

# **Federal Trade Commission**

## **Annual Performance Report For Fiscal Year 2020**

## About This Report

The following document is the Annual Performance Report for fiscal year (FY) 2020 for the Federal Trade Commission ("FTC" or "Commission"). The Annual Performance Plan for FY 2021-2022 will be published later this year alongside the President's budget. The performance report is structured around three strategic goals and their supporting objectives as established in the FTC Strategic Plan for FY 2018-2022. The FTC's strategic goals, objectives, and performance measures articulate what the agency intends to accomplish to meet its mandated mission (Goals 1 and 2), support and improve the management functions vital to core mission success (Goal 3), and demonstrate the highest standards of stewardship.

- Strategic Goal 1: Protect consumers from unfair and deceptive practices in the marketplace
- Strategic Goal 2: Maintain competition to promote a marketplace free from anticompetitive mergers, business practices, or public policy outcomes
- Strategic Goal 3: Advance the FTC's performance through excellence in managing resources, human capital, and information technology

To see more of the FTC's [performance](#) and [budget](#) documents, please visit the agency's website.

## Agency and Mission Information

The FTC works to protect and strengthen free and open markets and to promote informed consumer choice, both in the United States and around the world. While the FTC is primarily a law enforcement agency, the FTC also uses a variety of other tools to fulfill its mission, including rulemaking, research, studies on marketplace trends and legal developments, and consumer and business education.

### *Our Mission*

Protecting consumers and competition by preventing anticompetitive, deceptive, and unfair business practices through law enforcement, advocacy, and education without unduly burdening legitimate business activity.

### *Our Vision*

A vibrant economy characterized by vigorous competition and consumer access to accurate information.

### *Our History and Organization*

The FTC is an independent law enforcement agency with both consumer protection and competition jurisdiction in broad sectors of the economy. The agency's work includes pursuing vigorous and effective law enforcement; advancing consumers' interests by sharing its expertise with Congress, state legislatures, and U.S. and international agencies; developing policy and research tools through hearings, workshops, and conferences; and creating practical and plain-language educational programs and materials for consumers and businesses in a global marketplace with constantly changing technologies.

The FTC has a long tradition of maintaining a competitive marketplace for both consumers and businesses. In 1914, President Woodrow Wilson signed the Federal Trade Commission Act into law, creating the FTC, which then absorbed its predecessor, the Bureau of Corporations, in 1915. When the FTC was created in 1914, its purpose was to prevent unfair methods of competition in commerce as part of the battle to "bust the trusts." Over the years, Congress passed additional laws giving the agency greater authority over anticompetitive practices.

Recognizing that unfair and deceptive practices can also distort a competitive marketplace and cause harm to consumers, in 1938 Congress amended the FTC Act and granted the FTC authority to stop "unfair or deceptive acts or practices in or affecting commerce." Since then, the FTC also has been directed to enforce a wide variety

of other consumer protection laws and regulations. In total, the Commission has enforcement or administrative responsibilities [under more than 70 laws](#). In addition, the agency maintains a website at [www.ftc.gov](http://www.ftc.gov) that provides information for consumers and businesses, as well as online forms to file complaints.

### ***Organizational Structure***

The FTC is headed by a Commission, consisting of five members; each is nominated by the President, confirmed by the Senate, and serves a staggered seven-year term. The President chooses one commissioner to act as Chair. No more than three commissioners may be from the same political party. The FTC accomplishes its mission through three bureaus: the Bureau of Consumer Protection (BCP), the Bureau of Competition (BC), and the Bureau of Economics (BE). Their work is aided by the Office of the General Counsel (OGC), the Office of International Affairs (OIA), the Office of Policy Planning (OPP), the Office of the Secretary (OS), the Office of the Executive Director (OED), the Office of Congressional Relations (OCR), the Office of Public Affairs (OPA), the Office of Administrative Law Judges (ALJ), the Office of Equal Employment Opportunity and Workplace Inclusion (EEOWI), the Office of the Chief Privacy Officer (OCPO), and the Office of the Inspector General (OIG). For more information about the agency's components, visit its [organizational structure webpage](#).

The agency's headquarters are located in Washington, D.C. with eight regional offices across the United States. The agency had 1160 staff on board at the end of FY 2020. The total new budget authority for FY 2020 was \$331.0 million.

## **Performance Measurement Reporting Process**

Bureau and Office representatives serve as the Performance Measure Reporting Officials (PMRO), who act as data stewards for each of the agency's publicly-reported performance goals. The PMROs report performance data to the Performance Improvement Officer on a quarterly or annual basis via an internal data reporting tool. The Financial Management Office (FMO) also leads periodic performance goal reviews in coordination with budget execution reviews. Quarterly reports are sent to senior managers throughout the agency, allowing for adjustments to agency strategies based on the interim results.

### ***Verification and Validation of Performance Data***

The following outlines how the agency ensures the performance information it reports is complete, reliable, and accurate:

- The FTC has adopted a central internal repository for performance data entry, reporting, and review. The electronic data tool reduces human error, increases transparency, and facilitates review of the agency's performance information.
- Each PMRO is responsible for updating the data quality appendix (DQA) at least once per year. The DQA serves as a process document, laying out data sources, and collection methods for performance information, as well as how metrics are calculated.
- PMROs must provide all supporting documentation for their performance results at both the midpoint and end of the fiscal year. This allows FMO Performance Staff to "dig beneath the surface" and see the data underlying the metrics.
- After reviewing the underlying data, several measures are selected each year to investigate more thoroughly, including interviewing the staff responsible for data collection, asking about alternative methods, and comparing data collection and calculations to those reported in the DQA.

## Annual Performance Measures FY 2016-2022

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
<b>Goal 1: Protect consumers from unfair and deceptive practices in the marketplace.</b>								
<b>Objective 1.1: Identify and take actions to address deceptive or unfair practices that harm consumers.</b>								
<b>Performance Goal 1.1.1</b> Percentage of the FTC's consumer protection law enforcement actions that targeted the subject of consumer complaints to the FTC.	91.2%	94.4%	89.6%	87.8%	90.5%	80.0%		
<b>Performance Goal 1.1.2</b> Rate of customer satisfaction with the FTC's Consumer Response Center. (A) Website (B) Call Center	(A) 81 (B) 83	(A) 80 (B) 84	(A) 80.3 (B) 85	(A) 81.2 (B) 84	(A) 82.5 (B) 84	(A) 75 (B) 64		
<b>Key Performance Goal 1.1.3</b> Total consumer savings compared to the amount of FTC resources allocated to consumer protection law enforcement. (New 3 yr. rolling average)	\$8.80 in consumer savings per \$1 spent	\$35.20 in consumer savings per \$1 spent	\$39.00 in consumer savings per \$1 spent	\$38.60 in consumer savings per \$1 spent	\$14.40 in consumer savings per \$1 spent	\$7.00 in consumer savings per \$1 spent		
<b>Key Performance Goal 1.1.4</b> Amount of money the FTC returned to consumers or forwarded to the U.S. Treasury resulting from FTC enforcement action.	\$95.2 million	\$2.69 billion	\$3.25 billion	\$3.52 billion	\$2.79 billion	\$65 million		
<b>Objective 1.2 Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.</b>								
<b>Key Performance Goal 1.2.1</b> Rate of consumer satisfaction with FTC consumer education websites.	76	77	76.5	77.7	76.2	75.5		
<b>Performance Goal 1.2.2</b> Number of workshops and conferences the FTC convened that address consumer protection issues.	12	19	11	12	13	10		
<b>Performance Goal 1.2.3</b> Number of consumer protection reports the FTC released.	8	10	18	11	23	10		
<b>Objective 1.3 Collaborate with domestic and international partners to enhance consumer protection.</b>								
<b>Performance Goal 1.3.1</b> Number of investigations or cases in which the FTC and other U.S. federal, state, and local government agencies shared evidence or information that contributed to FTC law enforcement actions or enhanced consumer protection.	387	359	369	453	551	375		
<b>Key Performance Goal 1.3.2</b> Number of investigations or cases in which the FTC obtained foreign-based evidence or information, or engaged in other mutual assistance that contributed to FTC	53	50	43	48	42	40		

