumer protection mission.
- **Internet Lab:** Planning and Information has established an Internet Lab to stay up-to-date with the technology used to defraud and mislead consumers. Built as a stand-alone network, the Lab is essential to attorneys' and investigators' ability to use technology to detect and capture deceptive Internet activity (e.g., phishing sites, spyware) that harms consumers. The Lab recently expanded to include various mobile devices to investigate consumers' experiences with these devices. The Lab also is used to facilitate "surf days," support litigation, and provide training.
- **Litigation Support:** In an age of increasingly complex technology, staff need access to the best litigation support tools that are available in order to investigate targets and marshal evidence. To fill this need, Planning and Information has a dedicated technical litigation support unit that is responsible for providing advanced technical litigation support services in the areas of data acquisition, computer forensics, document management, analytics, and presentations.
- **Forensic Accounting Support:** Planning and Information has a team of forensic accountants who assist FTC case teams during investigations and litigation against companies engaged in unfair or deceptive acts or practices. These specially trained professionals analyze financial and other records to determine whether money is available for refunds to consumers victimized by these companies.
- **Redress:** Planning and Information houses the Redress Administration Office (RAO), which is responsible for distributing millions of dollars of refunds every year to consumers obtained as a result of FTC lawsuits. The RAO works with the FTC case teams and outside contractors to determine the best and most efficient ways to reach the maximum number of consumers and distribute refunds to them.
- **Resource Management:** Planning and Information also houses the administrative team, which manages core administrative support activities of the

FTC's consumer protection mission. In addition, Planning and Information oversees the Bureau's budget and performance measurement, including strategic planning, to provide a roadmap to guide staff activities and accomplish the FTC's goals and objectives. Planning and Information also maintains the records for the Bureau.

## CONSUMER AND BUSINESS EDUCATION

Consumer and Business Education gives consumers the tools they need to make informed decisions in the marketplace, and gives businesses the tools they need to comply with the law. An education component is integral to every consumer protection enforcement initiative the agency mounts. Consumer and Business Education produces bright line information that is actionable, practical, targeted and in plain language; it uses a "wholesale/retail" strategy to get its information out to a much broader audience than its budget would suggest, using a variety of cost-effective communication tactics to help people reduce their exposure to risks in the marketplace.

- **Consumer Interface:** Consumer and Business Education's activities help people recognize and avoid fraud and deception, and encourage them to report their marketplace concerns to the FTC. Consumer and Business Education responds quickly to categories of complaints from the public with relevant tips on the scams they're reporting. When consumers communicate with the FTC's Consumer Response Center – either to seek information or to file a complaint – they are referred to education resources produced by Consumer and Business Education.
- **Communications Toolbox:** Every year, Consumer and Business Education produces an estimated 100 new or revised publications to alert consumers and businesses to their rights and responsibilities in the marketplace. These publications are distributed through an informal network of nearly 20,000 intermediaries, who order ([ftc.gov/bulkorder](http://ftc.gov/bulkorder)) – or reproduce on their own – millions of copies for their constituents each year. Many publications are produced for the web only; the consumer and business information on the agency's website logs more than 2 million unique page views each month. Consumer and Business Education uses other formats to produce its award-winning materials and campaigns for consumers, businesses, and law enforcement, including audio (public service announcements and scripts for radio; consumer education messages for hold time use by businesses), video ([YouTube.com/ftcvideos](http://YouTube.com/ftcvideos)), games and quizzes, tutorials, bookmarks, posters, palm cards, e-cards, bookmarks, blog posts, and infographics, to name a few. Consumer and Business Education also releases its information to thousands of broadcast, print and online media outlets, as well as to blogs and social net-

working sites. All information is produced in English and Spanish, and selected publications are produced in Korean, Chinese, Tagalog, and Vietnamese.

- **Diverse Audiences:** Consumer and Business Education focuses on reaching key audiences – including communities of color, immigrants, people in financial distress, older people, people with low levels of literacy, the military community, kids, teens and their parents, law enforcement at the state and local level, legal services attorneys, and advertisers, marketers, and the private bar – with information on a wide range of subjects – including health and safety, identity theft, mobile and other rapidly changing technologies, green advertising, negative option marketing, sweepstakes, prize promotion and lottery fraud, telemarketing fraud, Do Not Call, affiliate marketing, immigration services fraud, financial issues in general and financing major purchases, including motor vehicles and funerals, and privacy and data security.
- **Special Initiatives:** Consumer and Business Education manages several special initiatives that speak to some of today’s most compelling consumer protection issues.
  - » OnGuardOnline.gov, a website from 14 federal partners with information to help people guard against internet fraud, secure their computers, and protect their personal information.
  - » Admongo.gov, a website to help kids develop critical thinking skills and apply them to advertising messages. The advertising literacy campaign includes a curriculum tied to 5th and 6th grade standards of learning in language arts and social studies, a game-based website and family activities. When published, campaign materials were distributed to 100,000 schools nationwide (i.e., every public school with a 5th or 6th grade class).
  - » National Consumer Protection Week, an annual effort to help local jurisdictions highlight consumer education efforts dealing with modern day takes on traditional snake oil. Among the FTC’s partners in this effort are: AARP, Council of Better Business Bureaus, Federal Citizen Information Center, National Association of Attorneys General, National Consumers League, US Postal Service and US Postal Inspection Service, and many local consumer agency administrators.
  - » Identity Theft: Consumer and Business Education maintains [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft), a one-stop national resource with information to help people protect their identity and deal with the consequences of identity theft. The site includes specific information for parents, service members, and law enforcement, as well as an outreach toolkit for community organizations.

- » The BCP Business Center: Your Link to the Law, at [www.business.ftc.gov](http://www.business.ftc.gov), offers practical guidance to businesses on advertising, telemarketing, data security, consumer privacy, and credit. The site gives attorneys and marketing professionals the latest in law enforcement, easy access to statutes and rules enforced by the FTC, and key compliance documents to make it easier for them to understand and meet their legal obligations. The site features video, online tutorials, the Business Center Blog, and other innovative media.

Consumer and Business Education also participates on a number of inter-agency task forces and working groups, and works very closely with other government agencies to minimize duplication of efforts, ensure consistency in messaging, and maximize efficiency and reach.

## ECONOMIC AND CONSUMER POLICY ANALYSIS

Economic and Consumer Policy Analysis supports economic projects and advocacy activities that foster understanding of consumer good markets and consumer protection policy choices. They also work to ensure that consumer interests are represented before various governmental and self-regulatory bodies dealing with consumer-related issues.

- **Advertising Research and Data Development:** To advance the development of sound advertising policy, Economic and Consumer Policy Analysis supports data and research projects analyzing how advertising claims and policies affect consumers' and firms' decisions. Past studies examined the effects of different types of disclosures on consumer understanding of advertising claims for foods and dietary supplements and the nature of food advertising to children.
- **Economic Studies of Markets for Consumer Goods and Services:** Economic and Consumer Policy Analysis supports targeted economic studies of issues in consumer goods markets that are important to improving our understanding of key consumer protection issues. Recent examples include studies of consumer understanding of proposed Real Estate Settlement Procedures Act (RESPA) disclosure forms and of consumer shopping behavior and use of disclosure forms in obtaining mortgages. The program also supports consumer surveys, such as those measuring the incidence of fraud, and workshops with outside experts in relevant areas, such as research roundtables on developments in the consumer mortgage market and in behavioral economics.
- **Economic Support of Consumer Protection Advocacy:** Economic and Consumer Policy Analysis also includes support for Bureau of Economics staff to provide input for advocacy comments on issues related to consumer

protection goals. In recent years, they have supported comments to the FDA on food labels and direct-to-consumer prescription drug advertising. More recently, comments included those sent to the Federal Reserve Board on rules and regulations regarding subprime loans and the Department of Housing and Urban Development on various changes in mortgage disclosure documents.

## MANAGEMENT

The goal of Consumer Protection is to identify, prevent, and stop fraud, deception, and unfair business practices in the marketplace. Under the FTC's strategic plan, resources are devoted to five broad objectives: monitoring the marketplace to identify illegal practices and emerging "frontier" issues and educate FTC staff about them; stopping fraud, deception and unfair practices through law enforcement, regulation, and guidelines, and by encouraging industry self-regulation; educating consumers and businesses; enhancing consumer welfare through research, reports, advocacy, and international cooperation and exchange; and protecting American consumers in the global marketplace by providing policy and technical input to foreign governments and international organizations. Management is responsible for the overall management and accomplishment of these goals and objectives.

Since 1995, Consumer Protection has engaged in mission-wide strategic planning. The benefits have been striking; clear goals for managers and staff, coordination of efforts across the Bureau and the Regional Offices, a greater ability to target resources to confront the most serious problems, the creation of new programs to meet new challenges, and increased efficiency and productivity. In all its activities, Consumer Protection leverages its resources through private and public sector partnerships and the use of new technologies.

## Maintain Competition

The FTC seeks to maintain competition by preventing anticompetitive mergers and assuring that the marketplace is free from anticompetitive business practices. These goals are carried out through six law enforcement-related activities: Premerger Notification, Merger and Joint Venture Enforcement, Merger and Joint Venture Compliance, Nonmerger Enforcement, Nonmerger Compliance, and Antitrust Policy. In each area, staff seeks to protect consumers' interests by preventing anticompetitive conduct or mergers without interfering with businesses' legitimate activities.

### Budget by Activity (\$ in thousands)

	Fiscal Year 2013		Fiscal Year 2014	
	FTE	Dollars	FTE	Dollars
Premerger Notification	19	\$3,283	19	\$3,363
Merger and Joint Venture Enforcement	197	33,676	197	34,447
Merger and Joint Venture Compliance	11	1,901	11	1,947
Nonmerger Enforcement	136	23,302	136	23,840
Nonmerger Compliance	2	338	2	345
Antitrust Policy Analysis	7	1,146	7	1,167
Other Direct	20	3,434	20	3,515
<b>Subtotal Direct</b>	<b>392</b>	<b>\$67,080</b>	<b>392</b>	<b>\$68,624</b>
Support	146	68,794	146	62,146
<b>Total</b>	<b>538</b>	<b>\$135,874</b>	<b>538</b>	<b>\$130,770</b>

## PREMERGER NOTIFICATION

Most mergers and acquisitions (for convenience, “mergers”) are either procompetitive or competitively neutral. Mergers that are anticompetitive, however, can raise costs to consumers by millions of dollars every year, reducing the output of goods and services. Anticompetitive mergers also can significantly diminish product quality, restrict consumer choice, and inhibit innovation. To identify potentially anticompetitive mergers, the FTC relies primarily on the premerger notification regime proscribed by the Hart-Scott-Rodino (HSR) Act. In addition, the FTC reviews press releases, industry research, and complaints by final or intermediate consumers and others (especially as to non-reportable mergers). To distinguish between mergers that threaten competitive markets and those likely to promote them, the FTC uses sophisticated economic analysis and thorough factual investigation.

- **Protection Against Anticompetitive Mergers and Acquisitions:** The Hart-Scott-Rodino Premerger Notification Program provides the FTC with an effective starting point for identifying anticompetitive mergers before they are consummated. Prior to enactment of the HSR Act, codified as Section 7A of the Clayton Act, parties often consummated their acquisitions and combined their operations before the antitrust agencies even learned of the transactions, making it difficult, if not impossible, to “unscramble the eggs” and restore the benefits of competition.

The FTC’s Premerger Notification Program fulfills Maintaining Competition’s goals by:

- » **Assisting Businesses to Satisfy Notification Requirements**  
The HSR Act requires persons meeting certain threshold requirements who are planning significant acquisitions to file notifications with the FTC and the Department of Justice and to wait a prescribed period of time before consummating their transactions. Thus, if an HSR-reportable merger is likely to harm competition, the antitrust enforcement agencies have a chance to act to prevent it before the merger occurs. The FTC initiates a large majority of merger enforcement actions through this process.
- » **Educating Parties About HSR Requirements**  
The FTC’s Premerger Notification Program includes various efforts to ensure that parties to transactions understand the information that they must supply under the HSR Act. In addition to written materials, the Premerger Notification Office provides assistance to individuals and organizations subject to the HSR Act to improve the level, completeness, and accuracy of compliance.

