



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

Matter Management System 2 (MMS2)
Privacy Impact Assessment

December 2007

1 INTRODUCTION

This Privacy Impact Assessment (PIA) concerns the Matter Management System 2 (MMS2 or system) at the Federal Trade Commission (FTC, Agency, or Commission). The FTC uses MMS2 to record, track, and report administrative and statistical information about FTC investigations, litigation, rulemakings, and other FTC law enforcement and regulatory projects, such as studies and workshops. MMS2 is managed and owned by the Agency's Records and Filings Office. This PIA is being conducted as part of the process for recertifying and reaccrediting MMS2 at the FTC.

Congress has empowered and directed the FTC to prevent the use of unfair methods of competition, and unfair or deceptive acts or practices, in or affecting commerce, pursuant to the FTC Act, 15 U.S.C. §§ 41-58. Congress also has empowered and directed the FTC to prevent mergers, acquisitions, price discrimination, and certain other practices that may "substantially lessen competition" or "tend to create a monopoly," in violation of the Clayton Act, 15 U.S.C. §§ 12-27. In addition, Congress has directed the FTC to enforce or assist with implementing a large number of other statutes.

A PIA is a process used to evaluate privacy concerns and safeguards in computer application systems. This PIA describes MMS2 and the information it contains, including why the information is collected, who it is collected from, and what it is used for at the FTC. It also addresses privacy concerns raised by the system, and describes safeguards in place to protect the information in MMS2. Under the E-Government Act of 2004 (E-Gov), a PIA generally is required whenever the FTC develops, procures, upgrades, or significantly modifies an information technology system that collects, maintains, or disseminates information in an identifiable form.

SYSTEM OVERVIEW

The MMS2 is an electronic database system that the FTC uses to record, track, and report administrative and statistical information about FTC matters. Matters include investigations, litigation, rulemakings, studies, workshops, and other FTC law enforcement and regulatory projects. MMS2 allows Agency staff to monitor and share information regarding the conduct and progress of Agency matters. The system also allows staff to research FTC matters, both current and historic, and provides a historical record of actions and deliberations as they occur. Agency staff use information from MMS2 to develop and record plans for conducting matters and to identify the personnel resources used to conduct each matter.

The data in MMS2 about each matter varies slightly, depending on the nature of the particular matter being tracked and reported by the system. For example, for FTC investigations, the system database includes the matter name or title, alleged violations investigated, cross-references to related matters, and dates and descriptions of specific events or Agency actions that have occurred in the case or project (e.g., preliminary or full investigation opened, court complaint filed, decision appealed, case settled, etc.). For a rulemaking, the system database includes the title or subject matter of the rulemaking, relevant industry, product, or subject matter codes, and dates and descriptions of key events or Agency actions in the rulemaking proceeding (e.g., publication of notice of proposed rulemaking, closing of the public comment period, publication of final rulemaking notice). Each matter tracked by the system is designated with a unique matter number that is used for tracking and reference purposes.

As described below, the system database also contains certain information “in identifiable form” under the definition set forth in Office of Management & Budget (OMB) guidance (OMB Memorandum 03-22) implementing the PIA requirements of E-Gov. Specifically, for each Agency matter, the system database contains the names, addresses, and certain other information on persons and organizations within and outside the FTC associated with that matter (e.g., FTC attorneys, economists, or other staff assigned to work on the matter, as well as defendants, opposing counsel, intervening parties, etc., who may be involved in the matter). The system does not maintain any content such as public comments, legal filings, correspondence, consumer complaints, or other documents compiled or generated in an Agency matter, but only records and tracks key historical, procedural, and statistical details about the conduct and progress of such matters.

2 ANALYSIS

2.1 The Information That Will Be Collected (Nature and Source)

As noted earlier, MMS2 collects information in identifiable form about individuals who are or have been associated with FTC investigations, rulemakings, and special projects, such as workshops or studies. This information relates to FTC staff and to certain non-FTC individuals (e.g., persons who submit public comments, defendants, opposing counsel, intervening parties, etc.).

For each Agency matter, the system collects some or all of the following information on non-FTC parties, if any, who are involved in or associated with the particular matter (e.g., subjects of investigations, witnesses, experts, respondents, defendants, outside counsel):

- First Name
- Last Name
- Title
- Organization name
- Mailing Address (business or in some cases personal)
- City
- State
- Country
- Postal Code
- Fax Number
- Phone Number

Regarding individuals who submit public comments to the FTC, MMS2 retains only the names of these individuals and the company or association that they are connected to.

Regarding witnesses or experts or any other individuals who may be involved in FTC matters, MMS2 does not retain any information other than name in event descriptions concerning these individuals.

Data in the system about FTC staff (e.g., attorneys, economists, administrative law judges, other FTC officials or managers) involved in or associated with a particular matter include their names, titles, employee numbers, and FTC organizational codes.