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
law enforcement actions, or in which the FTC cooperated with foreign agencies and/or multilateral organizations on enforcement matters.								
<b>Performance Goal 1.3.3</b> Number of instances of policy advice or technical assistance provided to foreign consumer protection and privacy agencies, directly and through international organizations.	66	66	64	71	60	60		
<b>Performance Goal 1.3.4</b> Percentage of consumer protection advocacy matters filed with entities, including federal and state legislatures, agencies, or courts that were successful, in whole or in part.	85.7%	85.7%	*	*	*	60.0%		
<b>Goal 2: Maintain competition to promote a marketplace free from anticompetitive mergers, business practices, or public policy outcomes.</b>								
<b>Objective 2.1: Identify and take actions to address anticompetitive mergers and practices.</b>								
<b>Key Performance Goal 2.1.1</b> Percentage of full merger and nonmerger investigations in which the FTC takes action to maintain competition.	54.6%	49.1%	67.9%	62.9%	77.1%	Between 40.0% and 70.0%		
<b>Performance Goal 2.1.2</b> Consumer savings through merger actions taken to maintain competition.	\$2.59 billion	\$2.59 billion	\$2.66 billion	\$3.09 billion	\$1.78 billion	\$2.10 billion		
<b>Key Performance Goal 2.1.3</b> Total consumer savings compared to the amount of FTC resources allocated to the merger program.	\$46.40 in consumer savings per \$1 spent	\$55.60 in consumer savings per \$1 spent	\$50.30 in consumer savings per \$1 spent	\$ \$65.90 in consumer savings per \$1 spent	\$25.70 in consumer savings per \$1 spent	\$42.00 in consumer savings per \$1 spent		
<b>Performance Goal 2.1.4</b> Consumer savings through nonmerger actions taken to maintain competition.	\$1.02 billion	\$1.12 billion	\$1.10 billion	\$1.77 billion	\$901.1 million	\$900 million		
<b>Key Performance Goal 2.1.5</b> Total consumer savings compared to the amount of FTC resources allocated to the nonmerger program.	\$52.30 in consumer savings per \$1 spent	\$39.60 in consumer savings per \$1 spent	\$40.10 in consumer savings per \$1 spent	\$75.80 in consumer savings per \$1 spent	\$45.95 in consumer savings per \$1 spent	\$40.00 in consumer savings per \$1 spent		
<b>Objective 2.2: Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.</b>								
<b>Performance Goal 2.2.1</b> Number of workshops, seminars, conferences, and hearings convened or co-sponsored that involve significant competition-related issues.	3	3	7	11	4	3		
<b>Performance Goal 2.2.2</b> Number of reports and studies the FTC issued on key competition-related topics.	9	11	9	4	7	8		

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
<b>Performance Goal 2.2.3</b> Percentage of competition advocacy matters filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.	64.7%	58.6%	*	*	*	60.0%		
<b>Objective 2.3: Collaborate with domestic and international partners to preserve and promote competition.</b>								
<b>Key Performance Goal 2.3.1</b> Percentage of FTC cases involving at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.	100%	96%	98%	100%	100%	95%		
<b>Performance Goal 2.3.2</b> Number of instances in which the FTC provided policy advice or technical assistance to foreign competition agencies or government.	171	160	151	165	155	130		

\* Results for Measures 1.3.4 and 2.2.3 were not available at time of publication.

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
<b>Goal 3: Advance the FTC's performance through excellence in managing resources, human capital, and information technology.</b>								
<b>Objective 3.1: Optimize resource management and infrastructure.</b>								
<b>Performance Goal 3.1.1</b> The extent to which the FTC is prepared to protect people and property, and to continue mission essential operations during emergencies. (A) Achieve a favorable COOP rating (B) The number of products and activities related to Physical Security that inform staff and provide opportunities to practice emergency procedures.	(A) 90% (B) N/A	(A) 95% (B) N/A	(A) 95% (B) 39	(A) 95% (B) 70	(A) COOP Exercise cancelled (B) 115	(A) 80% (B) 42		
<b>Performance Goal 3.1.2</b> Percentage of survey respondents who are satisfied with the timeliness of administrative operations.	N/A	81%	82%	87%	78%	75%		
<b>Performance Goal 3.1.3</b> Achieve a favorable (unmodified) audit opinion from the agency's independent financial statement auditors.	Unmodified opinion	Unmodified opinion	Unmodified opinion	Unmodified opinion	Unmodified opinion	Unmodified opinion		
<b>Performance Goal 3.1.4</b> Percentage of new entrant, annual, and termination Public Disclosure Reports that are filed within the required timeframe.	N/A	N/A	98.3%	98.4%	95.1%	95.0%		
<b>Performance Goal 3.1.5</b> Percentage of contract actions awarded within FTC's established Procurement Action Lead Time	78%	65%	57%	67%	90%	70%		
<b>Objective 3.2 Cultivate a high performing, diverse, and engaged workforce.</b>								
<b>Performance Goal 3.2.1</b> The extent to which FTC employees consider their agency a best place to work.	81%	83%	85%	84%	N/A FEVS delayed	Exceed government-wide average by 10 points		
<b>Performance Goal 3.2.2</b> The extent to which employees believe the FTC encourages an environment that is open, diverse, and inclusive.	75%	78%	78%	78%	N/A FEVS delayed	Exceed government-wide average by 10 points		
<b>Key Performance Goal 3.2.3</b> The extent to which employees believe the FTC cultivates engagement throughout the agency	82%	83%	83%	84%	N/A FEVS delayed	Exceed government-wide average by 10 points		
<b>Performance Goal 3.2.4</b> The extent to which employees believe FTC management promotes a results-oriented performance culture.	70%	73%	74%	75%	N/A FEVS delayed	Exceed government-wide average by 10 points		

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
<b>Objective 3.3 Optimize technology and information management that supports the FTC mission.</b>								
<b>Performance Goal 3.3.1</b> Availability of information between technology systems.	99.75%	99.70%	99.71%	99.98%	99.97%	99.60%		
<b>Performance Goal 3.3.2</b> Percentage of IT spend on Provisioned IT Services.	N/A	N/A	36.6%	37.0%	40.0%	40.0%		
<b>Performance Goal 3.3.3</b> Achieve a favorable FTC Cybersecurity Index score.	N/A	N/A	3 of 8	6 of 8	7 of 8	6 of 8		
<b>Performance Goal 3.3.4</b> Percentage of the FTC's paper records held at the Washington National Records Center (WNRC) that are processed and appropriately either (a) destroyed or (b) transferred to the National Archives and Records Administration (NARA).	N/A	N/A	N/A	16.9%	31.3%	≥ 50% of WNRC holdings processed		
<b>Performance Goal 3.3.5</b> Successfully transfer permanent electronic records dated between 2004 and 2016 to NARA in a timely manner.	N/A	N/A	N/A	2004-2006 records transferred	No records transferred	Transfer permanent electronic records dated 2007-2009		



## **STRATEGIC GOAL 1: PROTECT CONSUMERS FROM UNFAIR AND DECEPTIVE PRACTICES IN THE MARKETPLACE**

The FTC protects consumers from unfair and deceptive acts and practices in the marketplace by conducting investigations, suing companies and individuals that violate the law, developing rules to protect consumers, and educating consumers and businesses about their rights and responsibilities. The agency also collects complaints about a host of consumer issues, including fraud, identity theft, financial matters, and Do Not Call violations. The FTC makes these complaints available to law enforcement agencies worldwide.

Because the FTC has jurisdiction over a wide range of consumer protection issues, it must effectively use its limited resources by targeting its law enforcement and education efforts to achieve 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 broad range of stakeholders to understand emerging issues. The FTC also conducts research on a variety of consumer protection topics.

The FTC focuses on investigating and litigating cases that cause or are likely to cause substantial injury to consumers. This includes not only monetary injury, but also, for example, unwarranted health and safety risks and protecting consumer privacy. By focusing on practices that are actually harming or likely to harm consumers, the FTC can best leverage its limited resources.

### **Strategic Objectives**

The FTC has established three objectives to guide work in this area:

- **Objective 1.1:** Identify and take actions to address deceptive or unfair practices that harm consumers.
- **Objective 1.2:** Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.
- **Objective 1.3:** Collaborate with domestic and international partners to enhance consumer protection.

Goal 1 and its supporting Strategic Objectives comprise the first of two mission-focused components of the FTC's FY 2020 Performance Report.

## **Objective 1.1: Identify and take actions to address deceptive or unfair practices that harm consumers.**

**Goal Leader: Director, Bureau of Consumer Protection; Director, Bureau of Economics**

### **Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

### **FY 2020 Progress Update**

The agency continued to focus its resources on areas that cause the greatest harm to consumers. For example, the agency worked with other enforcement authorities and stakeholders to stop scammers and others engaging in unfair and deceptive business practices during the novel Coronavirus Disease 2019 (COVID-19) crisis. The FTC sent letters to hundreds of companies and individuals warning them to stop making unsubstantiated claims that their products and therapies can treat, prevent, or cure COVID-19. The FTC and Federal Communication Commission sent joint letters to companies providing Voice over Internet Protocol (VoIP) services, warning them that routing and transmitting illegal robocalls, including COVID-19-related scam calls, is illegal and may lead to federal law enforcement against them. Separately, the FTC also sent letters to VoIP service providers and other companies warning them that “assisting and facilitating” illegal telemarketing or robocalls related to the COVID-19 pandemic is against the law. Many of these calls prey upon consumers’ fear of the virus to perpetrate scams or sow disinformation. The FTC and Small Business Administration (SBA) sent warning letters to companies that may be misleading small businesses seeking SBA loans as a result of the COVID-19 crisis. The letters highlight claims by the companies that could lead consumers to believe the companies are affiliated with the SBA, or that consumers can apply on their websites for loans through the Paycheck Protection Program (PPP) or other programs authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Additionally, the FTC sent warning letters to a number of multi-level marketing companies to remove and address claims that they or their participants are making about their products’ ability to treat or prevent COVID-19, about the earnings people who have recently lost income can make, or both. The FTC also brought enforcement actions against Ponte Investments, Marc Ching (doing business as Whole Leaf Organics), Golden Sunrise Nutraceutical, SuperGoodDeals.com, QYK Brands (d/b/a Glowyy), Zaappaaz, and American Screening, for allegedly making false claims related to COVID-19. The FTC issued an administrative complaint against Traffic Jam Events charging multiple counts of deceptive conduct including making false claims related to COVID-19.

