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PREPARED STATEMENT
OF
JANET D. STEIGER
CHAIRMAN
FEDERAL TRADE COMMISSION
BEFORE THE
SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE
JUDICIARY, AND RELATED AGENCIES
OF THE
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
FEBRUARY 27, 1990

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to discuss the Federal Trade Commission's fiscal 1991 budget request and to answer your questions.

Congress has charged the Commission with protecting the American public from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. With the resources requested in this budget, the Federal Trade Commission can continue to meet this important responsibility.

AGENCY REQUEST

The Commission's proposed budget for fiscal 1991 requests \$76,990,000 and 970 workyears. This funding level is 5 percent higher than the agency's fiscal 1990 program level of \$73,616,000, and 20 workyears greater than the 950 workyears planned in fiscal 1990. This \$3,374,000 increase between fiscal 1990 and 1991 will fund the 20 workyear increase, annualized pay and retirement cost increases, and other inflationary cost increases over which the agency has no control. Of the \$3,374,000 increase, \$3,114,000 is related to direct budget authority and \$260,000 is related to fee income. The increase in fees is to restore the fiscal 1990 sequestration reduction only; it is not an increase in the authorized fee level.

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The Commission sustained a nearly fifty percent reduction in workyears during the past decade and has determined that this reduced level is insufficient adequately to perform our mandated activities. With the revised funding provided by the Congress in the fiscal 1990 appropriation, the Commission is able for the first time in 10 years to stop its resource decline and provide for a small increase. In fiscal 1991, we are requesting what we consider to be the minimum necessary increase in resources to continue to restore the Commission to an appropriate enforcement level. This funding level will provide for the increase in workyears needed to keep pace with the growth in antitrust related activity and in consumer injury resulting from such activity as telemarketing fraud and unfair or deceptive advertising and marketing practices.

IMPACT OF FUNDING CHANGE

Beginning with the fiscal 1990 appropriation, Commission funding consists of direct budget authority and fee income charged for Hart-Scott-Rodino pre-merger filings. Fully 26 percent of our funding, or \$20,000,000, is now represented by fee income. The fiscal 1991 program level of \$76,990,000 assumes full collection of the \$20,000,000. Thus, the Commission is now dependent on all the \$20,000,000 fee income to maintain the critical antitrust program levels described in this budget request.

FISCAL 1990 FUNDING STATUS

The fee income component of the 1990 program level is \$19,740,000 or about 27% of our total required program level. Due to the late start of the fee and a possible downturn in merger transactions, we may not collect the full amount in fiscal 1990.

POLICY INITIATIVES

As Chairman, I am committed to several policy goals. First, I believe we should continue ^{to ?} (and) increase public confidence in the Federal Trade Commission as a vigorous law enforcement agency. One step in this direction is to halt the decline in resources at the Commission. The work of the Appropriations Committee in providing us an increase in our fiscal 1990 funding, the first in 10 years, is greatly appreciated.

Second, I have asked staff to increase their vigilance and to recommend ways to streamline and improve the review of proposed mergers. The Commission also has a unique role in civil, non-merger antitrust enforcement, and this too is also undergoing review. Expansion of our non-merger enforcement activities is important to help build our credibility and thereby enhance the deterrent effects of our actions. This expansion

also will help ensure that we do not overlook anticompetitive conduct that should be challenged or insufficiently support our existing cases.

Third, I am working to eliminate any confrontational attitude towards constituencies concerned with the work of the FTC, including Congress, the states, the legal community, and public interest groups. To attain this goal, the Commission has embarked on a program of increased communications with consumers, businesses, and regulators. We have held a number of meetings with consumer groups and business leaders to discuss consumer and antitrust concerns. We are working very hard to develop a productive working relationship with State Attorneys General and local regulatory officials. The results of these efforts will help guide the development of Commission enforcement policies in the future.