- » **Providing Rapid Initial HSR Review**

Mergers reported under the HSR Act vary tremendously in their complexity and potential anticompetitive effect. In the majority of cases, the agency can make a reasonable judgment about whether a merger has the potential to be anticompetitive within a few days of filing. To identify potentially anticompetitive transactions, the Premerger Notification Office prepares a summary description and a preliminary antitrust analysis of every transaction reported. Those summaries are then reviewed by the Bureau of Competition's litigation divisions, the Bureau of Economics, and the Merger Screening Committee, a committee with participants from both Bureaus that convenes regularly to consider which matters call for further action.
- » **Coordinating with the Antitrust Division of the Department of Justice**

The FTC administers the HSR Program both for itself and for the Antitrust Division of the Department of Justice, which shares authority to challenge anticompetitive mergers. The summaries of transactions prepared by the Premerger Notification Office are provided to the Antitrust Division. The Office also works with the Antitrust Division to ensure that the two agencies apply Premerger Notification Rules consistently and uniformly. Through an informal "clearance" process, the two agencies ensure that only one agency investigates and, if necessary, challenges any given transaction. Assignment to one agency or the other takes place after preliminary review of a transaction, based principally on each agency's relative expertise with markets potentially impacted by the proposed transaction.
- » **Minimize the Burden on Business**

The Premerger Notification Program strives to minimize the burden on filing parties while meeting the enforcement responsibilities of the FTC and the Antitrust Division. To that end the FTC develops and recommends improvements in the HSR rules and procedures, such as the implementation of electronic filing of HSR notifications.

## MERGER AND JOINT VENTURE ENFORCEMENT

As noted above, anticompetitive mergers or joint ventures can harm consumers significantly by raising prices and reducing output and by reducing price-adjusted product quality, restricting consumer choice, and impeding innovation. The Merger and Joint Venture Enforcement Program seeks to prevent these effects in any market in which the FTC has reason to believe a merger is likely to substantially lessen competition, including high-priority areas for consumers such as health care (including pharmaceuticals), energy, and information and technology.

Whenever a merger is challenged, the proper relief must be considered. In some instances, it is possible to craft narrowly-tailored relief, such as a partial divestiture, that prevents injury to competition but allows the transaction to proceed overall. In other instances, the avoidance of anticompetitive harm cannot be accomplished without preventing or, if already consummated, undoing the merger entirely.

Determining whether a merger is anticompetitive, and identifying and obtaining appropriate relief, requires thorough investigation to answer fundamental questions. Is the merger likely to result in the lessening of actual or potential competition, increase the market power of the joining firms, and lead to market dominance or a significant increase in the likelihood of collusion? Is it likely to increase barriers to entry or expansion, or foster interdependent conduct among firms? Merger enforcement uses a three-part process to carry out its goals:

- **Detect Potentially Anticompetitive Mergers:** Staff identifies potentially harmful mergers, usually before they occur, by screening HSR premerger notification reports submitted for significant proposed transactions. But HSR review is part of a broader program of monitoring merger activity, and staff also identifies potentially harmful mergers that are not subject to HSR notification requirements, in some instances after their consummation. Staff investigates those mergers that the screening process has identified as potentially harmful to competition and consumers, gathering extensive market information about whether a transaction is in fact likely substantially to lessen competition.
- **Prevent Anticompetitive Mergers :** The most effective and cost-efficient strategy for protecting consumers against mergers that may substantially lessen competition is to prevent anticompetitive deals from occurring. The FTC does this primarily by using its authority to seek injunctive relief under Section 13(b) of the Federal Trade Commission Act. Because of its willingness to use this authority when justified, the FTC often is able to address potential harm to competition through consent negotiations without having to seek an injunction. Where it is unable to do so and injunctive relief is inappropriate or unavailable, the FTC may rely on its administrative remedial powers to restore competition lost as a result of a merger's consummation. Whether achieved by consent or in an administrative proceeding, the most common remedy is divestiture of assets sufficient to preserve or restore competition, although the FTC uses conduct remedies where appropriate.
- **Educate Public About Anticompetitive Transactions:** To enhance the effectiveness of the FTC's merger and joint venture enforcement activities the agency strives to increase public awareness of the factors the FTC considers as it determines whether to take law enforcement action. The Commission uses educational publications, its decisions, and the public facts underlying FTC

actions to provide companies with the information needed to evaluate the likelihood that similar transactions may face challenge. The FTC's efforts to promote transparency in its decisions include releasing guidelines and policy statements to provide guidance to businesses on complying with antitrust laws. Moreover, in specific matters, the agency issues public statements, including analyses to aid public comment, complaints, and closing statements, to explain why the FTC decided to challenge or not challenge a merger.

## MERGER AND JOINT VENTURE COMPLIANCE

The Commission ensures that the orders it issues through Merger and Joint Venture Enforcement are well-designed, made effective in a timely fashion, and complied with by the parties through the Merger and Joint Venture Compliance Program.

- **Consent Agreements and Orders:** Consent Orders draw upon the accumulated experience of the FTC's compliance staff. When the divestiture of assets that are the subject of a consent order is delayed, the competitive viability of the assets often declines. To avoid delay, the FTC seeks either "up-front" purchase and sales agreements or divestiture orders that limit the time within which divestiture must be accomplished to the minimum period deemed necessary.
- **Implementation of Agreements and Orders:** The Merger Compliance Program ensures that order provisions are as effective as possible, and that they are faithfully and timely implemented. Compliance staff work with merger enforcement staff, merging parties, and buyers to assure that the provisions of the order are properly drafted and that the divestiture package is adequate to achieve the necessary viability and competitiveness of the divested assets to ensure that competition is retained or has been restored to pre-merger levels.
- **Monitor Divestitures and Compliance:** Compliance staff closely monitors progress toward divestiture and, where necessary, recommends that fallback order provisions be invoked, such as trustee-managed divestiture, the divestiture of larger asset packages, or, where necessary, civil penalty actions. Civil penalty actions entail investigation and, where necessary, federal court litigation. Merger Compliance includes monitoring compliance with conduct order provisions such as bans on the dissemination within a respondent firm of competitively sensitive information or requirements to seek prior approval or give prior notice of plans to carry out specified future mergers or acquisitions.
- **Review Petitions and Applications:** In addition, Merger Compliance also includes reviewing petitions from parties to orders seeking modification or

terminations of their orders, and making appropriate recommendations for FTC action.

## NONMERGER ENFORCEMENT

Leading firms in significant industries sometimes resist the competitive forces of evolving markets and innovation; that resistance may involve business practices that make it more difficult for other firms to enter the market or that enable existing competitors to collude. For competition to thrive in markets in transition, competition authorities must stop practices designed to entrench market power and deny consumers the benefit of new forms of competition. Thus, for example, the FTC has challenged agreements between branded and generic pharmaceutical companies to delay lower-priced generic entry harm consumers by stifling price competition, and to dominant firms' use of their dominant market positions to exclude competition, deprive consumers of choice, and suppress innovation.

Competition authorities must evaluate business conduct in the context of the particular markets at issue. The analysis must be thorough and sensitive enough to distinguish practices that restrict competition and harm consumers from those that may promote competition.

The FTC's nonmerger activities encompass all of its enforcement jurisdiction outside of the merger activities. A wide variety of business practices may harm consumers, allowing firms to raise prices beyond competitive levels, or to reduce output, quality, services, innovation, or choice for consumers. The nonmerger actions of the FTC fall into three broad categories of antitrust violations: horizontal restraints, distributional restraints, and single firm violations. Identifying and proving these types of violations requires sophisticated legal and economic analysis and thorough factual investigation to distinguish between conduct that threatens the operation of open and competitive markets and conduct that promotes and advances their operation and generates efficiencies.

- **Horizontal Restraints:** The horizontal restraints segment of Nonmerger Enforcement looks at anticompetitive agreements between and among competitors. Some horizontal restraints, such as price-fixing, harm consumers by raising prices or by reducing the quantity and quality of goods and services. These restraints may be the products of collusion or of conduct that facilitates collusion. The mission of this program is to prevent, detect, investigate, and remedy anticompetitive collusion or its facilitation. While some agreements among competitors, such as standard-setting activities and the creation of legitimate ethical codes, can be procompetitive and even essential, such agreements can also be abused to exclude entry by new competitors or expansion by existing competitors.

- **Distributional Restraints:** Restraints on the distribution of goods from manufacturers to consumers can facilitate horizontal collusion, limit sources of supply, or restrict channels of distribution in ways that give a party unilateral power to increase prices or reduce price-adjusted quality or otherwise suppress competition. Under certain circumstances, potentially unlawful distributional restraints may include agreements restricting resale prices or other terms of resale, agreements restricting the sale or purchase and distribution of goods of firms other than the parties to the agreement, and discrimination in price or other terms that may injure consumers.
- **Single Firm Violations:** A single firm with monopoly power can use various anticompetitive practices to reduce output and increase price above the competitive level, injuring consumers and misallocating resources. While neither the existence of monopoly power nor the attempt to achieve it is unlawful in itself, obtaining, increasing, or maintaining monopoly power by unnecessarily exclusionary means is unlawful. The goal of our enforcement activity against single firm violations is to prevent or remedy instances in which appreciable market power is created or maintained, or either is attempted, through conduct that would injure long-run consumer welfare. A principal challenge with this enforcement activity is to distinguish improper conduct from that which merely constitutes vigorous competition.
- **Strategy:** The FTC employs strategies of investigation, litigation, voluntary compliance, and negotiation for nonmerger enforcement. In addition, the FTC provides reports and comments to federal, state, and local government agencies, as well as amicus curiae briefs, advisory opinions, and legal and economic analyses to help inform others about emerging issues affecting nonmerger enforcement.

## NONMERGER COMPLIANCE

As in its Merger Enforcement Program, the Commission obtains orders in its Nonmerger Enforcement Program to preserve or restore competition. To succeed in that purpose, these orders must be well-designed and fully adhered to. The crafting of appropriate orders and subsequent monitoring of adherence to order terms requires close consultation between enforcement and compliance staff. Unlike orders in merger enforcement cases, orders in anticompetitive conduct cases seldom involve divestiture relief. Instead, the most significant order provisions are generally prohibitory, requiring a party to “cease and desist” from specified conduct. Conduct relief can be quickly implemented once an order is entered, and emphasis is placed on seeking to identify and obtain cease and desist orders enjoining anticompetitive conduct before it can cause significant, and potentially irreparable harm.

- **Final Consent Orders:** The provisions of nonmerger orders often present their own difficult enforcement issues. For example, in some circumstances it can be difficult to discern whether an order has been violated, as where a respondent is enjoined from engaging in certain conduct in concert with others, but is free to engage in that same conduct individually.
- **Monitor for Compliance:** Strategies for monitoring compliance include review of periodic compliance reports required by the orders, follow-up interviews with the reporting parties, scrutiny of relevant media, contacts with the original complainants and others in the industry in a position to observe any violations, and investigation of suspected violations.
- **Relief:** Nonmerger compliance may entail federal court litigation seeking civil penalties and other relief.
- **Review Petitions to Modify Orders:** Nonmerger Compliance also includes reviewing petitions from parties under order seeking modification or termination of their orders and making appropriate recommendations for FTC action on these petitions.