In the area of deceptive marketing, University of Phoenix (UOP) and its parent company, Apollo Education Group, agreed to pay a record \$191 million to resolve FTC charges that they used deceptive advertisements falsely touting their relationships and job opportunities with companies such as AT&T, Yahoo!, Microsoft, Twitter, and The American Red Cross. Under the settlement, UOP agreed to pay \$50 million in cash as well as cancel \$141 million in debts owed to the school by students who were harmed by the deceptive ads. This is the largest settlement the Commission has obtained against a for-profit school.

Multi-level marketer AdvoCare International and its former Chief Executive Officer paid \$150 million to the FTC and agreed to a ban from the multi-level marketing business to resolve FTC charges that the company operated an illegal pyramid scheme that deceived consumers into believing they could earn significant income as “distributors” of its health and wellness products. Two top promoters also settled charges that they promoted the illegal pyramid scheme and misled consumers about their income potential, agreeing to a multi-level marketing ban and a judgment of \$4 million that was suspended when they surrendered substantial assets totaling approximately \$105,000 to the FTC.

In the area of privacy, the FTC brought its first case against a “stalking” app, which allows remote monitoring of any devices on which the apps are installed. Retina-X Studios, the developers of three “stalking” apps, agreed to be barred from selling apps that monitor consumers’ mobile devices unless they take certain steps to ensure the apps will only be used for legitimate purposes. The FTC alleged that Retina-X and its owner, James N. Johns, Jr., developed three mobile device apps that allowed purchasers to monitor the mobile devices on which they were installed, without the knowledge or permission of the device’s user. Retina-X and Johns marketed one of the apps, called MobileSpy, to monitor employees and children. Retina-X promoted two other apps, called PhoneSheriff and TeenShield, to monitor mobile devices used by children. The FTC alleged that while Retina-X claimed in its legal policies that the apps were intended for monitoring employees and children, Retina-X did not take any steps to ensure that its apps were being used only for legitimate and lawful purposes. Retina-X sold more than 15,000 subscriptions to all three stalking apps before the company stopped selling them in 2018. The settlement resolves allegations that these apps compromised the privacy and security of the consumer devices on which they were installed.

As in past years, the FTC focused on its greatest asset in protecting consumers—its staff. FTC staff has continued to work to identify, develop, and communicate best practices and updated procedures to maximize the efficiency of the FTC’s consumer protection work. BCP also continued to make law enforcement training a priority in FY 2020. BCP continued to expand the content on BCP Lit, its widely used internal training and information platform. BCP added new training materials, legal resources, and investigation and litigation advice to BCP Lit, as well as revised and updated existing training content. BCP also conducted a variety of seminars, brown bags, and lectures on topics such as collections issues and remote depositions. BCP also sent a number of staff attorneys to deposition trainings run by the District of Columbia Bar. BCP approved training for investigators to become qualified as Certified Fraud Examiners. In addition, BCP’s Office of Technology Research and Investigation provided training and seminars on topics such as advertising industry market dynamics, online manipulation, creepware apps, misuse of payment data from web skimming, methods of detecting deepfakes and authenticating original media, and using mobile phone data to inform COVID-19 public health response. BCP also continued to offer its mentoring program to staff.

BCP also continued to allocate resources to identifying opportunities to streamline its investigatory processes and minimize the burden imposed on legitimate business practices. BCP devoted significant time to identifying litigation support tools that will enhance staff efficiency and effectiveness in investigation and litigation.

BCP faces resource challenges such as rising costs for expert witness contracts, travel (before pandemic-related restrictions were instituted and after they are lifted), and litigation support tools. Overcoming these challenges is critical as BCP litigates larger and more complex cases involving traditional frauds, as well as cases in emerging technologies, privacy and data security, and deceptive advertising in new media channels.

## **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**

## Performance Measures

**Performance Goal 1.1.1:** Percentage of the FTC's consumer protection law enforcement actions that targeted the subject of consumer complaints to the FTC.

The FTC collects complaints about a host of consumer issues, including fraud, identity theft, financial matters, and Do Not Call violations. Complaints are integral to determining the areas of greatest concern and injury to consumers. This measure gauges how well the FTC's consumer protection law enforcement actions target the subject of consumer complaints.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
91.2%	94.4%	89.6%	87.8%	90.5%	80%	Exceeded		

**FY 2020 Highlights:** In FY 2020, 90.5 percent, or 57 of 63, of BCP's law enforcement actions targeted the subject of consumer complaints to the FTC. Because BCP augments identification of targets from its databases with other strategies for generating enforcement leads – such as monitoring compliance with FTC orders, ad monitoring, internet surfs, mobile application surveys, and direct referrals from government and private-sector partners – the results vary from year to year.

**Performance Goal 1.1.2:** Rate of customer satisfaction with the FTC's Consumer Response Center.

This goal measures how satisfied consumers are with the FTC's Consumer Response Center, which is responsible for collecting consumer complaints. Satisfaction is measured separately for consumers filing complaints through online forms (a), and for those filing complaints through the call center (b). The Consumer Response Center is often consumers' first contact with the FTC, and if consumers do not have a satisfactory experience, they may be less likely to file complaints. Consumer complaints help the FTC to identify consumer protection issues and trends in the fast-changing, increasingly global marketplace.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
(a) 81 (b) 83	(a) 80 (b) 84	(a) 80.3 (b) 85.0	(a) 81.2 (b) 84	(a)82.5 (b)84	(a) 75 (b) 64	(a) Exceeded (b) Exceeded		

**FY 2020 Highlights:** The FTC's Consumer Response Center continues to perform above the private and public industry benchmarks. The FTC Call Center maintained an overall satisfaction score of 84, and online forms maintained an overall satisfaction score of 82.5.



**Performance Goal 1.1.3:** Total consumer savings compared to the amount of FTC resources allocated to consumer protection law enforcement.

This measure tracks the efficiency of the FTC's consumer protection law enforcement spending. We compare how much money the FTC saves consumers each year through law enforcement to the amount the FTC spends on consumer protection law enforcement. Consumer savings are comprised of: (a) the amount of money returned to consumers and (b) an estimate of the amount of harm that would have occurred but for the FTC's law enforcement action. To calculate this latter figure, the FTC assumes that the unlawful conduct would have continued for one year but for our action. The FTC also assumes that the amount of harm that would have occurred in that year is the same as what consumers lost in the past. Performance Goals 2.1.3 and 2.1.5 are similar measures that track the impact of antitrust law enforcement. The amount reported is a three-year rolling average (average of the current year and two prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$8.80 in consumer savings per \$1 spent	\$35.20 in consumer savings per \$1 spent	\$39.00 in consumer savings per \$1 spent	\$ 38.60 in consumer savings per \$1 spent	\$14.40 in consumer savings per \$1 spent.	\$7.00 in consumer savings per \$1 spent	Exceeded		

**FY 2020 Highlights:** The agency saved consumers on average over 14 times the amount of resources devoted to the consumer protection program in the past three years, or an average of \$1.4 billion per year. This is largely attributable to the Online Trading Academy, Western Union, and RevenueWire cases. Although the results for FY 2020 are more than double the target, the amount reported in FY 2020 decreased from prior years because the \$7.3 billion in consumer redress for the Volkswagen case, which was part of the FY 2017 result, is no longer included in the three-year average.



**Performance Goal 1.1.4:** The amount of money the FTC returned to consumers or forwarded to the U.S. Treasury resulting from FTC enforcement action.

This goal tracks the FTC's effectiveness in returning money to consumers who were defrauded and forwarding money to the U.S. Treasury (e.g., if sending money to individuals is impracticable, or if funds were paid as a civil penalty). The FTC targets law enforcement efforts on violations that cause the greatest amount of consumer harm; the amount of money returned to consumers or forwarded to the U.S. Treasury is a useful indicator that the FTC is targeting the right defendants. The number reported is a three-year rolling average (average of the current year and two prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$95.2 million	\$2.69 billion	\$3.25 billion	\$ 3.52 billion	\$2.79 billion	\$65 million	Exceeded		

**FY 2020 Highlights:** In the last three years, the annual average of the total amount returned to consumers and forwarded to the U.S. Treasury is \$2.79 billion. In FY 2020, the FTC returned \$131.8 million to consumers and forwarded \$5.0 billion to the U.S. Treasury. The FTC returned money to more than 2.2 million consumers in dozens of cases, including Office Depot, LifeLock, Helping America Group, and I Works. The money returned to the U.S. Treasury included civil penalties obtained in settlements with Facebook, Kohl's, and HyperBeard. In addition, in FY 2020, some FTC orders required defendants to self-administer refund

programs worth more than \$510.8 million in refunds to consumers, including University of Phoenix, AT&T Mobility, and Western Union.

## Other Indicators

**Indicator 1.1.IND.1:** Number of complaints collected and entered into the Consumer Sentinel Network (CSN) database.

The agency assimilates a large number of consumer complaints, including complaints about Do Not Call violations. The agency receives 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.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
9.7 million	8.7 million	8.5 million	8.3 million

**Indicator 1.1.IND.2:** The percentage of redress cases in which money designated for distribution is mailed to consumers within 6 months.