The system is not designed to, nor does it contain, Social Security or tax identification numbers, bank account numbers, drivers license numbers, passport numbers, other government identification numbers, or other more sensitive personal information about individuals within or outside of the FTC.

The system does not maintain any content such as public comments, legal filings, correspondence, or other documents compiled or generated in an Agency matter, but only records and tracks key historical and statistical details about the conduct and progress of such matters.

2.2 Why the Information Is Being Collected

As discussed in the Introduction, numerous laws and regulations require or permit the Commission to conduct investigations, perform rulemakings (including collecting and retaining public commentary), and carry out special projects (e.g., studies, workshops). The system allows staff and managers to research both current and historical matters, to develop and record plans for conducting the matters, to identify the personnel resources used to conduct those matters, and to provide a historical record of actions and deliberations as they occur. Contact information of respondents and counsel in matters is collected for the purpose of serving these individuals with documents.

2.3 Intended Uses of the Information Collected

Information in identifiable form about individuals within and outside the FTC is used with other historical and statistical data in the system about each Agency matter for purposes of tracking the conduct and progress of such matters and generating administrative reports (e.g., matter profiles) and analyses for use by Agency staff. The system provides a mechanism for staff to research current and historical matters, to develop and record plans for conducting matters, to identify the personnel resources used to conduct matters, and to provide a historical record of actions and deliberations as they occur.

Monthly and quarterly management reports containing information stored in MMS2 are distributed to managers throughout the Commission and are used to review past accomplishments, to plan future activities, and to help determine and evaluate employee workloads and performance on either an individual or aggregate basis. Daily reports are utilized by the Commissioners' offices in order to plan Agency activities and manage resources. In addition to those regularly distributed reports, MMS2 information also is available through a variety of standard reports that each user can produce using Business Objects software.

2.4 With Whom the Information Will Be Shared (Disclosures)

The information primarily is used and disclosed within the FTC by Agency staff for internal administrative and reporting purposes, as previously described. On occasion, such information, in whole or part, also can be subject to mandatory disclosure outside the FTC in response to compulsory process (e.g., subpoenas), requests for public access under the Freedom of Information Act (FOIA), official requests of Congress or the General Accounting Office, in history sheets pertaining to public matters and placed in the FTC's Public Reference Room under the Agency's public record rules (see 16 CFR 4.9(b)), etc. These public history sheets are available, through the Public Reference Room, to the general public for public matters. These public history sheets contain names and addresses for outside counsel, the FTC organization and staff attorneys assigned to the matters, and event codes which represent public actions. In accordance with the Privacy Act of 1974 (Privacy Act) (see section 2.8 below), system records also can be routinely used (disclosed) outside the FTC for certain authorized purposes (e.g., interagency law enforcement sharing).

2.5 The Opportunities Individuals Will Have To Decline To Provide Information or To Consent To Particular Uses of Information

Since MMS2 does not directly collect information from individuals, the opportunity for individuals to decline to provide information to the FTC or to consent to particular uses of their information depends on the matter in which the FTC collects information from such individuals. For example, in a rulemaking or similar Agency proceeding where participation is purely voluntary, individuals decide whether or not to submit a public comment or otherwise provide or disclose personally identifiable information, which the Agency may then incorporate into the MMS2 system. By choosing to participate, individuals are consenting to the Agency's collection, maintenance and use of the information they have submitted, as described in the privacy policy posted on the FTC's Web site, <http://www.ftc.gov/ftc/privacy.shtm>, and in notices published or provided under the Privacy Act (see section 2.8 below), which the individual has the opportunity to review before submitting or disclosing their information to the FTC.

In contrast, when the Agency collects information about individuals in investigations or litigation for law enforcement purposes, whether from individuals directly or from other parties, these individuals may not have an opportunity to decline to provide the information. These individuals will not ordinarily have an opportunity to consent to the Agency's use of the information, which is determined by the FTC Act, the Privacy Act, as applicable, and other laws, regulations and policies governing the collection, maintenance, use, and disclosure of such information in the context of the law enforcement matter.

PIAs are not intended or legally required to address the collection or maintenance of identifiable information about FTC employees or contractors in the system, which is considered a purely internal matter not affecting the public. As noted above, MMS2 includes limited information about FTC employees or contractors (including names, titles, employee number, and FTC organizational codes), which would not normally be addressed in a PIA under E-Gov. Nonetheless, this document notes that an opportunity for such FTC individuals to decline to provide such information or to consent to particular uses would be inapplicable, since data in the system about such individuals are collected and pertain to their official duties and performance on behalf of the FTC, and are not about these individuals in their personal, private capacity.