## ANTITRUST POLICY ANALYSIS

Staff undertakes antitrust policy analysis to provide the Commission and other policy makers with information to assess and formulate competition policy. Antitrust policy analysis includes the design and conduct of economic research to improve our understanding of markets and enable the FTC to identify markets and circumstances in which enforcement or other FTC actions would likely result in greater competition. The Antitrust Policy Analysis activity also aims to ensure that consumer interests are represented before various governmental and self-regulatory bodies addressing market and competition issues. Among the types of activities supported are:

- **Economic Studies of Competition in Markets:** A key goal of this effort is to support studies and workshops that help us better understand how competition actually works in different markets and contexts. These activities enable the FTC to bring together industry, economic, and legal experts to assess competition policy challenges in specific sectors of the economy. For example, one recent FTC-sponsored workshop centered around discussion of how the federal antitrust agencies will enforce U.S. antitrust laws when competing health care providers create new Accountable Care Organizations under the Affordable Care Act of 2010. Another workshop, held jointly by the FTC and Department of Justice in December 2012, explored the impact of patent assertion entity (PAE) activities on innovation and competition and the implications for antitrust enforcement and policy.

This effort also supports studies of key industries, such as the recent study of authorized generic drugs. In addition, the FTC issues policy papers, such as a recent paper summarizing the agency's activities relating to ongoing reviews of mergers, acquisitions, and other transactions in the oil and natural gas industries.

- **Legal and Economic Studies of Antitrust Policy Issues:** Antitrust Policy Analysis also supports legal and economic studies of antitrust policy issues designed to inform the Commission and others. For instance, in March of 2011, the Commission issued a report examining how the courts can reform the patent system to better serve consumers by improving patent quality and by addressing how some strategies by patent holders may distort competition and deter innovation.
- **Economic Support of Competition Advocacy:** Antitrust Policy Analysis also supports the inclusion of Bureau of Economics staff input in advocacy comments before other governmental or self-regulatory bodies on issues related to the FTC's goals in maintaining competition. Staff has issued comments to various state entities on rules governing the entry of new types of limited service health care professionals and facilities in markets otherwise reserved for medical doctors, and comments on proposed rules issued by Federal Energy Regulatory Commission (FERC) relating to the integration of alternative sources of energy.

## OTHER DIRECT ACTIVITIES

Maintaining Competition's goals include several other functions that directly support law enforcement, including:

- **Planning, Education, and Review:** Through this function, the FTC ensures overall consistency of our enforcement program with case law, FTC precedents and policy, antitrust scholarship, and efficient use of resources.
- **Competition Advocacy:** The FTC and its staff have a great deal of expertise about competition and the competitive effect of proposed laws, rules, or regulation on other governmental bodies. Competition staff is often invited to comment on such proposals and share this expertise with federal, state, or local governments.
- **Recruiting:** The Bureau of Competition, in cooperation with the Human Resources Management Office and other offices in the FTC, interviews at over a dozen law schools and legal recruiting fairs each year to recruit entry-level attorneys, and is also responsible for recruiting lateral attorneys and other staff members as needs arise.

- **Employee Development and Training:** Through its Employee Development and Training Program, the FTC ensures that attorneys and support personnel receive legal and other necessary training. Hallmarks of the training program are the semi-annual in-house training sessions for summer interns and first-year attorneys and the ongoing programs on substantive and procedural topics aimed at experienced attorneys.
- **Investigation, Litigation Support, and Electronic Filing:** Investigation and Litigation Support is responsible for processing and loading all document productions received during the course of investigations. This group develops standards for accepting documentary productions and uses appropriate technological solutions to ensure Commission staff has ready and efficient access to this information.

As part of this activity, the FTC is upgrading and will re-deploy the Electronic Filing System for premerger filings received under the HSR program. This system will allow merging parties to submit any required HSR Notification and Report Forms electronically via the Internet. Once the form has been processed, it will be accessible by the reviewing agencies via a shared database. Electronic filing will provide faster processing time, improved data entry, and the elimination of expensive and time-consuming duplication of documents.

- **Information Systems Management:** The FTC's Information Systems Management staff manages the records systems necessary to track all matters opened within the Maintaining Competition Mission. It also coordinates activities with the FTC's Office of Information and Technology Management, including use of the Internet to keep the public informed of activities, and using the FTC's Intranet for internal communications.
- **Clearance Procedures with the Department of Justice:** Staff of the FTC and the Antitrust Division of the Department of Justice apply established principles to determine which agency will investigate merger and nonmerger matters that appear to violate the antitrust laws.
- **Liaison with State Officials:** FTC staff and management coordinates antitrust activities and enforcement with state attorneys general including training, consultations, and joint investigations of potentially anticompetitive practices and mergers, to the extent allowed by applicable laws.

## Support

Support consists of management and support activities within the Federal Trade Commission (FTC). Support addresses evolving needs and develops and implements new, more efficient products and services to meet the FTC's goals and challenges.

### Budget by Activity (\$ in thousands)

	Fiscal Year 2013		Fiscal Year 2014	
	FTE	Dollars	FTE	Dollars
Commissioners	40	\$6,864	40	\$6,984
Office of Policy Planning	11	1,803	11	1,835
Office of the General Counsel	59	9,356	59	9,524
Office of International Affairs	26	4,761	26	4,847
Office of the Secretary	11	2,082	11	2,119
Office of Administrative Law Judges	6	949	6	965
Office of the Executive Director	141	120,340	141	105,269
Office of Congressional Relations	7	1,114	7	1,135
Office of Public Affairs	9	1,521	9	1,549
Office of Inspector General	5	1,059	5	1,082
Office of Equal Employment Opportunity	3	525	3	536
<b>Total Support</b>	<b>318</b>	<b>\$150,374</b>	<b>318</b>	<b>\$135,845</b>
<b>Allocation of Support</b>				
Protect Consumers	172	\$81,580	172	\$73,699
Maintain Competition	146	68,794	146	62,146
<b>Total Support</b>	<b>318</b>	<b>\$150,374</b>	<b>318</b>	<b>\$135,845</b>

## COMMISSIONERS

The Commissioners are responsible for ensuring the effective and efficient execution of the FTC's congressionally mandated responsibilities. They formulate Commission policy, which guides and directs the staff's work, and allocate the required resources. They also monitor the FTC's progress in accomplishing stated goals.

## OFFICE OF POLICY PLANNING

The Office of Policy Planning is responsible for developing policy recommendations on a variety of competition and consumer protection issues. Policy Planning staff research and analyze emerging issues relevant to how the free market operates in a variety of industries, competition enforcement, and the intersection of competition and consumer protection policy. The Office of Policy Planning also advocates for strong competition and consumer protection policies in a variety of federal and state venues by analyzing the competitive ramifications of certain policy approaches, making recommendations on legislation that may enhance or impede competition, gathering evidence to assess competitive problems or to identify how best to address new competitive issues, and providing legal and economic analysis where requested.

Policy Planning staff frequently obtain public input from businesses, consumer groups, academics, and other outside sources through a variety of means, such as fact-gathering workshops, roundtable policy discussions, and Section 6(b) subpoenas. The Office of Policy Planning also coordinates the FTC's advocacy role with other governmental entities and, when warranted, provides assistance in the development of enforcement matters that involve novel or complex legal issues.

## OFFICE OF GENERAL COUNSEL

The General Counsel is the Commission's chief legal officer and adviser. The Office's major functions are representing the Commission in court and providing legal counsel and policy advice to the Commission, the operating bureaus, and other offices.

- **Litigation:** In its litigating capacity, the Office of General Counsel provides fundamental support to both missions of the Agency. The Office defends actions seeking judicial review of Commission orders and trade regulation rules, handles appeals of Commission actions seeking preliminary and permanent injunctive relief, and assists both bureaus in actions for injunctive relief in district court.

The Office also counsels staff on the conduct of law enforcement investigations, enforces civil investigative demands and other compulsory processes,

advises staff on issues relating to the discovery of electronically stored information, and frequently assists staff in responding to discovery requests directed to the FTC or its staff. It cooperates with the Department of Justice in defending cases brought to enjoin or otherwise challenge agency action, or to obtain monetary damages against the FTC or its personnel. The Office also furnishes advice and assistance concerning other litigation activities, prepares amicus curiae briefs authorized by the Commission, and works to ensure that our adjudicatory process is efficient and fair.

- **Legal Counsel:** In its Legal Counsel capacity, the Office of General Counsel provides confidential legal guidance to the Commission on a wide range of procedural and substantive issues in adjudicative matters. It also advises the Commission and staff on legal and policy issues, such as agency jurisdiction, statutory authority, administrative procedure, and other matters relating directly to the agency's enforcement goals.

The Office counsels Commissioners and staff to ensure compliance with the Ethics in Government Act. Its work protects the Agency by helping Commissioners and staff avoid conflicts of interest, by deciding whether former employees may appear in Commission proceedings and providing reports to the Office of Government Ethics.

- **Opinion and Analysis:** This side of OGC assists the FTC in drafting opinions and providing all necessary support for the Commission's Part 3 functions. Staff provides an analysis of complex legal issues for the Commission, provides assistance to other offices, and contributes advice and drafting assistance on cutting-edge topics related to the FTC's enforcement responsibilities with regard to complaint recommendations, adjudicatory opinions, and appellate litigation.
- **Employment and Labor:** The Office also advises agency staff on personnel, labor-management relations, equal employment opportunity, procurement law, and appropriations law matters. Without the sound management training, advice, and representation from the Office of General Counsel, the FTC would risk improper behavior, improper management, and the possibility of class actions and subsequent findings for damages against the FTC. The Office represents the FTC in legal proceedings before such agencies as the Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and General Services Board of Contract Appeals.
- **Legislative Requests and Transparency:** The Office prepares responses to formal congressional requests for documents or information about Commission actions, assists with briefings of congressional committees and

subcommittees, assists in preparing testimony for congressional hearings, analyzes proposed legislation affecting the agency, and drafts or reviews Commission comments to OMB or the Congress on such legislation.

The Office also handles a number of matters related to confidentiality and access to information. The Office administers the Agency's Freedom of Information Act program, and works extensively with the administration of the Privacy Act, the Government in the Sunshine Act, requests by state and federal law enforcement agencies for access to non-public documents, and requests for confidential, rather than public record, treatment of materials submitted to the Commission.

### OFFICE OF INTERNATIONAL AFFAIRS

The Office of International Affairs is responsible for the international aspects of the FTC's missions to maintain competition and protect consumers. As markets have become more global and the number of antitrust and consumer protection laws and agencies continues to grow, the FTC must increasingly address international issues to fulfill its competition and consumer protection objectives for American consumers.

OIA's work comprises three areas: supporting the FTC's consumer protection and competition case teams with respect to international issues; working with other nations and international organizations to promote sound competition and consumer protection policies; and providing technical assistance to enable developing competition and consumer protection agencies to obtain the legal and economic skills necessary to perform their missions.

OIA assists the FTC's competition mission through its work in various bilateral and multilateral fora.

- **Bilateral Relationships:** Effective cooperation with counterpart agencies is a necessity given the many FTC cases involving parties based outside the United States and evidence located abroad or that are under parallel review by foreign competition agencies. Pursuant to formal cooperation agreements and informal arrangements and relationships, OIA works with FTC staff and foreign agencies to achieve consistent approaches to cases of mutual concern and to promote convergence toward sound policy and enforcement.
- **Activities in Multilateral Competition Fora:** The FTC is a leader in the multilateral organizations that facilitate dialogue and convergence toward sound competition policy and enforcement, particularly the International Competition Network (ICN) and the Organization for Economic Cooperation and Development (OECD), as well as the United Nations Conference on

Trade and Development (UNCTAD) and regional organizations such as the Asia-Pacific Economic Cooperation (APEC).

- **Trade-Related Competition Activities:** The FTC plays an active role in the U.S. delegations that address competition issues in bilateral and regional trade agreements, such as the current Trans-Pacific Partnership. We also participate in the interagency process to formulate and implement competition-related policy toward China.