This indicator ensures that the FTC returns redress dollars to injured consumers as quickly as possible. Money is considered "designated for distribution" when the FTC is in receipt of all funds, legal issues are resolved, and a usable claimant list is ready. If there is a claims process in which consumers must apply for a refund, then dollars are "designated for distribution" after all claims have been reviewed and verified.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
95.5%	90.9%	91.7%	93.1%

**Indicator 1.1.IND.3:** Number of contributors to the Consumer Sentinel Network.

CSN allows members to access consumer complaints submitted directly to the FTC, as well as complaints shared by the following data contributors, federal partners, multiple state Attorneys General (AGs), private companies, and non-profit organizations. By expanding the number of data contributors, the FTC will have better information with which to inform its law enforcement efforts. This number counts current, active data contributors that collect data from the general public and directly enter that data into Sentinel. This number does not count entities that refer consumers to the FTC Complaint Assistant. Sentinel does not include data from commercial data brokers or information resellers.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	42	43	44



**Objective 1.2: Provide consumers and businesses with knowledge and tools that provide guidance and prevent harm.**

**Goal Leaders: Director, Bureau of Consumer Protection; Director, Bureau of Economics**

**Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

## **FY 2020 Progress Update**

**COVID-19.** The FTC developed a multi-media campaign, complete with a dedicated website, **Coronavirus Pandemic: The FTC in Action** ([ftc.gov/coronavirus](https://ftc.gov/coronavirus); [ftc.gov/coronavirus/es](https://ftc.gov/coronavirus/es)). The site contains a library of more than 120 consumer and business blog posts and scam alerts on topics ranging from relief checks and treatment claims to charity fraud, government imposter scams, and misinformation and rumors. The site also houses robocall recordings, videos on avoiding COVID-19 scams and Economic Impact Payment scams, social media shareables, infographics, and materials in other languages. Recognizing the once-in-a-generation economic shift resulting from the pandemic, the FTC developed materials on the [Financial Impact of the Coronavirus](#), and will continue its work to inform and protect consumers in this challenging environment.

**Outreach to Specific Consumer Audiences.** The FTC creates tailored messages and materials for diverse audiences and collaborates with partner organizations and agencies to disseminate FTC information to their constituents in those target communities. For example, the FTC's Pass It On campaign ([ftc.gov/PassItOn](https://ftc.gov/PassItOn) and [ftc.gov/Pasalo](https://ftc.gov/Pasalo) in Spanish), tailored to people age 65 and older, is a research-based campaign to share information about fraud and encourage readers to share the information with a friend. The agency continues to promote these resources through webinars and presentations in collaboration with other federal agencies such as the Consumer Financial Protection Bureau, local government offices on aging, legal services providers, non-profit organizations such as AARP, and at the World Elder Abuse Awareness Day Global Summit.

**Outreach to Military Service Members.** The FTC has reached military service members through a continued, years-long collaboration with the Department of Defense Office of Financial Readiness and other military partners. The FTC's resources, found at [MilitaryConsumer.gov](https://MilitaryConsumer.gov), are shared by the agency and its partners through social media outreach and media coverage, and culminate in national outreach efforts each year during July's Military Consumer Month.

**Protecting Small Businesses.** The FTC developed and has been promoting, presenting, and disseminating clear, easy-to-use resources that inform small businesses about cyber threats and provide tips on how to deal with them. These materials, which are co-branded with the National Institute of Standards and Technology (NIST), the Department of Homeland Security (DHS), and the SBA, enable business owners to better understand cybersecurity and train their employees. The FTC also has focused on expanding the reach of its Spanish language campaign materials, in collaboration with SBA Small Business Development Centers. Further, in collaboration with the SBA and the Better Business Bureau, the FTC has been promoting and disseminating its "Scams and Your Small Business" guide in English and Spanish, which describes common scams and the steps businesses can take to avoid them.

The FTC continues to encounter challenges in meeting the demand for educational materials available in print. The agency works to mitigate these issues through judicious use of funding, publication revisions, streamlining the catalog of printed materials, and emphasizing materials available on the agency's website.

## **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**



## Performance Measures



### Key Performance Goal 1.2.1: Rate of consumer satisfaction with FTC consumer education websites.

This measure gauges the effectiveness, helpfulness, and usability of the FTC's consumer education websites. Consumer education serves as the first line of defense against deceptive and unfair practices. Well-informed consumers are better able to protect themselves from bad actors in the marketplace. This measure includes the customer satisfaction scores for [consumer.ftc.gov](https://consumer.ftc.gov) and [bulkorder.ftc.gov](https://bulkorder.ftc.gov). Starting in FY 2020, the FTC is reporting the customer satisfaction score through the desktop survey on [consumer.ftc.gov](https://consumer.ftc.gov).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
76	77	76.5	77.7	76.2	75.5	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC used the desktop survey on [Consumer.ftc.gov](https://consumer.ftc.gov) to determine the rate of customer satisfaction with FTC consumer education websites. The rate of customer satisfaction for [Consumer.ftc.gov](https://consumer.ftc.gov) (desktop) was 76.2. The average citizen satisfaction score for participating federal government websites was 75.5.

Due to customer satisfaction survey changes during FY 2020, the FTC can no longer report a combined score for [consumer.ftc.gov](https://consumer.ftc.gov) and [bulkorder.ftc.gov](https://bulkorder.ftc.gov). The [consumer.ftc.gov](https://consumer.ftc.gov) desktop survey receives the most responses, so the FTC will report this score starting in FY 2020.

### Performance Goal 1.2.2: Number of workshops and conferences the FTC convened that address consumer protection issues.

The FTC convenes workshops and conferences through which experts and other experienced and knowledgeable parties discuss significant consumer protection issues and ways to address those issues. This indicator helps the FTC ensure that enforcement and education efforts are augmented by encouraging discussions among all interested parties, as well as empirical research on novel or challenging consumer protection problems.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
12	19	11	12	13	10	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC convened or co-sponsored 13 workshops and conferences that addressed consumer protection problems. These events brought together over 9,500 participants.

**Performance Goal 1.2.3:** Number of consumer protection reports the FTC released.

FTC staff prepare reports regarding current important topics in consumer protection, and these reports are the basis for this measure. Consumer protection reports provide information to policy makers, both internally and externally, to help them understand important contemporary issues. This measure also ensures that the FTC releases a variety of informative reports to the public that help promote the understanding and awareness of consumer protection issues.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
8	10	18	11	23	10	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC published 23 consumer protection-related reports in areas including cigarettes, smokeless tobacco, privacy and data security, protecting older consumers, mass-market consumer fraud, social media bots and advertising, and navigating auto sales and financing. Among these 23 reports were two annual reports: the Do-Not-Call Registry Data Book and the Consumer Sentinel Network Data Book.

**Other Indicators**

**Indicator 1.2.IND.1:** Number of federal, state, local, international, and private partnerships to maximize the reach of consumer and business education campaigns.

This indicator helps determine the extent to which the FTC's print education publications reach consumers through federal, state, local, international, and private organizations. Organizations, such as congressional offices, state AGs, small businesses, schools, police departments, and banks, work as partners with the FTC by distributing these materials to their clients and customers. These organizations can order free bulk quantities of educational materials via an online order system: <https://www.bulkorder.ftc.gov/>. For a measure of the quantity of publications distributed, see Indicator 1.2.IND.2.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
12,944	12,705	14,346	8,800*

\* The COVID-19 pandemic caused a significant decrease in the number of orders received for print publications from unique organizations in FY 2020.

**Indicator 1.2.IND.2:** Number of consumer protection messages accessed (a) in print and (b) digitally.

These indicators gauge the reach of the agency's education messages for consumers and businesses in print and via the web. The print measure counts the total quantity of publications ordered from [bulkorder.ftc.gov](https://bulkorder.ftc.gov). The digital indicator counts the number of page views of FTC consumer education articles, blog posts, and other materials on FTC websites, as well as the page views of FTC business education plain-language guidance articles and blog posts.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
(a) 14.5 million (b) N/A	(a) 13.2 million (b) 45.2 million	(a) 13.7 million (b) 49.5 million	(a) 8.9 million* (b) 47.5 million

\* The COVID-19 pandemic caused a significant decrease in the total number of print publications distributed in FY 2020.

**Indicator 1.2.IND.3:** Number of social media followers and email subscribers.

This indicator gauges the extent of consumer and business outreach via social networks and email communications.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
481,064	512,545	449,048	620,099

### **Objective 1.3: Collaborate with domestic and international partners to enhance consumer protection.**

**Goal Leaders: Director, Bureau of Consumer Protection; Director, Office of International Affairs; Director, Office of Policy Planning**

#### **Strategies, External Factors, and Risks**

[section to be released later with Annual Performance Plan]

#### **FY 2020 Progress Update**

**Domestic Collaboration.** In the enforcement area, the FTC worked closely with its federal, state, local, and international partners on numerous investigations, exceeding the targets for collaboration with both domestic and international counterparts to enhance consumer protection. The agency's collaborative domestic efforts included its case against Corporate Compliance Services, brought with the State of Florida, in which the defendants allegedly tricked business owners into buying labor law posters by sending mailers that mimic invoices from a government agency or authority. In connection with this case, the FTC shared information with and received information from the Florida, Texas, Ohio, and Kansas Offices of the Attorney General, Dallas United States Postal Inspection Service, Department of Labor, Texas Secretary of State, Florida Department of Revenue, and Florida Secretary of State. The FTC also worked closely with its federal, state, and local partners on numerous investigations, including the alleged real estate seminar schemes by Zurixx and Nudge, which the FTC brought with the Utah Division of Consumer Protection, and its telemarketing case against VoIP service provider Globex Telecom brought with the State of Ohio.