2.6 Administrative Controls (Access, Record Retention and Deletion)

Access to MMS2 is provided on a need-to-know basis to FTC staff using a role-based system. Different types of access are granted to different staff members and contractors:

- Read-Only access is granted to FTC staff and contractors located in the Records and Filings Office and the Office of the Secretary to assist in investigatory, rulemaking, or other agency activities on a need-to-know basis. Access is approved by their Administrative Officer and the MMS2 Program Manager.
- Data-Entry access is granted to FTC staff and to contractors located in the Records and Filings Office and the Office of the Secretary who require such access to carry out their official duties, including assisting in investigatory, rulemaking, or other Agency activities. Access is approved by their Administrative Officer and the MMS2 Program Manager.

- Administrative access is granted to FTC staff only on a need-to-know basis. Access is approved by the MMS2 Program Manager.

All staff involved with maintaining and/or having access to the system are expected to adhere to written FTC policies regarding the nature and sensitivity of the information contained on the system pursuant to the non-disclosure agreement signed as a condition of employment.

Regarding retention and deletion procedures for information contained in MMS2, as a historical database, information is never purged from the system, with limited exceptions.

2.7 Security

Pursuant to OMB-03-22, *Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002*, Section II., Privacy Impact Statements, C., Conducting a P.I.A, 1., Content, vi., fn. 7, and in accordance with agency requirements under the Federal Information Security Management Act of 2002 (Title III of P.L. 107-347) (FISMA), the MMS2 information system is appropriately secured according to the requirements and procedures detailed in OMB Circular A-130, *“Management of Federal Information Resources,” Appendix III, “Security of Federal Automated Information Resources.”* The FTC Information Technology Management Office – Operations Assurance Branch (ITMO-OAB) conducted a risk assessment of MMS2 per Federal Information Processing Standards (FIPS) Publication 199, *Standards for Security Categorization of Federal Information and Information Systems*, and determined that the risks related to the confidentiality, integrity and availability of the information contained in this application were moderate, and has, based on the FIPS 199 classification, identified and implemented appropriate security controls to protect against such risks. As required by FISMA, the MMS System Security Plan (SSP) details the security requirements and describes the security controls in place to meet those requirements. This application’s security controls are validated by a Certification and Accreditation (C&A) conducted in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-37, *“Guide for the Security Certification and Accreditation of Federal Information Systems.”* The OAB conducts monitoring, testing, and evaluation on a regular basis using the most current technical review tools to ensure that its controls are working properly and that the information is safeguarded. For any additional security questions, or for inquiries from users of the MMS2 system, the FTC’s Chief Information Security Officer (CISO) is the point of contact.

2.8 Privacy Act

Because the system allows users to retrieve information about an individual’s involvement or association with an Agency matter from MMS2 by name or other personal identifier, the FTC treats MMS2 as a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. The system is covered by an existing Privacy Act system of records notice. See <http://www.ftc.gov/foia/listofpaysystems.shtm> (FTC-I-5). It should be noted that, due to the law enforcement nature of the system, records in the system about certain individuals (e.g., defendants) are exempt from mandatory access by such individuals. See 4 U.S.C. 4.13(m) (exemptions applicable to certain FTC Privacy Act systems of records). As noted earlier, however, the Privacy Act or other legal authorities may permit or require the disclosure of such records in certain cases. See section 2.4 above.

2.9 Other Privacy Considerations and Analysis

As noted earlier, the system collects a limited amount of information in identifiable form about individuals involved in or associated with Agency matters tracked by the system. Because this information is sufficient for administrative matter tracking and reporting purposes, MMS2 does not incorporate more sensitive information (e.g., Social Security or financial account numbers) that the FTC may collect and maintain in other Agency systems or files (e.g., investigational or case records compiled or generated by FTC attorneys with a need to maintain and use such information for law enforcement purposes). Thus, the omission of such sensitive information greatly minimizes the risk of financial or other harm, embarrassment, or loss in the event of any unauthorized access to the system.

The FTC also does not make user access to the application available to anyone other than authorized FTC employees and contractors on a need-to-know basis, and has not at this time considered making the system accessible to others outside the FTC (e.g., other law enforcement agencies). In general, others outside the FTC do not have a routine need for access to the statistical and administrative data about Agency matters maintained in MMS2, and the Agency has appropriate rules and procedures in place for reviewing and determining when, and under what circumstances, the affirmative sharing or disclosure of such data outside the FTC may be authorized or required by law. For example see Commission Rule 4.11, 16 C.F.R. 4.11 (access to nonpublic records).

The MMS2 system does not use any Web site to collect or maintain information from children under the age of 13. Accordingly, the requirements for parental notice and consent under the Children's Online Privacy Protection Act (COPPA) are inapplicable. Likewise, OMB government-wide policy under the E-Gov Act regarding Web site privacy policies, machine readability of such policies, and the use of cookies or other tracking technology are inapplicable to MMS2, since there is no system Web site through which the system would collect any information from individuals.

3 DOCUMENT ACCEPTANCE INFORMATION

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