OIA helps the FTC accomplish its consumer protection and privacy goals by building international enforcement cooperation and fostering the development of sound policies that take into account rapid technological and other changes in the global marketplace. These activities include:

- **International Enforcement Cooperation:** The FTC receives many complaints that involve international transactions and undertakes many law enforcement investigations with an international dimension. For example, the FTC has implemented a comprehensive effort to combat cross-border consumer fraud. In 2006, Congress gave the FTC powers to do this more effectively through the U.S. SAFE WEB Act, which provides the FTC with key information sharing, investigative assistance, and cross-border authority. The FTC has used this authority responsibly to pursue cross-border wrongdoers robustly and effectively. Congress reauthorized the Act in December 2012.

The FTC continues to develop and strengthen bilateral and multilateral enforcement partnerships with international consumer protection, data protection, and criminal law enforcement counterparts. It works closely with Canadian agencies on cross-border telemarketing, privacy, and Internet fraud issues and has strengthened cooperation with the European Union's Consumer Protection Cooperation Network. The FTC is also a leader in the International Consumer Protection Enforcement Network (ICPEN), a global network of consumer protection law enforcement agencies that work together to combat fraud, and works closely with regional consumer protection networks in Asia, Africa, and Latin America. The FTC also co-chairs the London Action Plan on international spam enforcement cooperation and is an active participant in the International Mass Marketing Fraud Working Group. In the privacy area, the FTC has played a lead role in setting up the APEC cross-border privacy enforcement arrangement and the Global Privacy Enforcement Network, and is now an active member of the International Conference of Data Protection and Privacy Commissioners. These activities have yielded concrete results, including substantial assistance from foreign partners on a variety of cases, enabling the FTC to more effectively protect U.S. consumers.

- **Promoting Sound Consumer Protection and Privacy Policies:** OIA advocates vigorous enforcement of the key rules that protect consumers from significant harm, including from fraud and deception, in the global electronic marketplace. Examples of the FTC's activity in this area include its work on the international dimensions of emerging electronic commerce-related issues such as mobile payments, social networking, and digital content products, and the economics of consumer protection in the OECD's consumer policy committee and other international organizations. Examples in the international privacy area include the FTC's contribution to the development of the APEC cross-border data privacy rules system and other international privacy issues in the OECD Working Party on Information Security and Privacy. The FTC also engages on consumer protection and privacy issues directly with its counterparts in the European Union, Asia, Latin America, and beyond.

The FTC provides technical assistance to countries in transition to market economies and that are establishing new competition and consumer protection regimes, and shares staff investigative and analytical expertise and experience with colleagues in more advanced jurisdictions as they address more complex issues. Our program contributes to convergence toward sound policies that benefit American consumers and businesses. In FY 2011, the OIA organized a series of five training seminars for the staff of the Competition Commission of India and advised the Indian staff on analytical approaches to the issues they are addressing. We also conduct innovative consumer protection and privacy programs in Asia, Africa, and Latin America to help agencies develop and upgrade their legal frameworks and enforcement techniques in light of technological developments.

The FTC provides short-term training in investigative skills by having experienced FTC lawyers and economists use hypothetical scenarios to conduct simulated investigations involving issues that developing agencies typically encounter and through instruction in substantive economic and legal issues. The FTC also responds to requests for comments on draft competition and consumer protection legislation and hosts foreign officials who visit the agency to study the U.S. experience in administering its antitrust and consumer protection laws. Taking advantage of its combined competition and consumer protection functions, OIA explains how these policies can be mutually reinforcing in enhancing consumer welfare, and it serves as a resource to other jurisdictions that seek to coordinate the two functions.

The FTC has established an International Fellows program that has enabled foreign competition and consumer protection agency staff to work alongside their FTC counterparts, and a staff exchange program to implement the U.S. SAFE WEB Act's authorization of exchanges with foreign antitrust and consumer protection agencies. The FTC has hosted 36 Fellows from 23 countries, and FTC staff have participated in exchanges with competition agencies in Canada, the United Kingdom, Mexico, and the European Commission.

## OFFICE OF THE SECRETARY

The Office of the Secretary supports the Commission decision-making process by implementing and advising the Commission and its staff on Commission voting and other decision making procedures, assigning staff recommendations and requests for action to the Commission, processing all Commission circulations and votes, and notifying the Commission and its staff of voting and other decision-making deadlines. The Office also maintains the Commission's electronic circulation system, and ensures that copies of all Commission assignment packages and circulations can be accessed through the Intranet. In addition, the Office creates official records of all Commission deliberations and actions taken, whether at Commission meetings or through the written notational voting process. The Office also reviews, and the Secretary signs or otherwise validates, all official documents approved or authorized by the Commission and its delegates including consent agreements and reports. In addition, the Office forwards all Commission Notices to the Federal Register, after signature by the Secretary or the General Counsel, and manages the contract covering Federal Register publication expenditures. The Office also creates and forwards electronic copies of most of these documents (with appropriate captions) for publication on [www.ftc.gov](http://www.ftc.gov) at the same time as the relevant news releases.

The Office also maintains the agency Operating Manual, and prepares and forwards responses to most Congressional and White House correspondence raising constituent issues. In addition, the Office creates and preserves electronic copies of all relevant actions and documents in our internal document management system. The Secretary is also the legal custodian of Commission legal and public records, and is responsible for publishing the FTC Decisions Volumes, including almost 100 volumes covering the period from 1949 to 2005 which have recently been placed on the Commission Website, at [www.ftc.gov](http://www.ftc.gov).

## OFFICE OF ADMINISTRATIVE LAW JUDGES

The Office of Administrative Law Judges performs the initial adjudicative fact-finding in Commission administrative complaint proceedings, guided by statutes, precedent, and rules of practice. The Administrative Law Judge assigned to handle each complaint issued by the Commission holds pre-hearing conferences, resolves discovery, evidentiary and procedural disputes, and conducts the full adversarial evidentiary hearings. The judge's Initial Decision sets out relevant and material findings of fact with record citation, explains the correct legal standard, and applies the law to the facts.

The Office of Administrative Law Judges is also charged with conducting certain rulemaking proceedings for the Commission. After a hearing on the record,

the judge conducting the proceedings makes a recommended decision to the Commission based on findings of fact and conclusions of law.

## **OFFICE OF THE EXECUTIVE DIRECTOR**

The Office of the Executive Director serves as the managerial and administrative arm of the Federal Trade Commission, with responsibility for the overall operation of the agency. The Office of the Executive Director works closely with the bureaus on strategic planning and assessing the management and resource implications of any proposed action. The following offices are located in the Office of the Executive Director:

### **Financial Management**

The Financial Management Office (FMO) is responsible for overseeing the FTC's budget formulation and execution processes, all procurement activities and related policies, development and maintenance of financial policies, ongoing assessment and monitoring of internal controls, implementing and maintaining financial systems, accounting and reporting of financial transactions, travel management, and strategic planning and performance management as required by the GPRA Modernization Act (GMA) of 2010. In fulfilling our responsibilities, FMO staff partner and collaborate with other Federal entities such as the Congress (relative to budget), the Office of Management and Budget (OMB), and the Department of the Treasury to accomplish government-wide goals and objectives.

The FMO ensures the FTC complies with various financial management laws, regulations, and government-wide policies. The FMO's core staff of highly-trained financial management professionals aids the FTC in carrying out its mandated responsibilities, and provides agency-wide financial management direction, services, and information.

Some of the key activities performed by FMO include:

- Acquisition of all goods and services on behalf of the Bureaus and Offices, including assisting internal customers with the requisition process, statements of work, and requests for proposal, as well as assistance with contract preparation, award, and administration.
- Assisting senior management and staff on budget development, justification, execution, and review. This includes working with FTC, OMB, and Congressional staff to obtain appropriations and subsequent apportionment authority, distribute enacted and Commission-approved resources to agency organizations and projects, track the use of agency resources, and prepare needed reprogrammings of agency funds.

- Recording financial transactions into the accounting system, managing the agency's general ledger, and reconciling balances with those maintained by the Department of Treasury and OMB. The FMO also performs financial analysis and initiates adjusting entries as needed.
- Preparing the FTC's consolidated financial statements and serving as primary liaison with external auditors. The FMO also prepares the Performance and Accountability Report (PAR) and directs Government Performance and Results Act activities including oversight of strategic planning and performance reporting.
- Issuing FTC's financial policies to implement laws and high-level government-wide requirements and policies (e.g., OMB Bulletins and Circulars).
- Managing the FTC's internal control program and coordinating activities resulting in the annual Statement of Assurance required by law.
- Managing the FTC's financial systems and related accounting and payment processing support services via a contract vehicle with a shared service provider.
- Managing and administering credit card programs.
- Managing E-Travel, including a comprehensive end-to-end service to plan, book, track, approve, and request reimbursement for travel.

In addition, the Chief Financial Officer also serves as the agency's Performance Improvement Officer and coordinates strategic planning and performance management activities as required by the GPRA Modernization Act.

### **Human Capital Management Office**

The Human Capital Management Office (HCMO) is responsible for enabling the FTC to accomplish its goals through workforce planning, recruitment, employee development, retention, compensation, and performance management. Activities include honors paralegal recruitment; attorney and non-attorney hiring; SES hiring; advice and guidance to managers on conduct, performance, and discipline problems; benefits; retirement counseling; administering awards; training; position classification; labor relations; administration of performance management; payroll liaison; and electronic time and attendance coordination.

The HCMO ensures the FTC complies with various human resources management laws, regulations, and government-wide policies and maintains a core staff of highly-trained human resources professionals to aid the FTC in carrying out its mandated responsibilities, as well as providing agency-wide human resources

management direction, services, and information. Some of the key activities performed by HCMO include:

- Assisting and advising the Bureaus and Offices in filling high-priority positions.
- Assisting and advising the Bureaus and Offices in resolving sensitive human resource issues.
- Working with Bureaus, Offices, and unions to ensure management complies with labor relations responsibilities when making decisions affecting personnel policies, practices, or working conditions.
- Leading Training Council activities to assess continually the core curriculum for critical FTC occupations.

### **Administrative Services Office**

The Administrative Services Office (ASO) is an integral component of the FTC's support service network, ensuring that other agency staff can focus on law enforcement activities. Some of the key activities performed by ASO include:

- Negotiating, leasing, and managing headquarters and regional offices space, including managing infrastructure renovations and repairs.
- Providing building and grounds management.
- Managing the agency's physical security, personnel security, emergency preparedness, and health and safety programs.
- Planning, coordinating, and supporting all types of FTC events.
- Coordinating the preparation for new employees, physical office moves of current employees, and the processing of employees who leave the agency.
- Maintaining a Customer Services Center, a one-stop shop for addressing and fulfilling a wide range of administrative requests.
- Managing the agency's reproduction needs, including in-house copy centers in both buildings in Washington, DC and logistical support to FTC staff working with commercial printers or the Government Printing Office.
- Managing agency-wide support including the mail room, courier, supply, and furniture management services.

- Updating and maintaining publications, including the FTC Daily, the FTC's Administrative Manual, and the FTC telephone directory, as well as external directories containing information about the FTC's goals.
- Managing and administering Reimbursable Work Authorization (RWA). The FTC is required to reimburse the General Services Administration for building-related services, such as utilities and alterations in buildings, where GSA has not given the FTC authority to provide these services.
- Coordinating the FTC's transit subsidies.
- Providing moving, transportation, and garage services for headquarters buildings.
- Providing administrative assistance and logistical support to eight regional offices.

### **Office of the Chief Information Officer**

The Office of the Chief Information Officer (OCIO) is responsible for providing the FTC with a robust, reliable, rapidly scalable and interoperable infrastructure, providing connectivity and computing capabilities which allow all FTC staff and mission partners to access, share, and act on needed information. The OCIO also directly supports critical mission area IT development, modernization, and the enhancement of applications and systems, business services and related office automation systems; and maintains a robust cybersecurity program that includes the FTC's disaster recovery and continuity of operations efforts. One of the OCIO goals is the provision of the best available information management and information technology (IM/IT) tools and infrastructure to the FTC staff for mission success.