**International Collaboration.** The FTC cooperated with a wide range of foreign agencies and multilateral organizations on 42 investigations, cases, and projects and worked closely with international counterparts on several significant enforcement actions involving large-scale international frauds. These include: the FTC's litigation against a sprawling international scheme, On Point Global, which operated hundreds of websites that promised consumers a quick and easy government service, such as renewing a driver's license or eligibility determinations for public benefit, but did not deliver the promised benefits; the agency's action against RevenueWire, a Canadian-based company, and its CEO, which paid \$6.75 million to settle charges that they laundered credit card payments for, and assisted and facilitated, two tech support scams that the FTC previously sued; and a lawsuit against a Canadian-based operation, Educare Centre Services, which sold sham credit card interest rate reduction services to U.S. consumers through Dominican Republic-based telemarketers and also used a Canada-based VoIP provider, Globex Telecomm (and related individuals), which ultimately settled the FTC's charges for \$2.1 million and significant conduct relief. In these and many other matters, the FTC used its authority under the U.S. SAFE WEB Act (SAFE WEB) to share information or provide investigative assistance to foreign authorities.

The FTC also expanded its online tools for sharing data about international scams, launching two new interactive dashboards that provide details about international complaints submitted to Consumer Sentinel and econsumer.gov, a site created by members of the International Consumer Protection and Enforcement Network (ICPEN) to gather and share consumer complaints about international scams. With Brazil's National Secretary of Consumer Protection and Colombia's Superintendencia de Industria y Comercio joining econsumer.gov this year, the econsumer.gov initiative now includes agencies in 41 countries. Econsumer.gov complaints help inform the FTC's enforcement. For example, the agency received hundreds of complaints from consumers located in Canada and more than fifty other countries, in addition to thousands from U.S. consumers, against online retailer Fashion Nova for its ecommerce practices. The company agreed to pay \$9.3

million to settle the FTC's allegations that it failed to notify customers about shipping delays and offer them the right to cancel with a full refund.

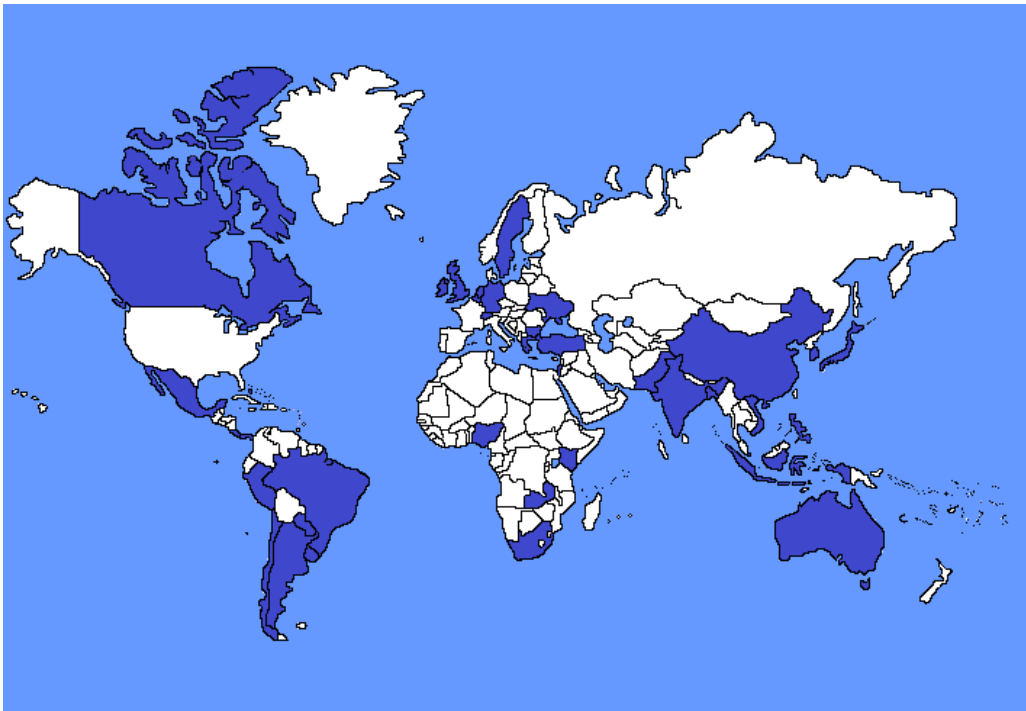
The agency also worked closely with our foreign counterparts on COVID-19 matters, including by sharing information and consumer education materials on COVID-19 scams with international consumer networks such as ICPEN, the International Mass Marketing Fraud Working Group (IMMFWG), the Unsolicited Communications Enforcement Network, and the Global Privacy Enforcement Network (GPEN). For example, we assisted ICPEN's fraud prevention efforts by raising awareness of COVID-19 scams through tweets, data analysis, and consumer information on [econsumer.gov](https://www.consumer.gov). Consumer agencies around the world – from Costa Rica to South Korea to Turkey to Zambia – shared this information on social media networks. The Commission also provided input to Latin American countries on numerous COVID-19 consumer issues ranging from cancellations to phishing to health claims. The FTC also contributed to a policy note by the Organization for Economic Cooperation and Development (OECD) on protecting online consumers during the COVID-19 crisis, and provided input for the United Nations Conference on Trade and Development's (UNCTAD) COVID-19 initiative on issues affecting consumer protection and competition issues.

On the enforcement front, the FTC referred to foreign counterparts its warning letters to foreign companies that made unsubstantiated claims that their products and therapies can treat, prevent, or cure COVID-19. In response, some foreign agencies issued their own cease-and-desist letters or took other actions. Most of the foreign entities that received warning letters have complied with the FTC's request that they cease making all such claims for products that they advertise, market, sell, or otherwise promote or make available in the United States. The agency also obtained enforcement cooperation from some foreign regulators with respect to foreign VoIP providers that facilitated illegal COVID-19 robocalls.

The FTC continued its work to protect consumer privacy in cross-border data transfer systems. The agency helped to expand the Asia-Pacific Economic Cooperation (APEC) Cross-Border Privacy Rules. The agency also continued to implement the EU-U.S. Privacy Shield Framework as well as the Swiss-U.S. Privacy Shield, bringing two enforcement cases in FY 2020. Following the European Court of Justice's invalidation of the Privacy Shield Framework in July 2020, the FTC has worked with the Department of Commerce and other agencies on the continuation of transatlantic data flows that benefit consumers and businesses.

In the policy arena, the FTC has continued to work to develop market-oriented policies that benefit U.S. consumers to complement its international enforcement work. Bilaterally, the FTC provided informal input to agencies that are developing legislation on digital and privacy issues and participated in negotiating consumer protection provisions in free trade agreements. Multilaterally, the FTC provided comments on a range of policy issues. For example, the FTC took a leading role in the privacy and consumer protection work of the OECD and championed empirical work on measuring the benefits of consumer protection. The FTC also provided its experience with children's privacy in connection with the OECD's review of its guidelines on protecting children online. The agency also provided comments to the Organization of American States on privacy principles and to UNCTAD on e-commerce and its consumer protection peer review process. FTC staff have also actively engaged in consumer protection issues related to the Internet Corporation for Assigned Names and Numbers, the organization that deals with Internet domain names, including issues relating to Whois data and privacy laws.

## International Consumer Protection Agency Engagement



*In addition to the jurisdictions indicated on this map, the FTC provided consumer protection and privacy policy input to multinational organizations such as the OECD, UNCTAD, APEC, and Association of Southeast Asian Nations (ASEAN), as well as technical guidance on enforcement and policy issues to global and regional agency networks such as ICPEN, GPEN, UCENET, FIAGC, RIPD, APPA, and the African Consumer Protection Dialogue.*

During FY 2020, the FTC conducted several technical assistance missions and capacity-building training sessions for developing consumer protection and privacy agencies, supported by a mix of funding sources, including in-kind donations from the recipient agencies. The FTC's technical assistance programming included in-person training sessions in Argentina, Chile, India, Paraguay, and Uruguay. Due to COVID-19 travel restrictions, the FTC also organized or participated in virtual capacity-building programs with agencies in Bahrain, Bermuda, Peru, and Singapore. These sessions provided foreign regulators and law enforcers with information on the FTC's approach to emerging digital consumer protection issues, as well as practical investigational skills and tools for cross-border cooperation.

As part of the FTC’s International Fellows program, which provides foreign officials with a first-hand appreciation of FTC practices and approaches, the FTC hosted International Fellows from Canada and Zambia during the first half of the year, before the COVID-19 pandemic limited travel. The Fellows worked directly with agency staff on consumer protection matters.

Promoting international cooperation is a long-term endeavor that can be affected by events beyond the agency's control, such as foreign court proceedings and political changes that result in changes in foreign counterpart agencies' policies and staff. Political turmoil in certain regions can also make cooperation on particular issues more difficult. The global COVID-19 pandemic presented numerous challenges, but the FTC was able to overcome many of those challenges by using technology creatively to work with its counterparts around the world.