PROGRAMS

As in prior years, resources for fiscal 1991 will be directed against business practices that harm competition and injure consumers. In fiscal 1991, the Commission will continue to work directly with the business community to achieve voluntary compliance through education and articulation of policy. A case-by-case enforcement approach coupled with advisory efforts will continue to be the Commission's primary method of enforcing the law.

The Commission's fiscal 1991 budget requests funding, almost equally divided, for the agency's two missions as follows: Maintaining Competition - \$37.3 million and 465 workyears; and Consumer Protection - \$39.7 million and 505 workyears.

Maintaining Competition Mission

The Maintaining Competition Mission budget for fiscal 1991 requests an increase of 8 workyears from fiscal 1990. All of the \$20,000,000 projected for fee collection is used to support this mission and any shortfall in fee collections reduces our ability to conduct antitrust enforcement.

Among other things, the \$37.3 million dollars and 465 workyears allocated to the Maintaining Competition Mission will permit the Commission to:

1. Challenge anticompetitive mergers that could lead to higher prices, restricted output, diminished innovation, or other harms to consumers. We have seen a substantial rise in merger activity over the last decade while our staff has declined, and even at this increased request level, the staff will continue to be stretched thin.

2. Investigate alleged restrictions on competition in the delivery of health care services and other licensed occupations. Health care services, a major sector of the economy, have been characterized for many years by rapidly rising prices.
3. Continue our emphasis on finding and eliminating restraints among direct competitors that raise or maintain prices above competitive levels or otherwise harm consumers.
4. Assure compliance with all outstanding Commission orders while also reviewing selected orders to ensure they still promote the procompetitive environment that is the central goal of the Commission's legal mandates.
5. Render advisory opinions, to increase conformance by business with the laws we enforce.
6. Respond to requests from Congress, other legislative bodies and federal and state regulators for our assessment of the competitive effects of proposed legislation, regulations or policies.

Consumer Protection Mission

The Consumer Protection Mission for fiscal 1991 requests an increase of 12 workyears from fiscal 1990. The \$39.7 million and 505 workyears proposed for this mission will permit the Commission to:

1. Target areas where there is substantial consumer injury -- particularly in cases involving fraud, deceptive sales or marketing practices, false or deceptive advertising, and credit law. Telemarketing fraud and deceptive advertising are areas of consumer injury that have seen tremendous growth.
2. Respond to requests from state and federal agencies to analyze the possible effects of their regulations and proposals on consumers, and within the legal constraints designed to protect business confidentiality to share information necessary for effective law enforcement.
3. Work aggressively to educate consumers of their rights and businesses of their responsibilities under the Commission's consumer protection Trade Regulation Rules and adjudicative orders.
4. Monitor compliance with existing rules and orders, litigating where necessary to ensure compliance.

MANAGEMENT INITIATIVE

The agency's major management initiative for both fiscal 1990 and 1991 will be to focus on ways to improve staff productivity through the increased use of modern information systems technology. Over the past five years, the FTC has developed and put in place a comprehensive infrastructure of systems to meet basic office automation, voice, and data communications, and central computing needs of the Commission and its staff. The potential productivity contribution of these systems remains to be fully realized, however, and for this reason, the first order of business now is to assure that these systems are maintained and used effectively. To tap this potential, the Commission has acted to partially restore recent cuts in our capital equipment budget. The fiscal 1991 budget also provides an increase of 2 workyears to support our information systems base.

AUTHORIZATION

As you know, the Commission has operated since fiscal 1983 without authorization legislation. The appropriation language for the Commission has continued several provisions of the expired authorization bill. We request each year, including this year, that these provisions be deleted because time and practice have made them moot, but also because we hope it would encourage the enactment of an authorization bill.

At present, the Senate has passed a bill (S.1249); the House has not. I know your committee has supported us in our efforts to secure authorization. The Commission is committed to this effort.

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Mr. Chairman and members of the Subcommittee, I hope that our fiscal 1991 budget submission makes it clear that the Commission is determined to carry out effectively all its statutory mandates using only the necessary level of resources. That concludes my prepared remarks. I would be happy to respond to your questions.