The OCIO's IM/IT responsibilities align with and support two agency services: the direct law enforcement and goal-related systems and services as well as the vital, secure, and stable technology infrastructure that forms the basis for specific FTC mission activities. Some key activities performed by OCIO include:

- Providing several important direct law enforcement systems and services that are critical to the FTC's law enforcement activities.
- Supporting overall law enforcement efforts through library research and reference collection services; services provided by our Enterprise Services (or Help) Desk, including PC installation and repair; training and support in the use of information technology resources; and support of various critical, key information systems and applications.
- Providing a vital, secure, and stable technology infrastructure for a multitude of mission-supporting applications, systems, and services. This includes life-

cycle management, where the OCIO assesses and evaluates the technology infrastructure to ensure that it remains sound and that improvements produce optimal results, as well as enhancing technology products and services to ensure that they continue to meet changing business requirements.

- Securing FTC data and information technology systems against current and emerging security cybersecurity threats by using sophisticated network security technologies that provide increased system security while allowing FTC staff to do their jobs in the most efficient manner possible. The OCIO also investigates and implements emerging technology to provide a secure repository for the FTC's critical, highly sensitive data.
- Ensuring that agency applications, processes, and internal policies, procedures, and guidelines align with all federal mandates, legislation, and guidance.

### Records and Filings

The Records and Filings Office (RFO) serves all official documents, receives and processes filings before the Commission and the Administrative Law Judges, maintains the official public record in all FTC matters, and develops and administers records management policies for all media throughout the FTC. Some of the key activities performed by RFO include:

- Intake and processing of public comments in all FTC rulemaking proceedings and other matters (such as workshops, studies, and Paperwork Reduction Act proceedings) that solicit public comments.
- Supporting the FTC's law enforcement efforts by designing and implementing agency-wide electronic systems for storing and accessing agency documents and for tracking and managing agency matters, as well as a system for filing electronically in administrative litigation.
- Maintaining pages on [www.ftc.gov](http://www.ftc.gov) regarding adjudicative proceedings and public comments.
- Overseeing the creation of Federal records to ensure that Commission functions are adequately and properly documented.
- Developing programs to ensure that the FTC meets the relevant statutory requirements for records management and retention.
- Developing and conducting training, education and outreach programs to make mission-driven, life cycle records management an integral component of FTC functions.

- Leading the effort to embed records management in electronic systems and e-business processes.
- Developing policies and procedures to identify and protect records needed for continuity of operations.
- Storing and retrieving FTC official records, both on- and off-site.
- Managing the agency-wide stenographic court reporting contract.

## OFFICE OF CONGRESSIONAL RELATIONS

The Office of Congressional Relations works closely with members of Congress and their staffs. The Office informs Commissioners and FTC staff of Capitol Hill issues and policies, and helps provide information on legislation and Congressional hearings of interest to the Commission. It also coordinates the preparation of both Congressional testimony and responses to Congressional inquiries concerning FTC policies and programs.

The Office of Congressional Relations:

- Develops, coordinates, and executes legislative advocacy for the Federal Trade Commission.
- Plans and implements liaison activities with Congress, including the briefings, meetings between members of Congress and Commissioners, and constituent education events.
- Reviews legislation within the FTC's jurisdiction. Works with Congressional staff on proposed legislation affecting consumer protection and competition.
- Tracks legislation and keeps agency officials apprised of matters affecting or of interest to the FTC. Additionally, tracks press releases, floor statements, and speeches of members of Congress to anticipate and stay ahead of issues likely to result in Congressional action.
- Prepares agency witnesses for congressional testimony, including determining scope of hearings and requested testimony, areas of specific member interest, and questions likely to be asked.
- Maintains contact with Congressional staff, keeping them abreast of major Commission actions and policy.
- Manages the FTC's responses to Legislative Referral Memorandums from the Office of Management and Budget.

- Receives and coordinates responses to incoming constituent inquiries from Congressional district, regional, and Washington offices.

## OFFICE OF PUBLIC AFFAIRS

The Office of Public Affairs informs the news media, as well as the public at large, about the activities of the FTC. They also respond to media inquiries about Commission actions and policy.

In serving as liaison between the FTC and the media, the Office of Public Affairs:

- Ensures that Commission news releases, supporting documents, and consumer and business education materials are disseminated to the news media and the public on FTC websites, through use of social media, and other channels.
- Works with international, national, and regional media for coverage of Commission activities.
- Provides assistance to the media and bloggers involved in covering FTC activities.
- Arranges media appearances for the Chairman, Commissioners, and other senior officials.
- Manages the FTC's official presence on Facebook and Twitter, including hosting live social chats, live-tweeting workshops, and answering public questions using social media.
- Produces a daily "News Summary" on FTC activities consisting of interesting/influential tweets, clips from newspapers, magazines, online publications, and television.
- Drafts and maintains all social media privacy impact assessments and produces weekly social mentions report to staff.
- Promotes and supports major FTC outreach activities and initiatives and uses new technology, as available, to advance these efforts.
- Provides Regional FTC offices with media training and outreach support as needed.
- Produces "Weekly Calendar and Sunshine Notices" report to inform the public and the media of scheduled "open" Commission activities.
- Garners transcripts and videotapes of broadcast coverage of Commission activities.

- Coordinates with staff on publication of FTC blogs, posts, and occasional guest posts.

## OFFICE OF INSPECTOR GENERAL

The Office of Inspector General (OIG) was created, in accordance with the Inspector General's Act of 1978, to prevent and detect fraud, waste, and abuse in agency programs and operations. The Inspector General is charged with keeping both the agency head and Congress fully and currently informed about problems and deficiencies relating to the administration of FTC programs.

The OIG meets its goals by performing independent and objective audits and investigations of the FTC's programs and operations and by working with FTC managers to promote economy, efficiency, and effectiveness and prevent and detect fraud and abuse. The OIG also conducts investigations of alleged wrongdoing on the part of agency employees and entities contracting with the FTC. The Inspector General reports semiannually to the Chairman and Congress on OIG activities.

The OIG also performs congressionally mandated financial statement and information security audits which allow the OIG to focus on information management, GPRA implementation, and other activities identified as important by management in the agency's strategic and performance plans. Finally, the OIG participates in community-wide Council of Inspectors General on Integrity and Efficiency activities and works with other Inspectors General in multi-agency projects.

## OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

The Office of Equal Employment Opportunity (EEO) maintains a continuing affirmative employment program to promote EEO and to identify and eliminate discriminatory practices and policies. The Office engages in proactive management strategies to identify and eliminate barriers to EEO, provides leadership and direction on EEO regulations and directives, and implements comprehensive affirmative employment initiatives that conform to Federal laws and regulations governing EEO and human resources management. The Office also manages, advises, and oversees the discrimination complaints processing system, including recommending settlements and taking final action, as well as making final decisions on complaints that are consistent with regulations and rules governing the administrative complaint process. EEO also serves as the principal advisor on EEO and affirmative employment programs, policies, and regulations including providing support and advice on issues related to EEO in all aspects of employment. The Office further promotes an inclusive and diverse work environment by maintaining relationships with affinity bar associations, serving as a member of the FTC Diversity Council, and planning and organizing cultural events for special observances throughout the year.

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# Additional Budget Exhibits



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## Proposed Appropriations Language

### SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses, [\$300,000,000] \$301,000,000, to remain available until expended: *Provided*, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718: *Provided further*, That, notwithstanding any other provision of law, not to exceed [\$117,500,000] \$102,300,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection, shall be retained and used for necessary expenses in this appropriation: *Provided further*, That, notwithstanding any other provision of law, not to exceed [\$19,000,000] \$15,000,000 in offsetting collections derived from fees sufficient to implement and enforce the Telemarketing Sales Rule, promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.), shall be credited to this account, and be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year [2013] 2014, so as to result in a final fiscal year [2013] 2014 appropriation from the general fund estimated at not more than [\$163,500,000] \$183,700,000: *Provided further*, That none of the funds made available to the Federal Trade Commission may be used to implement subsection (e)(2)(B) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t).

Program and Financing  
(\$ in millions)

Identification Code: 29-0100-0-1-376		FY 2012 Actual	FY 2013 CR Level	FY 2014 Estimate
<b>Obligations by program activity:</b>				
0001	Protect consumers	161	195	181
0002	Maintain competition	119	153	140
0091	Direct program activities, subtotal	280	348	321
0192	Subtotal, direct program	280	348	321
0803	Reimbursable program	.....	1	1
0900	Total new obligations	280	349	322
<b>Budgetary resources:</b>				
Unobligated Balance:				
1000	Unobligated balance carried forward, Oct 1	21	57	23
1021	Recoveries of prior year unpaid obligations	4	.....	.....
1050	Unobligated balance (total)	25	57	23
Budget Authority:				
Appropriations, discretionary:				
1100	Appropriation	210	185	184
1160	Appropriation, discretionary (total)	210	185	184
Spending authority from offsetting collections, discretionary:				
1700	Offsetting collections (HSR Fees )	88	108	102
1700	Offsetting collections (Do Not Call Fees)	14	21	15
1700	Offsetting collections (Fed. Reimb. Programs)	.....	1	1
1750	Spending authority from offsetting collections, discretionary (total)	102	130	118
1900	Budget authority (total)	312	315	302
1930	Total budgetary resources available	337	372	325
<b>Change in obligated balances:</b>				
Obligated balance, start of year (net)				
3000	Unpaid obligations, brought forward, Oct 1 (gross)	88	80	140
3020	Obligated balance, start of year (net)	88	80	140
3030	Obligations incurred, unexpired accounts	280	349	322
3040	Outlays (gross)	-284	-289	-311
3080	Recoveries of prior year unpaid obligations, unexpired	-4	.....	.....
Obligated balance, end of year (net):				
3090	Unpaid obligations, end of year (gross)	80	140	151
3100	Obligated balance, end of year (net)	80	140	151
<b>Budget authority and outlays (net):</b>				
Discretionary:				
4000	Budget authority, gross	312	315	302
Outlays, gross:				
4010	Outlays from new discretionary authority	239	211	207
4011	Outlays from discretionary balances	45	78	104
4020	Outlays, gross (total)	284	289	311
Offsets against gross budget authority and outlays:				
Offsetting collections (collected) from:				
4030	Federal sources	.....	-1	-1
4034	Offsetting governmental collections	-102	-129	-117
4040	Offsets against gross budget authority and outlays (total)	-102	-130	-118
4070	Budget authority, net (discretionary)	210	185	184
4080	Outlays, net (discretionary)	182	159	193
4180	Budget authority, net (total)	210	185	184
4190	Outlays, net (total)	182	159	193

Object Classification  
(\$ in millions)

Identification Code: 29-0100-0-1-376	<u>FY 2012 Actual</u>	<u>FY 2013 CR Level</u>	<u>FY 2014 Estimate</u>
<b>Direct Obligations</b>			
Personnel Compensation:			
11.1 Full-time permanent	125	136	138
11.3 Other than full-time permanent	9	9	9
11.5 Other personnel compensation	2	2	2
11.8 Special personal services payments	1	1	1
<b>11.9 Total Personnel compensation</b>	<u>137</u>	<u>148</u>	<u>150</u>
12.1 Civilian personnel benefits	38	41	42
21.0 Travel and transportation of persons	2	3	3
23.1 Rental payments to GSA	26	28	30
23.3 Communications, utilities, and misc. charges	6	7	7
24.0 Printing and reproduction	2	2	2
25.1 Advisory and assistance services	42	42	32
25.2 Other services	4	4	4
25.3 Purchases of goods and services from government accounts	6	8	6
25.4 Operation and maint. of facilities	2	2	2
25.7 Operation and maint. of equipment	2	3	3
26.0 Supplies and materials	1	1	1
31.0 Equipment	12	23	19
<b>99.0 Subtotal, Direct obligations</b>	<u>280</u>	<u>312</u>	<u>301</u>
Reimbursable Obligations			
Personnel Compensation:			
11.1 Full-time permanent	---	1	1
<b>99.0 Subtotal, Reimbursable obligations</b>	<u>---</u>	<u>1</u>	<u>1</u>
<b>99.9 Total new obligations</b>	<u>280</u>	<u>313</u>	<u>302</u>

## Personnel Summary

<b>Identification Code: 29-0100-0-1-376</b>	<b>FY 2012 Actual</b>	<b>FY 2013 CR Level</b>	<b>FY 2014 Estimate</b>
<b>Direct</b>			
1001 Full-time equivalent employment	1,131	1,176	1,176
<b>Reimbursable</b>			
2001 Full-time equivalent employment*	1	6	6

\*Includes FTE reimbursed by other federal agencies.