**Advocacy.** In a combined consumer protection and competition advocacy letter, FTC staff commented to the Department of Health and Human Services Concerning the 21<sup>st</sup> Century Cures Act, specifically on the Interoperability, Information Blocking, and ONC Health IT Certification Program Rule. DHS issued a final rule that was consistent with FTC’s comment. The FTC’s Bureau of Consumer Protection staff also commented on the NIST proposal of a voluntary tool aimed at helping organizations start a dialogue about managing privacy risks within their organizations. The comment suggested five changes to the proposed framework.

#### **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**



## Performance Measures

**Performance Goal 1.3.1:** Number of investigations or cases in which the FTC and other U.S. federal, state, and local government agencies shared evidence or information that contributed to FTC law enforcement actions or enhanced consumer protection.

This measure tracks the amount of information sharing by the FTC and other domestic law enforcement agencies to further the goal of protecting consumers from fraud. The geographic location and other demographics may affect the types of fraud that consumers encounter, making it important for government agencies to share information and resources to enhance consumer protection.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
387	359	369	453	551	375	Exceeded		

**FY 2020 Highlights:** BCP continues to place an emphasis on leveraging resources with domestic partners and encourages staff to work with other U.S. federal, state, and local government agencies to further the goal of protecting consumers from fraud. In FY 2020, BCP shared information with other U.S. federal, state, and local government agencies in 337 investigations or cases. In FY 2020, BCP received information from other U.S. federal, state, and local government agencies in 214 investigations or cases.



**Key Performance Goal 1.3.2:** Number of investigations or cases in which the FTC obtained foreign-based evidence or information or engaged in other mutual assistance that contributed to FTC law enforcement actions or in which the FTC cooperated with foreign agencies and/or multilateral organizations on enforcement matters.

OIA works to expand cooperation and coordination between the FTC and international consumer protection partners through information sharing, investigative assistance, and the development of investigative best practices and enforcement capacity. This measure counts the number of investigations and cases in which the FTC and foreign consumer protection agencies shared information or engaged in other enforcement cooperation.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
53	50	43	48	42	40	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC cooperated in 42 instances on consumer protection and privacy matters to obtain or share evidence or engage in other enforcement cooperation in investigations, cases, and enforcement-related projects. Foreign authorities assisted the FTC in activities such as sharing consumer complaints, obtaining corporate records, and providing other investigative information. The FTC also provided assistance to numerous foreign authorities through various mechanisms using its authority under the U.S. SAFE WEB Act and other cooperation tools to share information and provide investigative assistance using compulsory process. On September 24, 2020, Congress reauthorized the SAFE WEB Act, and the legislation was signed into law on October 20, 2020. The FTC also cooperated on enforcement matters with international enforcement organizations such as the ICPEN, the GPEN, the UCENet, and the IMMFWG.



**Performance Goal 1.3.3:** Number of instances of policy advice or technical assistance provided to foreign consumer protection and privacy agencies, directly and through international organizations.

This measure quantifies the FTC’s efforts to develop policies and best practices that promote consumer protection and privacy and data security by assisting countries in developing and implementing consumer protection laws, rules, and best practices. These efforts include providing policy advice, direct technical assistance and capacity building to developing agencies, and professional development opportunities through the International Fellows program.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
66	66	64	71	60	60	Met		

**FY 2020 Highlights:** In FY 2020, the FTC provided policy input to foreign consumer protection and privacy agencies in 60 instances. This included policy advice and technical input on a wide range of consumer and privacy policy issues delivered through in-person and virtual seminars, substantive consultations, oral presentations, and written comments. Of the inputs, ten represent either in-person or virtual technical assistance missions to new and developing consumer protection and privacy agencies, and two represent International Fellows from Canada and Zambia who worked alongside FTC staff in support of the consumer protection mission before the COVID-19 pandemic restricted travel to and from the United States.

**Performance Goal 1.3.4:** Percentage of consumer protection advocacy comments and amicus briefs filed with entities including federal and state legislatures, agencies, or courts that were successful, in whole or in part.

The FTC’s consumer protection advocacy takes many forms—including advocacy comments, amicus briefs, workshops, reports, and testimony. This measure evaluates the success rate for resolved consumer protection advocacy comments and amicus briefs. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC’s consumer protection mission by allowing the FTC to address consumer protection issues that may be affected by the actions of public entities, including regulators and legislators.

To determine whether an advocacy comment or amicus brief is successful, staff waits for the relevant case, legislative process, or agency rulemaking to be fully resolved. Once the matter is resolved, the outcome is compared to the policy recommendations within the advocacy comment or the legal arguments set forth in the amicus brief. Advocacy comments or amicus briefs are classified as successful, partially successful, moot, or unsuccessful based on the outcome achieved. The FTC does not attempt to quantify or measure how much effect our advocacy had on the decision. While most advocacy comments contain either consumer protection recommendations or competition recommendations, a few may have both, and thus, are counted in this performance goal as well as Performance Goal 2.2.3.

\*Results for this measure are often delayed and are reported as available.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
85.7%	85.7%	*	*	*	60.0%	N/A		

## Other Indicator

**Indicator 1.3.IND.1:** Number of advocacy comments and amicus briefs on consumer protection issues filed with entities, including federal and state legislatures, agencies, and courts.

Whereas Performance Goal 1.3.4 measures the success of our consumer protection advocacy comments and amicus briefs, this indicator reports the quantity of consumer protection advocacy comments and amicus briefs filed each year. While the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC's consumer protection mission and allows the FTC to address situations where consumer protection may be affected by the actions of public entities, including regulators and legislators. While most advocacy comments and amicus briefs contain either consumer protection recommendations or competition recommendations, a few may have both, and thus, are counted in this indicator as well as Indicator 2.2.IND.1.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
7	4	3	2

## **STRATEGIC GOAL 2: MAINTAIN COMPETITION TO PROMOTE A MARKETPLACE FREE FROM ANTICOMPETITIVE MERGERS, BUSINESS PRACTICES, OR PUBLIC POLICY OUTCOMES.**

Vigorous competition results in lower prices, higher quality goods and services, and innovative and beneficial new products and services. By enforcing the antitrust laws, the FTC helps to ensure that consumers benefit from competition. The FTC's efforts to maintain competition focus primarily on preventing anticompetitive mergers and business practices. The FTC also engages in policy research and development, advocacy, and education to deter anticompetitive practices, reduce compliance costs, and encourage governmental actors at the federal, state, and local levels to evaluate the effects of their policies on competition and consumers. This work is critical to protect and strengthen free and open markets – the cornerstone of a vibrant economy.

### **Strategic Objectives**

The FTC has established three objectives to guide work in this area:

- **Objective 2.1:** Identify and take actions to address anticompetitive mergers and practices.
- **Objective 2.2:** Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.
- **Objective 2.3:** Collaborate with domestic and international partners to preserve and promote competition.

Goal 2 and its Strategic Objectives comprise the second of two mission-focused components of the FTC's FY 2020 Performance Report.

**Objective 2.1: Identify and take actions to address anticompetitive mergers and practices that harm consumers.**

**Goal Leaders: Director, Bureau of Competition (BC); Director, Bureau of Economics (BE)**

**Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

### **FY 2020 Progress Update**

In FY 2020, the agency concluded 27 matters in which it took action to maintain competition, including 11 consent orders and 11 abandoned transactions, focusing its efforts on markets with the greatest impact on American consumers. This fiscal year saw a continuation of the Commission's ambitious antitrust litigation docket, with 11 active litigations from the current or prior years.

This year, the Commission authorized federal court or administrative litigation in seven merger investigations. The agency successfully concluded three of its seven merger litigations in their initial stages when the parties involved abandoned their transactions after the Commission issued its complaints.

In the first matter, the Commission issued an administrative complaint alleging that Illumina sought to maintain its monopoly unlawfully in the U.S. market for next-generation DNA sequencing (NGS) systems by acquiring Pacific Biosciences of California (PacBio), thus eliminating a nascent competitor. According to the complaint, Illumina, the leading provider of NGS products using short-read sequencing technology, sought to acquire PacBio, which sells long-read sequencing-based NGS products that pose a current and future competitive threat to Illumina's dominant position. The Commission also authorized staff to seek a preliminary injunction in federal court to enjoin the transaction pending an administrative proceeding. In the face of the Commission's challenge, the parties abandoned their proposed transaction in January 2020.

In the second matter, the Commission filed an administrative complaint challenging Post Holdings' proposed acquisition of TreeHouse Foods's private label ready-to-eat cereal business. According to the complaint, the deal would have given Post more than a 60 percent share of an already concentrated U.S. market for these products, removing the competitive pressures that lead to higher quality and lower priced cereals for American families. The Commission also authorized staff to seek a temporary restraining order and preliminary injunction to prevent consummation pending the conclusion of an administrative proceeding. In the face of the FTC's challenge, the parties abandoned their proposed acquisition and the Commission dismissed its complaint.

In the third matter, the Commission authorized staff to seek a preliminary injunction to enjoin Edgewell Personal Care Company's proposed acquisition of competitor Harry's. According to the complaint, the deal would have eliminated a disruptive and innovative rival that has driven down prices and spurred innovation in the otherwise duopolistic U.S. market for the manufacture and sale of men's and women's wet shave razors. Harry's launched as an internet-only, direct-to-consumer wet shave brand, and in 2016, entered into brick-and-mortar retail stores. Edgewell is the owner of the Schick brand of razors. The parties abandoned their acquisition in the face of the FTC's challenge, and the Commission subsequently dismissed its complaint.