## Inspector General's Request

In accordance with the requirements of Section 6(f)(1) of the Inspector General Act of 1978 (as amended), the FTC's Office of Inspector General submits the following information related to its requested budget for FY 2014:

- The Office of Inspector General (OIG) requests aggregate funding of \$1,082,000 for FY 2014.
- OIG requests \$8,400 for all training needs. The requested amount satisfies all training requirements for the OIG in FY 2014.
- OIG requests \$3,100 for support of the Council of Inspectors General on Integrity and Efficiency. The requested amount satisfies all requirements for the OIG's contribution to the CIGIE in FY 2014.

<u>FY 2013 Estimate</u>		<u>FY 2014 Estimate</u>		<u>Change</u>	
\$ in thousands		\$ in thousands		\$ in thousands	
Full Time Equivalents	Amount	Full Time Equivalents	Amount	Full Time Equivalents	Amount
5	\$1,059.0	5	\$1,082.0	0	\$23.0



Scott E. Wilson  
Inspector General  
Federal Trade Commission

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# Appendix



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## Report Response



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

December 10, 2012

The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Chairman Lieberman:

Pursuant to 31 U.S.C. § 720, this letter responds to the recommendation of the Government Accountability Office (“GAO”) to the Federal Trade Commission (“FTC” or “Commission”) in GAO’s September 2012 report entitled *MOBILE DEVICE LOCATION DATA: Additional Federal Actions Could Help Consumer Privacy* (GAO-12-903) (the “Report”). In the Report, GAO recommends that the FTC consider issuing industry guidance on mobile location data privacy. As described in this response, the FTC already has provided guidance to industry in response to GAO’s recommendation, and commits to continue to do so.

### **GAO Report**

At the request of Chairman Al Franken of the Senate Subcommittee on Privacy, Technology and the Law of the Committee on the Judiciary, GAO examined wireless location data privacy and issued the Report based on its examination. Specifically, the Report addressed (1) how location data is collected and why it is used and shared; (2) the types of actions private sector entities have taken to protect consumers’ privacy and ensure security of location data; (3) actions federal agencies have taken to protect consumer privacy; and (4) what additional federal efforts, if any, are needed. The Commission offered comments on a draft version of the Report.<sup>1</sup> The Commission shares a number of the concerns that GAO identified in the Report about the consumer privacy risks associated with the mobile location data, including how such data is used and shared.

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<sup>1</sup> A copy of the Commission’s response is attached to the final GAO Report and also attached to this letter. The Commission vote on the GAO response letter was 4-0-1, with Commissioner J. Thomas Rosch not participating. Commissioner Rosch also did not participate in the Commission vote on the instant letter.

**GAO Recommendation and FTC Response**

In its Report, GAO recommends that “the Chairman of the FTC consider issuing industry guidance that establishes FTC’s views of the appropriate actions by mobile companies with regard to protecting mobile location data privacy.”

As noted in the attached Commission response to the draft version of GAO’s Report, the FTC has worked actively to provide such guidance. In March 2012, the Commission issued *Protecting Consumer Privacy in an Era of Rapid Change*, a comprehensive report on how businesses, including mobile companies, can enhance trust and stimulate commerce by safeguarding consumer privacy.<sup>2</sup> With regard to location data and other consumer information, the report called on companies in the mobile and other arenas to follow three core principles: (1) privacy by design; (2) simplified choice; and (3) transparency. The Commission has also developed and disseminated consumer and business education materials,<sup>3</sup> hosted public workshops and outreach events,<sup>4</sup> proposed amending the Children’s Online Privacy Protection Act to affirm that location data is considered personal information under the Act,<sup>5</sup> and testified twice before the current Congress on mobile location data.<sup>6</sup> Most recently, the FTC hosted a workshop on December 6, 2012, that explored the practices and privacy implications of

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<sup>2</sup> See FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, (Mar. 2012), available at <http://ftc.gov/os/2012/03/120326privacyreport.pdf>.

<sup>3</sup> See, e.g., FTC, *Understanding Mobile Apps* (Sept. 2011), available at <http://onguardonline.gov/articles/0018-understanding-mobile-apps>; FTC, *Marketing Your Mobile App: Get It Right From the Start* (Aug. 2012), available at <http://business.ftc.gov/documents/bus81-marketing-your-mobile-app>.

<sup>4</sup> See, e.g., FTC Workshop, *In Short: Advertising & Privacy Disclosures in a Digital World* (May 30, 2012), available at <http://ftc.gov/bcp/workshops/inshort/index.shtml>; FTC Workshop, *Paper, Plastic...or Mobile? An FTC Workshop on Mobile Payments* (Apr. 26, 2012), available at <http://www.ftc.gov/bcp/workshops/mobilepayments/>.

<sup>5</sup> See *FTC Children’s Online Privacy Protection Rule*, 76 Fed. Reg. 59804 (proposed Sept. 27, 2011), available at <http://www.ftc.gov/os/2011/09/110915coppa.pdf>.

<sup>6</sup> See *Consumer Privacy and Protection in the Mobile Marketplace: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 112th Cong. (2011) (statement of David C. Vladeck, Director, Bureau of Consumer Protection, FTC); *Protecting Mobile Privacy: Your Smartphones, Tablets, Cell Phones and Your Privacy: Hearing Before the Subcomm. for Privacy, Technology and the Law of the S. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Jessica Rich, Associate Director, Bureau of Consumer Protection, FTC).

comprehensive collection of data - including mobile location data - about consumers' online activities.<sup>7</sup>

In addition to these activities, the FTC also has activities underway that are responsive to GAO's recommendation. As discussed in the Commission's response to the draft GAO report, FTC staff issued earlier this year an initial report on mobile apps for children.<sup>8</sup> In this report, FTC staff analyzed 400 apps directed to kids through the two leading platforms and found that, of the apps surveyed, companies offered little or no information to parents about their privacy practices. Accordingly, FTC staff recommended that all players in the mobile ecosystem, including app developers, app stores, and platforms, take steps to improve privacy disclosures so that parents can readily find key information, such as whether location data is collected, prior to download of an app. FTC staff recently conducted a follow-up survey of mobile apps directed to kids and is developing a report on those survey findings. This report will contain further guidance to mobile ecosystem participants.

As noted in our letter to GAO, the FTC also hosted a workshop in May 2012 that examined how mobile privacy disclosures - including location disclosures - could be short, effective, and accessible to consumers.<sup>9</sup> FTC staff expects to issue a report soon on mobile privacy disclosures that will provide additional guidance to companies in the mobile ecosystem for how they can improve the transparency of their data practices, including their collection and use of location information.

Finally, the Commission continues to support the National Telecommunications and Information Administration's ("NTIA") efforts to facilitate the development of a code of conduct for mobile application transparency. Thus far, NTIA has convened several meetings of relevant stakeholders; FTC staff have participated in all of these meetings, and we remain hopeful that these stakeholders will successfully develop a strong code of conduct.

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<sup>7</sup> See, e.g., FTC Workshop, *The Big Picture: Comprehensive Data Collection* (Dec. 6, 2012), available at <http://www.ftc.gov/opa/2012/11/compdata.shtm>.

<sup>8</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at [http://www.ftc.gov/os/2012/02/120216mobile\\_apps\\_kids.pdf](http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf).

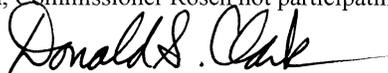
<sup>9</sup> See FTC workshop, *In Short: Advertising & Privacy Disclosures in a Digital World*, *supra* note 4.

The Honorable Joseph I. Lieberman – Page 4

**Conclusion**

The Commission appreciates GAO's efforts to examine mobile device location data and the recommendation it offered for the FTC to consider. The FTC takes seriously its responsibility to protect consumers' privacy, including mobile location data, and will continue its efforts in this regard, as indicated above.

By direction of the Commission, Commissioner Rosch not participating.

  
Donald S. Clark  
Secretary

Enclosure

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580



Office of the Secretary

August 17, 2012

Mr. Mark L. Goldstein  
Director, Physical Infrastructure Issues  
United States Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Mr. Gregory C. Wilshusen  
Director, Information Security Services  
United States Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Messrs. Goldstein and Wilshusen:

On July 26, 2012, the Government Accountability Office (“GAO”) forwarded for the Federal Trade Commission’s (“FTC” or “Commission”) review and comment a draft of a GAO report entitled *MOBILE PHONE LOCATION DATA: Additional Federal Actions Could Help Protect Consumer Privacy* (GAO-12-903) (“draft report”). The draft report recommends that the Chairman of the FTC consider issuing industry guidance establishing the FTC’s views of appropriate actions by mobile companies with regard to protecting mobile location data privacy. This letter responds to GAO’s recommendation.<sup>1</sup>

The Commission appreciates GAO’s careful and thorough assessment of the consumer privacy considerations regarding mobile phone location data. The Commission is pleased to have been able to assist GAO in conducting this assessment and welcomes the opportunity to comment on its draft report. The Commission shares a number of the concerns that GAO identified in its draft report about the consumer privacy risks associated with mobile location data, including the lack of transparency surrounding how such data is used and shared. For example, the Commission agrees with GAO that some companies “have not consistently or clearly disclosed to consumers what the companies are doing with [location] data or which third

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<sup>1</sup> The Commission vote on this letter was 4-0-1, with Commissioner J. Thomas Rosch not participating.

parties they may share them with.”<sup>2</sup> Similarly, we agree that inadequate or inconsistent disclosures may mean that consumers may be providing consent to the use of location information “without complete knowledge of how their data will be used.”<sup>3</sup>

In response to GAO’s request that we issue guidance to companies with respect to mobile location data practices, the FTC notes that it has worked actively to provide such guidance in recent years. For instance, the FTC has developed and disseminated consumer and business education materials,<sup>4</sup> hosted public workshops and outreach events,<sup>5</sup> released reports,<sup>6</sup> proposed to amend the Children’s Online Privacy Protection Act to affirm that location data is considered personal information under the Act,<sup>7</sup> and testified twice before the current Congress on mobile location data.<sup>8</sup> In addition to the Commission’s law enforcement in the privacy sphere, the FTC will continue its active efforts to provide guidance about data privacy practices, including those concerning location information, to companies operating in the mobile environment.

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<sup>2</sup> See GAO, *MOBILE PHONE LOCATION DATA: Additional Federal Actions Could Help Protect Consumer Privacy* (July 2012), at 23.

<sup>3</sup> *Id.* at 31.

<sup>4</sup> See, e.g., FTC, *Understanding Mobile Apps* (Sept. 2011), available at <http://onguardonline.gov/articles/0018-understanding-mobile-apps>; FTC, *Marketing Your Mobile App: Get It Right From the Start* (Aug. 2012), available at <http://business.ftc.gov/documents/bus81-marketing-your-mobile-app>.

<sup>5</sup> See, e.g., FTC Workshop, *In Short: Advertising & Privacy Disclosures in a Digital World* (May 30, 2012), available at <http://ftc.gov/bcp/workshops/inshort/index.shtml>; FTC Workshop, *Paper, Plastic...or Mobile? An FTC Workshop on Mobile Payments* (Apr. 26, 2012), available at <http://www.ftc.gov/bcp/workshops/mobilepayments/>.

<sup>6</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at [http://www.ftc.gov/os/2012/02/120216mobile\\_apps\\_kids.pdf](http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf); FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, (Mar. 2012), available at <http://ftc.gov/os/2012/03/120326privacyreport.pdf>.

<sup>7</sup> See *FTC Children’s Online Privacy Protection Rule*, 76 Fed. Reg. 59804 (proposed Sept. 27, 2011), available at <http://www.ftc.gov/os/2011/09/110915coppa.pdf>.

<sup>8</sup> *Consumer Privacy and Protection in the Mobile Marketplace: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 112th Cong. (2011) (statement of David C. Vladeck); *Protecting Mobile Privacy: Your SmartPhones, Tablets, Cell Phones and Your Privacy: Hearing Before the Subcomm. for Privacy, Technology and the Law of the S. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Jessica Rich).

Highlighting a few of the most significant activities in greater detail, the Commission issued in March 2012 a report entitled *Protecting Consumer Privacy in an Era of Rapid Change* (“Privacy Report”), which offers guidance on appropriate actions by mobile companies with respect to protecting mobile location data privacy.<sup>9</sup> The Commission’s Privacy Report raised, among other things, the potential for mobile devices to collect and retain location data that could be used to build detailed profiles of consumer movements over time and in ways not anticipated by consumers. The Privacy Report noted that these profiles could reveal a predictive pattern of the consumer’s movements, thereby exposing the consumer to a risk of harm such as stalking. Accordingly, the Commission called on companies to (1) obtain affirmative express consent from consumers before collecting precise geolocation data; (2) limit collection to data they need for a requested service or transaction (e.g., a wallpaper application (“app”) or an app that tracks stock quotes does not need to collect location information), (3) establish standards that address data collection, transfer, use, and disposal, particularly for location data, and (4) provide consumers with prominent notice and choices where location data is collected and shared with third parties.

The Privacy Report followed the release of a February 2012 FTC staff report on mobile apps for children that contained recommendations for all members of the children’s app ecosystem about conveying key information, such as the collection of location data, to parents.<sup>10</sup> This report discussed a survey of 400 apps that were directed to kids and were offered through the two leading mobile platforms. With the survey, staff sought to determine what privacy disclosures were made available to consumers prior to downloading the apps. The report noted that companies offered very little information about their privacy practices and recommended that “all members of the kids app ecosystem – the app stores, developers, and third parties providing services within the apps – should play an active role in providing key information to parents who download apps.”<sup>11</sup> The report also encouraged app developers to provide information about data practices simply and succinctly.<sup>12</sup>

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<sup>9</sup> FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, *supra* note 6.

<sup>10</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing*, *supra* note 6.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.*

An FTC workshop in May 2012 also addressed innovative ways to improve mobile privacy disclosures to make them short, effective, and accessible to consumers.<sup>13</sup> Based on the workshop record, including comments received after the workshop, FTC staff expects to issue a report on mobile privacy disclosures that will provide further guidance to companies in the mobile ecosystem to improve the transparency of their data practices, including their collection and use of location information.

Most recently, the FTC published educational materials offering guidance to help mobile app developers comply with truth-in-advertising standards and basic privacy principles, including how to handle location data.<sup>14</sup> These materials advised companies, among other things, to “[e]xplain what information your app collects from users or their devices and what you do with their data” and “get users’ affirmative OK before you collect any sensitive data from them, like medical, financial, or precise geolocation information.”<sup>15</sup> This publication has been made widely available in hard copy and through the FTC’s home page, the FTC’s Bureau of Consumer Protection Business Center website, the Bureau of Consumer Protection Business Center blog, the Commission’s Twitter feed, the FTC’s Facebook page, and OnGuardOnline.gov.<sup>16</sup>

In addition to issuing written materials, we have also actively worked to educate mobile companies directly. For example, staff members have spoken at numerous meetings of mobile app developers to advise them of the recommendations in our privacy report and to urge them to move forward on their efforts to improve transparency and address consumer privacy issues.<sup>17</sup> Further, one of the Commission’s privacy experts is now located in our San Francisco Regional Office which permits more extensive outreach to the technology community on the West Coast.

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<sup>13</sup> See FTC workshop, *In Short: Advertising & Privacy Disclosures in a Digital World*, *supra* note 5.

<sup>14</sup> See FTC, *Marketing Your Mobile App*, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> OnGuardOnline is the federal government’s website to help consumers and business stay safe, secure, and responsible online.

<sup>17</sup> For example, FTC staff has spoken at three regional Privacy Summits (in Austin, Texas, New York, New York, and Chicago, Illinois) for the Application Developers Alliance, as well as the West Coast App Developer Privacy Summit in Palo Alto, California, an event hosted by the Future of Privacy Forum, the Application Developers Alliance, and the Stanford Law School Center for Internet and Society. FTC staff has spoken at a number of other industry events as well.

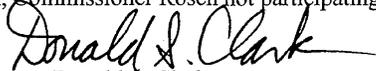
Finally, we have supported NTIA's efforts to convene various stakeholders in order to develop a code of conduct for mobile transparency. We attended the first multi-stakeholder meeting on this subject and will continue to monitor the process. We hope that this effort will yield a code of conduct that addresses the concerns that GAO identified in its report regarding mobile location data practices.

These activities underscore the Commission's belief that strong privacy and data security protections for consumers are critical for mobile location data. Although we believe the guidance we have offered to businesses on mobile location data practices is extensive, we agree that additional guidance can be useful and intend to continue our efforts to inform and guide industry on best practices for mobile location data.

With respect to GAO's recommendation that the guidance we provide be used to determine whether certain practices are unfair under the FTC Act,<sup>18</sup> we note that our determination of what constitutes unfair acts or practices is determined by the statute. An unfair practice is one that caused or is likely to cause substantial consumer injury that is not reasonably avoidable and not outweighed by countervailing benefits to consumers or competition.<sup>19</sup> In this area, the test is inherently a fact-specific one, which involves a weighing of costs and benefits that could result in a different analysis over time, as a result of rapid changes in technology in this area. For these reasons, our business guidance efforts with respect to geolocation information – while providing an important education function to companies in developing best practices – may not necessarily be tied to determinations of what is unfair.

The Commission again would like to reiterate its appreciation for GAO's thoughtful and careful examination of this issue and for the opportunity to respond to the recommendation in its report.

By direction of the Commission, Commissioner Rosch not participating.

  
Donald S. Clark  
Secretary

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<sup>18</sup> See GAO draft report, *supra* note 2, at 44.

<sup>19</sup> 15 U.S.C. § 45(n).



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

December 10, 2012

The Honorable Darrell E. Issa  
Chairman  
Committee on Oversight and Government Reform  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Issa:

Pursuant to 31 U.S.C. § 720, this letter responds to the recommendation of the Government Accountability Office (“GAO”) to the Federal Trade Commission (“FTC” or “Commission”) in GAO’s September 2012 report entitled *MOBILE DEVICE LOCATION DATA: Additional Federal Actions Could Help Consumer Privacy* (GAO-12-903) (the “Report”). In the Report, GAO recommends that the FTC consider issuing industry guidance on mobile location data privacy. As described in this response, the FTC already has provided guidance to industry in response to GAO’s recommendation, and commits to continue to do so.

**GAO Report**

At the request of Chairman Al Franken of the Senate Subcommittee on Privacy, Technology and the Law of the Committee on the Judiciary, GAO examined wireless location data privacy and issued the Report based on its examination. Specifically, the Report addressed (1) how location data is collected and why it is used and shared; (2) the types of actions private sector entities have taken to protect consumers’ privacy and ensure security of location data; (3) actions federal agencies have taken to protect consumer privacy; and (4) what additional federal efforts, if any, are needed. The Commission offered comments on a draft version of the Report.<sup>1</sup> The Commission shares a number of the concerns that GAO identified in the Report about the consumer privacy risks associated with the mobile location data, including how such data is used and shared.

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<sup>1</sup> A copy of the Commission’s response is attached to the final GAO Report and also attached to this letter. The Commission vote on the GAO response letter was 4-0-1, with Commissioner J. Thomas Rosch not participating. Commissioner Rosch also did not participate in the Commission vote on the instant letter.

**GAO Recommendation and FTC Response**

In its Report, GAO recommends that “the Chairman of the FTC consider issuing industry guidance that establishes FTC’s views of the appropriate actions by mobile companies with regard to protecting mobile location data privacy.”

As noted in the attached Commission response to the draft version of GAO’s Report, the FTC has worked actively to provide such guidance. In March 2012, the Commission issued *Protecting Consumer Privacy in an Era of Rapid Change*, a comprehensive report on how businesses, including mobile companies, can enhance trust and stimulate commerce by safeguarding consumer privacy.<sup>2</sup> With regard to location data and other consumer information, the report called on companies in the mobile and other arenas to follow three core principles: (1) privacy by design; (2) simplified choice; and (3) transparency. The Commission has also developed and disseminated consumer and business education materials,<sup>3</sup> hosted public workshops and outreach events,<sup>4</sup> proposed amending the Children’s Online Privacy Protection Act to affirm that location data is considered personal information under the Act,<sup>5</sup> and testified twice before the current Congress on mobile location data.<sup>6</sup> Most recently, the FTC hosted a workshop on December 6, 2012, that explored the practices and privacy implications of

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<sup>2</sup> See FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, (Mar. 2012), available at <http://ftc.gov/os/2012/03/120326privacyreport.pdf>.

<sup>3</sup> See, e.g., FTC, *Understanding Mobile Apps* (Sept. 2011), available at <http://onguardonline.gov/articles/0018-understanding-mobile-apps>; FTC, *Marketing Your Mobile App: Get It Right From the Start* (Aug. 2012), available at <http://business.ftc.gov/documents/bus81-marketing-your-mobile-app>.

<sup>4</sup> See, e.g., FTC Workshop, *In Short: Advertising & Privacy Disclosures in a Digital World* (May 30, 2012), available at <http://ftc.gov/bcp/workshops/inshort/index.shtml>; FTC Workshop, *Paper, Plastic...or Mobile? An FTC Workshop on Mobile Payments* (Apr. 26, 2012), available at <http://www.ftc.gov/bcp/workshops/mobilepayments/>.

<sup>5</sup> See *FTC Children’s Online Privacy Protection Rule*, 76 Fed. Reg. 59804 (proposed Sept. 27, 2011), available at <http://www.ftc.gov/os/2011/09/110915coppa.pdf>.

<sup>6</sup> See *Consumer Privacy and Protection in the Mobile Marketplace: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 112th Cong. (2011) (statement of David C. Vladeck, Director, Bureau of Consumer Protection, FTC); *Protecting Mobile Privacy: Your Smartphones, Tablets, Cell Phones and Your Privacy: Hearing Before the Subcomm. for Privacy, Technology and the Law of the S. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Jessica Rich, Associate Director, Bureau of Consumer Protection, FTC).

comprehensive collection of data - including mobile location data - about consumers' online activities.<sup>7</sup>

In addition to these activities, the FTC also has activities underway that are responsive to GAO's recommendation. As discussed in the Commission's response to the draft GAO report, FTC staff issued earlier this year an initial report on mobile apps for children.<sup>8</sup> In this report, FTC staff analyzed 400 apps directed to kids through the two leading platforms and found that, of the apps surveyed, companies offered little or no information to parents about their privacy practices. Accordingly, FTC staff recommended that all players in the mobile ecosystem, including app developers, app stores, and platforms, take steps to improve privacy disclosures so that parents can readily find key information, such as whether location data is collected, prior to download of an app. FTC staff recently conducted a follow-up survey of mobile apps directed to kids and is developing a report on those survey findings. This report will contain further guidance to mobile ecosystem participants.