The Commission remains vigilant in its ongoing commitment to maintaining competition in markets for essential health care services. This year, the FTC issued an administrative complaint challenging a

proposed merger between Jefferson Health and Albert Einstein Healthcare Network, two leading providers of inpatient general acute care hospital and rehabilitation services in the Philadelphia, PA area. According to the complaint, the merger would have eliminated the head-to-head competition that drives improvements in quality and service, upgraded facilities, and investment in technology and innovation in Philadelphia and Montgomery counties. Post-merger, the parties would control 60 percent of the general acute care services in Philadelphia County and at least 45 percent in Montgomery County. The Commission also authorized staff to seek a preliminary injunction to enjoin the transaction pending a full administrative hearing. As of the end of FY 2020, the case was pending in federal and administrative litigation.

The Commission continues to enforce the antitrust laws in important energy markets. In February 2020, the Commission issued an administrative complaint to block a proposed joint venture between Peabody Energy Corporation and Arch Coal. According to the complaint, the venture would combine the firms' coal mining operations in the Southern Powder River Basin (SPRB) region of northeastern Wyoming, eliminating competition between two major competitors in the market for thermal coal in the area. SPRB coal is attractive to electric power producers in the central United States and upper Midwest because the coal deposits are relatively inexpensive to extract and contain lesser amounts of sulfur and sodium. According to the complaint, these power generation firms, with facilities designed to burn SPRB coal, have high fixed costs, making it untenable to replace SPRB coal with alternative energy sources such as natural gas, wind, solar, or nuclear fuels. The Commission authorized staff to seek a temporary restraining order to enjoin the transaction pending a full administrative hearing on the merits. Following a two-week hearing on the preliminary injunction action, the federal district court granted the Commission's request to enjoin the transaction in September 2020, and the parties subsequently abandoned their transaction.

In other pending litigation, the FTC issued an administrative complaint challenging Axon Enterprise's consummated acquisition of its body-worn camera systems competitor VieVu. Before the acquisition, the two companies competed to provide body-worn camera systems to large, metropolitan police departments across the United States. According to the complaint, Axon's May 2018 acquisition reduced competition in an already concentrated market. In April 2020, the Commission entered a consent agreement with VieVu's parent company, Safariland, which was finalized in June 2020. With respect to Axon, this matter is currently pending in administrative adjudication.

In April 2020, the Commission filed an administrative complaint alleging that Altria Group and JUUL Labs entered into a series of agreements, including Altria's acquisition of a 35 percent stake in JUUL, that eliminated competition in violation of federal antitrust laws. According to the complaint, this series of agreements involved Altria ceasing to compete in the U.S. market for closed-system electronic cigarettes in return for a substantial ownership interest in JUUL, by far the dominant player in that market. This matter is currently pending in administrative adjudication.

The Commission also continues to enforce against increasingly complex monopolization schemes in pharmaceutical markets. This year, the Commission authorized staff to seek a permanent injunction and equitable monetary relief to halt an elaborate anticompetitive scheme to preserve a monopoly for a life-saving drug. According to the complaint, the FTC alleges that after acquiring the rights to Daraprim, the gold standard treatment for toxoplasmosis, Vyera Pharmaceuticals immediately raised the price 4,100 percent and engaged in a series of unlawful tactics, including distributional restraints and interference with U.S. Food and Drug Administration (FDA)-mandated bioequivalence testing to prevent generic entry into the market. The complaint further charges that Vyera signed data blocking agreements to deny generic pharmaceutical firms access to the data needed to assess whether development of an alternative treatment is worth pursuing. This matter is currently pending in federal court.

As in past years, the FTC focused on its greatest asset in promoting competition: its staff. The agency continued its emphasis on employee-led staff development through its Training Council and mentoring

programs. These programs, some of which were deferred due to COVID-19, are cost-neutral, improve knowledge transfer on important antitrust issues, and enhance information sharing between practitioners, thereby supporting the long-term success of the competition mission. Despite the pandemic, the agency was able to provide meaningful professional development opportunities to staff and those completing internships within the Bureau by leveraging digital platforms and other distance learning tools.

Resource constraints remain a significant challenge. The rising costs of critical expert witness resources and the ongoing challenge of how to manage efficiently document productions of increasing size are two of the foremost concerns. Development and support of the technological tools necessary to improve processes and streamline operations require significant financial and staff resources. Likewise, if more mergers are filed and cause competitive concern then staff resources will be stretched to cover the increased caseload.

The FTC also faces a challenging landscape in attempting to maintain competition in increasingly complex and pervasive technology markets that raise unique antitrust considerations. These challenges require the FTC to utilize the full range of policy and advocacy tools at its disposal to promote competition.

#### **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**

## Performance Measures



**Key Performance Goal 2.1.1:** Percentage of full merger and nonmerger investigations in which the FTC takes action to maintain competition.

This measure tracks FTC actions taken to maintain competition, including litigated victories, consent orders, abandoned transactions, or restructured transactions (either through a fix-it-first approach or eliminating the competitive concern) in a significant percentage of full merger and nonmerger investigations.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
54.6%	49.1%	67.9%	62.9%	77.1%	Between 40.0% and 70.0%	Not Met		

**FY 2020 Highlights:** The agency took action to maintain competition in 27 of 35 full merger and nonmerger investigations that concluded during FY 2020. The FTC's 27 actions included 11 consent orders, two litigated victories (Benco, Peabody/ Arch Coal), one stipulated injunction (Indivior), one settlement with a party to an ongoing administrative adjudication (Safariland), three matters in which the parties abandoned their transactions after the Commission authorized staff to challenge the proposed acquisition in federal or administrative proceedings (Illumina/PacBio, Edgewell/Harry's, Post/TreeHouse), and nine other abandoned transactions. This year's results exceeded the target range for this performance goal, primarily because more matters than anticipated led to enforcement actions.

The agency's 27 actions included 24 merger actions and 3 nonmerger actions in second request or compulsory process investigations in a broad array of industries such as healthcare, pharmaceuticals, consumer goods and services, energy, and manufacturing.

The agency concluded eight merger matters in which it did not take an enforcement action during FY 2020.

**Performance Goal 2.1.2:** Consumer savings through merger actions taken to maintain competition.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive mergers. The number reported is a five-year "rolling average" (average of the current year and four prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$2.59 billion	\$2.59 billion	\$2.66 billion	\$3.09 billion	\$1.78 billion	\$2.1 billion	Not Met		

**FY 2020 Highlights:** The FTC saved consumers on average an estimated \$1.78 billion per year through its merger actions to maintain competition in the past five years. This year, despite considerable consumer savings from merger actions in the healthcare, pharmaceuticals, consumer goods and services, and manufacturing industries, the agency fell short of meeting its target for this performance goal. In large part, this is because unusually large consumer savings from merger actions in FY 2015, including \$4.9 billion from the Lorillard/Reynolds American merger, are no longer included in the five-year timeframe for the goal. Targets have been adjusted for FY 2021. While this metric includes only cases that concluded, the agency initiated more merger challenges this year than in any year since FY 2001.





**Key Performance Goal 2.1.3:** Total consumer savings compared to the amount of FTC resources allocated to the merger program.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive mergers compared to the amount spent on the merger program. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$46.40 in consumer savings per \$1 spent	\$55.60 in consumer savings per \$1 spent	\$50.30 in consumer savings per \$1 spent	\$65.90 in consumer savings per \$1 spent	\$25.70 in consumer savings per \$1 spent	\$42.00 in consumer savings per \$1 spent	Not Met		

**FY 2020 Highlights:** In FY 2020, the FTC saved consumers approximately \$25.74 for every dollar devoted to its merger program. As mentioned in Performance Goal 2.1.2, merger actions in the healthcare, pharmaceuticals, consumer goods and services, and manufacturing industries resulted in considerable consumer savings in the period. These results fell short of the target level for the period, due in large part to unusually large consumer savings from merger actions in FY 2015, including \$4.9 billion from the Lorillard/Reynolds American merger, that are no longer included in the five-year timeframe for the goal. Targets have been adjusted for FY 2021. Significant increases in case-related expert spending during the period, primarily attributable to a growing antitrust litigation docket, also resulted in a reduction in the ratio of estimated consumer savings to program costs during the period.

**Performance Goal 2.1.4:** Consumer savings through nonmerger actions taken to maintain competition.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive business conduct. The number reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$1.02 billion	\$1.12 billion	\$1.10 billion	\$1.77 billion	\$901 million	\$900 million	Met		

**FY 2020 Highlights:** From FY 2016 – FY 2020, the FTC saved consumers on average an estimated \$901 million per year through nonmerger actions taken to maintain competition. This year, nonmerger actions in the healthcare, pharmaceutical, and consumer services industries contributed to that total, allowing the agency to continue to meet the target for this performance goal.





**Key Performance Goal 2.1.5:** Total consumer savings compared to the amount of FTC resources allocated to the nonmerger program.