As noted in our letter to GAO, the FTC also hosted a workshop in May 2012 that examined how mobile privacy disclosures - including location disclosures - could be short, effective, and accessible to consumers.<sup>9</sup> FTC staff expects to issue a report soon on mobile privacy disclosures that will provide additional guidance to companies in the mobile ecosystem for how they can improve the transparency of their data practices, including their collection and use of location information.

Finally, the Commission continues to support the National Telecommunications and Information Administration's ("NTIA") efforts to facilitate the development of a code of conduct for mobile application transparency. Thus far, NTIA has convened several meetings of relevant stakeholders; FTC staff have participated in all of these meetings, and we remain hopeful that these stakeholders will successfully develop a strong code of conduct.

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<sup>7</sup> See, e.g., FTC Workshop, *The Big Picture: Comprehensive Data Collection* (Dec. 6, 2012), available at <http://www.ftc.gov/opa/2012/11/compdata.shtm>.

<sup>8</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at [http://www.ftc.gov/os/2012/02/120216mobile\\_apps\\_kids.pdf](http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf).

<sup>9</sup> See FTC workshop, *In Short: Advertising & Privacy Disclosures in a Digital World*, *supra* note 4.

**Conclusion**

The Commission appreciates GAO's efforts to examine mobile device location data and the recommendation it offered for the FTC to consider. The FTC takes seriously its responsibility to protect consumers' privacy, including mobile location data, and will continue its efforts in this regard, as indicated above.

By direction of the Commission, Commissioner Rosch not participating.

  
Donald S. Clark  
Secretary

Enclosure

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580



Office of the Secretary

August 17, 2012

Mr. Mark L. Goldstein  
Director, Physical Infrastructure Issues  
United States Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Mr. Gregory C. Wilshusen  
Director, Information Security Services  
United States Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Messrs. Goldstein and Wilshusen:

On July 26, 2012, the Government Accountability Office (“GAO”) forwarded for the Federal Trade Commission’s (“FTC” or “Commission”) review and comment a draft of a GAO report entitled *MOBILE PHONE LOCATION DATA: Additional Federal Actions Could Help Protect Consumer Privacy* (GAO-12-903) (“draft report”). The draft report recommends that the Chairman of the FTC consider issuing industry guidance establishing the FTC’s views of appropriate actions by mobile companies with regard to protecting mobile location data privacy. This letter responds to GAO’s recommendation.<sup>1</sup>

The Commission appreciates GAO’s careful and thorough assessment of the consumer privacy considerations regarding mobile phone location data. The Commission is pleased to have been able to assist GAO in conducting this assessment and welcomes the opportunity to comment on its draft report. The Commission shares a number of the concerns that GAO identified in its draft report about the consumer privacy risks associated with mobile location data, including the lack of transparency surrounding how such data is used and shared. For example, the Commission agrees with GAO that some companies “have not consistently or clearly disclosed to consumers what the companies are doing with [location] data or which third

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<sup>1</sup> The Commission vote on this letter was 4-0-1, with Commissioner J. Thomas Rosch not participating.

parties they may share them with.”<sup>2</sup> Similarly, we agree that inadequate or inconsistent disclosures may mean that consumers may be providing consent to the use of location information “without complete knowledge of how their data will be used.”<sup>3</sup>

In response to GAO’s request that we issue guidance to companies with respect to mobile location data practices, the FTC notes that it has worked actively to provide such guidance in recent years. For instance, the FTC has developed and disseminated consumer and business education materials,<sup>4</sup> hosted public workshops and outreach events,<sup>5</sup> released reports,<sup>6</sup> proposed to amend the Children’s Online Privacy Protection Act to affirm that location data is considered personal information under the Act,<sup>7</sup> and testified twice before the current Congress on mobile location data.<sup>8</sup> In addition to the Commission’s law enforcement in the privacy sphere, the FTC will continue its active efforts to provide guidance about data privacy practices, including those concerning location information, to companies operating in the mobile environment.

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<sup>2</sup> See GAO, *MOBILE PHONE LOCATION DATA: Additional Federal Actions Could Help Protect Consumer Privacy* (July 2012), at 23.

<sup>3</sup> *Id.* at 31.

<sup>4</sup> See, e.g., FTC, *Understanding Mobile Apps* (Sept. 2011), available at <http://onguardonline.gov/articles/0018-understanding-mobile-apps>; FTC, *Marketing Your Mobile App: Get It Right From the Start* (Aug. 2012), available at <http://business.ftc.gov/documents/bus81-marketing-your-mobile-app>.

<sup>5</sup> See, e.g., FTC Workshop, *In Short: Advertising & Privacy Disclosures in a Digital World* (May 30, 2012), available at <http://ftc.gov/bcp/workshops/inshort/index.shtml>; FTC Workshop, *Paper, Plastic...or Mobile? An FTC Workshop on Mobile Payments* (Apr. 26, 2012), available at <http://www.ftc.gov/bcp/workshops/mobilepayments/>.

<sup>6</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at [http://www.ftc.gov/os/2012/02/120216mobile\\_apps\\_kids.pdf](http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf); FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, (Mar. 2012), available at <http://ftc.gov/os/2012/03/120326privacyreport.pdf>.

<sup>7</sup> See *FTC Children’s Online Privacy Protection Rule*, 76 Fed. Reg. 59804 (proposed Sept. 27, 2011), available at <http://www.ftc.gov/os/2011/09/110915coppa.pdf>.

<sup>8</sup> *Consumer Privacy and Protection in the Mobile Marketplace: Hearing Before the S. Comm. on Commerce, Science, and Transportation*, 112th Cong. (2011) (statement of David C. Vladeck); *Protecting Mobile Privacy: Your SmartPhones, Tablets, Cell Phones and Your Privacy: Hearing Before the Subcomm. for Privacy, Technology and the Law of the S. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Jessica Rich).

Highlighting a few of the most significant activities in greater detail, the Commission issued in March 2012 a report entitled *Protecting Consumer Privacy in an Era of Rapid Change* (“Privacy Report”), which offers guidance on appropriate actions by mobile companies with respect to protecting mobile location data privacy.<sup>9</sup> The Commission’s Privacy Report raised, among other things, the potential for mobile devices to collect and retain location data that could be used to build detailed profiles of consumer movements over time and in ways not anticipated by consumers. The Privacy Report noted that these profiles could reveal a predictive pattern of the consumer’s movements, thereby exposing the consumer to a risk of harm such as stalking. Accordingly, the Commission called on companies to (1) obtain affirmative express consent from consumers before collecting precise geolocation data; (2) limit collection to data they need for a requested service or transaction (e.g., a wallpaper application (“app”) or an app that tracks stock quotes does not need to collect location information), (3) establish standards that address data collection, transfer, use, and disposal, particularly for location data, and (4) provide consumers with prominent notice and choices where location data is collected and shared with third parties.

The Privacy Report followed the release of a February 2012 FTC staff report on mobile apps for children that contained recommendations for all members of the children’s app ecosystem about conveying key information, such as the collection of location data, to parents.<sup>10</sup> This report discussed a survey of 400 apps that were directed to kids and were offered through the two leading mobile platforms. With the survey, staff sought to determine what privacy disclosures were made available to consumers prior to downloading the apps. The report noted that companies offered very little information about their privacy practices and recommended that “all members of the kids app ecosystem – the app stores, developers, and third parties providing services within the apps – should play an active role in providing key information to parents who download apps.”<sup>11</sup> The report also encouraged app developers to provide information about data practices simply and succinctly.<sup>12</sup>

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<sup>9</sup> FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers*, *supra* note 6.

<sup>10</sup> See FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing*, *supra* note 6.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.*

An FTC workshop in May 2012 also addressed innovative ways to improve mobile privacy disclosures to make them short, effective, and accessible to consumers.<sup>13</sup> Based on the workshop record, including comments received after the workshop, FTC staff expects to issue a report on mobile privacy disclosures that will provide further guidance to companies in the mobile ecosystem to improve the transparency of their data practices, including their collection and use of location information.

Most recently, the FTC published educational materials offering guidance to help mobile app developers comply with truth-in-advertising standards and basic privacy principles, including how to handle location data.<sup>14</sup> These materials advised companies, among other things, to “[e]xplain what information your app collects from users or their devices and what you do with their data” and “get users’ affirmative OK before you collect any sensitive data from them, like medical, financial, or precise geolocation information.”<sup>15</sup> This publication has been made widely available in hard copy and through the FTC’s home page, the FTC’s Bureau of Consumer Protection Business Center website, the Bureau of Consumer Protection Business Center blog, the Commission’s Twitter feed, the FTC’s Facebook page, and OnGuardOnline.gov.<sup>16</sup>

In addition to issuing written materials, we have also actively worked to educate mobile companies directly. For example, staff members have spoken at numerous meetings of mobile app developers to advise them of the recommendations in our privacy report and to urge them to move forward on their efforts to improve transparency and address consumer privacy issues.<sup>17</sup> Further, one of the Commission’s privacy experts is now located in our San Francisco Regional Office which permits more extensive outreach to the technology community on the West Coast.

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<sup>13</sup> See FTC workshop, *In Short: Advertising & Privacy Disclosures in a Digital World*, *supra* note 5.

<sup>14</sup> See FTC, *Marketing Your Mobile App*, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> OnGuardOnline is the federal government’s website to help consumers and business stay safe, secure, and responsible online.

<sup>17</sup> For example, FTC staff has spoken at three regional Privacy Summits (in Austin, Texas, New York, New York, and Chicago, Illinois) for the Application Developers Alliance, as well as the West Coast App Developer Privacy Summit in Palo Alto, California, an event hosted by the Future of Privacy Forum, the Application Developers Alliance, and the Stanford Law School Center for Internet and Society. FTC staff has spoken at a number of other industry events as well.

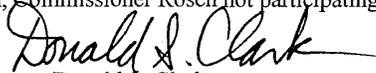
Finally, we have supported NTIA's efforts to convene various stakeholders in order to develop a code of conduct for mobile transparency. We attended the first multi-stakeholder meeting on this subject and will continue to monitor the process. We hope that this effort will yield a code of conduct that addresses the concerns that GAO identified in its report regarding mobile location data practices.

These activities underscore the Commission's belief that strong privacy and data security protections for consumers are critical for mobile location data. Although we believe the guidance we have offered to businesses on mobile location data practices is extensive, we agree that additional guidance can be useful and intend to continue our efforts to inform and guide industry on best practices for mobile location data.

With respect to GAO's recommendation that the guidance we provide be used to determine whether certain practices are unfair under the FTC Act,<sup>18</sup> we note that our determination of what constitutes unfair acts or practices is determined by the statute. An unfair practice is one that caused or is likely to cause substantial consumer injury that is not reasonably avoidable and not outweighed by countervailing benefits to consumers or competition.<sup>19</sup> In this area, the test is inherently a fact-specific one, which involves a weighing of costs and benefits that could result in a different analysis over time, as a result of rapid changes in technology in this area. For these reasons, our business guidance efforts with respect to geolocation information – while providing an important education function to companies in developing best practices – may not necessarily be tied to determinations of what is unfair.

The Commission again would like to reiterate its appreciation for GAO's thoughtful and careful examination of this issue and for the opportunity to respond to the recommendation in its report.

By direction of the Commission, Commissioner Rosch not participating.

  
Donald S. Clark  
Secretary

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<sup>18</sup> See GAO draft report, *supra* note 2, at 44.

<sup>19</sup> 15 U.S.C. § 45(n).