This measure reports the estimated amount of money that the Commission saved consumers by taking action against potentially anticompetitive business conduct compared to the amount spent on the nonmerger program. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
\$52.30 in consumer savings per \$1 spent	\$39.60 in consumer savings per \$1 spent	\$40.10 in consumer savings per \$1 spent	\$75.80 in consumer savings per \$1 spent	\$46.00 in consumer savings per \$1 spent	\$40 in consumer savings per \$1 spent	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC saved consumers approximately \$46 per dollar devoted to its nonmerger enforcement program. As mentioned under 2.1.4, nonmerger actions in the healthcare, pharmaceutical, and consumer services industries contributed to that total, and when coupled with modest reductions in program spending allowed the agency to again meet the target for this performance goal.

## Other Indicators

**Indicator 2.1.IND.1:** Average total sales for the current year plus the previous four fiscal years in the affected markets in which the Commission took merger enforcement action.

This indicator demonstrates that the Commission’s merger actions are guided in part by the size of the relevant product/geographic markets involved. It is important that the FTC use its resources in areas where it can achieve the most positive change. The number reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
\$88.3 billion	\$103.4 billion	\$112.7 billion	\$69.4 billion

**Indicator 2.1.IND.2:** Average total sales for the current year plus the previous four fiscal years in the affected markets in which the Commission took anticompetitive market enforcement action.

This indicator demonstrates that the FTC’s nonmerger actions are guided, in part, by the size of the relevant product/geographic markets involved. It is important that the FTC use its resources in areas where the most positive change can be achieved. The amount reported is a five-year “rolling average” (average of the current year and four prior year totals).

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
\$77.10 billion	\$75.5 billion	\$80.48 billion	\$11.9 billion

**Objective 2.2: Engage in effective research, advocacy, and stakeholder outreach to promote competition and advance its understanding.**

**Goal Leaders: Director, BC; General Counsel, Office of the General Counsel; Director, Office of Policy Planning; Director, BE**

**Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

### **FY 2020 Progress Update**

The FTC continued to organize public conferences to advance the agency's understanding of economic developments and emerging business practices and inform antitrust policy through consideration of diverse perspectives. In FY 2020, the Bureau of Economics hosted its Twelfth Annual Microeconomics Conference. This two-day workshop brought together scholars working in areas related to the FTC's antitrust and consumer protection missions. The agency also hosted a workshop on non-compete agreements in the workplace, which examined antitrust and consumer protection issues. The FTC held a joint workshop with the FDA on the competitive marketplace for biosimilars. The FTC also held the first of a two-part series hosted with the Department of Justice to discuss proposed Vertical Merger Guidelines. The second session was cancelled due to the pandemic, but the FTC accepted written comments. In June 2020, both agencies adopted the Vertical Merger Guidelines. Finally, in FY 2020, BC and BCP hosted a workshop to examine the potential benefits and challenges to consumers and competition raised by data portability.

In addition, as the COVID-19 pandemic affected individuals and businesses, the FTC and the DOJ issued a joint statement in March detailing an expedited antitrust procedure and providing guidance for collaborations of businesses working to protect the health and safety of Americans during the pandemic. The agencies followed that with another joint statement in June announcing that the FTC and DOJ are on alert for employers, staffing companies, and recruiters, among others, who might engage in collusion or other anticompetitive conduct in labor markets, such as agreements to lower wages or to reduce salaries or hours worked.

The FTC continued to respond to requests for comment from local, state, and federal entities to provide policymakers with a framework to analyze the potential competitive implications of pending governmental actions that may have a major impact on consumers. In FY 2020, the FTC filed one amicus brief in federal court, ten competition advocacy comments, and two advocacy comments that addressed both competition and consumer protection issues. Two of the ten competition advocacy comments were submitted to federal government agencies, and eight were sent to state legislators and regulators. These advocacy comments address a variety of industries and competition issues, including restrictions on telehealth, electronic health information, scope of practice limitations for health professionals, enforceability of reasonable and non-discriminatory (RAND) licensing commitments, certificates of public advantage, and beer distribution. The FTC ensures that its advocacy activities are conducted with sensitivity to state policy and law-making authority.

In FY 2020, the FTC issued Special Orders, under Section 6(b) of the FTC Act, to five large technology firms, requiring them to provide information about prior acquisitions not reported to the antitrust agencies under the Hart-Scott-Rodino (HSR) Act. The Commission plans to use the information obtained in this study to examine trends in acquisitions and the structure of deals, including whether acquisitions not subject to HSR notification might have raised competitive concerns, and the nature and extent of other agreements that may restrict competition. The FTC also issued 6(b) orders to five health insurance companies and two health

systems to provide information that will allow the agency to study the effects of certificates of public advantage (COPAs) on prices, quality, accessibility, and innovativeness of healthcare services. The COPA study will collect information over the next several years that will help FTC staff to conduct retrospective analyses of existing COPAs.

The agency also furthered its efforts to advance public understanding of its competition decisions through the publication of analyses to aid public comment, speaking engagements, and the “Competition Matters” blog, which covers an array of competition policy and practice issues. In addition, the agency issued several reports dealing with competition issues, including an annual report analyzing branded drug firms’ patent settlements with generic competitors. The report summarized data on patent settlements filed with the FTC and the Department of Justice during FY 2016 under the Medicare Modernization Act of 2003. This was the Commission’s third annual snapshot of such deals since *FTC v. Actavis*, in which the U.S. Supreme Court held that a branded drug manufacturer’s reverse payment to a generic competitor to settle patent litigation can violate the antitrust laws. The FTC also prepared a Congressionally-mandated report on its standalone authority under Section 5 of the FTC Act to address high pharmaceutical prices.

The FTC will continue to identify opportunities to advance the public’s and its own understanding of competition issues in a dynamic and increasingly complex marketplace, particularly with respect to health care, technology, and intellectual property. The agency must continue to use its limited resources to expand its advocacy and outreach efforts, but it must balance this activity with increased demands from its resource-intensive enforcement efforts. The agency must also expand its use of technology and public interaction to better promote the consumer understanding of the benefits of competition.

#### **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**

## Performance Measures

**Performance Goal 2.2.1:** Number of workshops, seminars, conferences, and hearings convened or co-sponsored that involve significant competition-related issues.

This measure demonstrates the Commission's commitment to ensuring that consumers obtain the benefits of competition through its policy-related activities such as workshops, seminars, conferences, and hearings convened or cosponsored that involve significant competition-related issues.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
3	3	7	11	4	3	Exceeded		

**Performance Goal 2.2.2:** Number of reports and studies the FTC issued on key competition related topics.

This measure reports competition policy-related activities such as Commission or staff research, reports, economic or policy papers, studies, or other significant antitrust guidance produced after substantive investigation, study, or analysis. These activities enhance the public's knowledge of competition issues and promote the adoption of policies based on sound competitive principles to the extent possible. Also included as part of this measure are reports to other federal agencies that report on the FTC's activities.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
9	11	9	4	7	8	Not Met		

**FY 2020 Highlights:** On June 30, 2020, the FTC and the U.S. Department of Justice (DOJ) Antitrust Division, issued new Vertical Merger Guidelines that outline how the federal antitrust agencies evaluate the likely competitive impact of vertical mergers and whether those mergers comply with U.S. antitrust law. These new Vertical Merger Guidelines mark the first time the FTC and the DOJ have issued joint guidelines on vertical mergers.

**Performance Goal 2.2.3:** Percentage of competition advocacy comments and amicus briefs filed with entities, including federal and state legislatures, agencies, or courts, that were successful, in whole or in part.

The FTC's competition advocacy takes many forms—including advocacy comments, amicus briefs, workshops, reports, and testimony. This measure evaluates the success rate for resolved competition advocacy comments and amicus briefs. Although the FTC is primarily a law enforcement agency, advocacy work is a cost-effective way to further the FTC's competition mission and allow the FTC to address situations where competition may be affected by the actions of public entities, including regulators and legislators.

To determine whether an advocacy comment or amicus brief is successful, staff waits for the relevant case, legislative process, or agency rulemaking to be fully resolved. Once the matter is resolved, the outcome is compared to the policy recommendations within the advocacy comment or the legal arguments set forth in the amicus brief. Advocacies are classified as successful, partially successful, moot, or unsuccessful based on the outcome achieved. The FTC does not attempt to quantify or measure how much effect our advocacy had on the decision. Although most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and thus are counted in this performance goal as well as Performance Goal 1.3.4.

\*Results for this measure are often delayed and are reported as available.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
64.7%	58.6%	*	*	*	60.0%	N/A		

## Other Indicator

**Indicator 2.2.IND.1:** Number of advocacy comments and amicus briefs on competition issues filed with entities, including federal and state legislatures, agencies, and courts.

Whereas Performance Goal 2.2.3 measures the success of our competition advocacy comments and amicus briefs, this indicator reports the quantity of competition advocacy comments and amicus briefs filed each year. The FTC is primarily a law enforcement agency, but advocacy work is a cost-effective way to further the FTC's competition mission and allows the FTC to address situations where competition may be affected by the actions of public entities, including regulators and legislators. Although most advocacies contain either consumer protection recommendations or competition recommendations, a few advocacy comments may have both, and thus are counted in this indicator as well as Indicator 1.3.IND.1.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
16	16	6	12

## Objective 2.3 Collaborate with domestic and international partners to preserve and promote competition.

Goal Leaders: Director, OIA; Director, BC; Director, BE

### Strategies, External Factors and Risks

[section to be released later with Annual Performance Plan]

### FY 2020 Progress Update

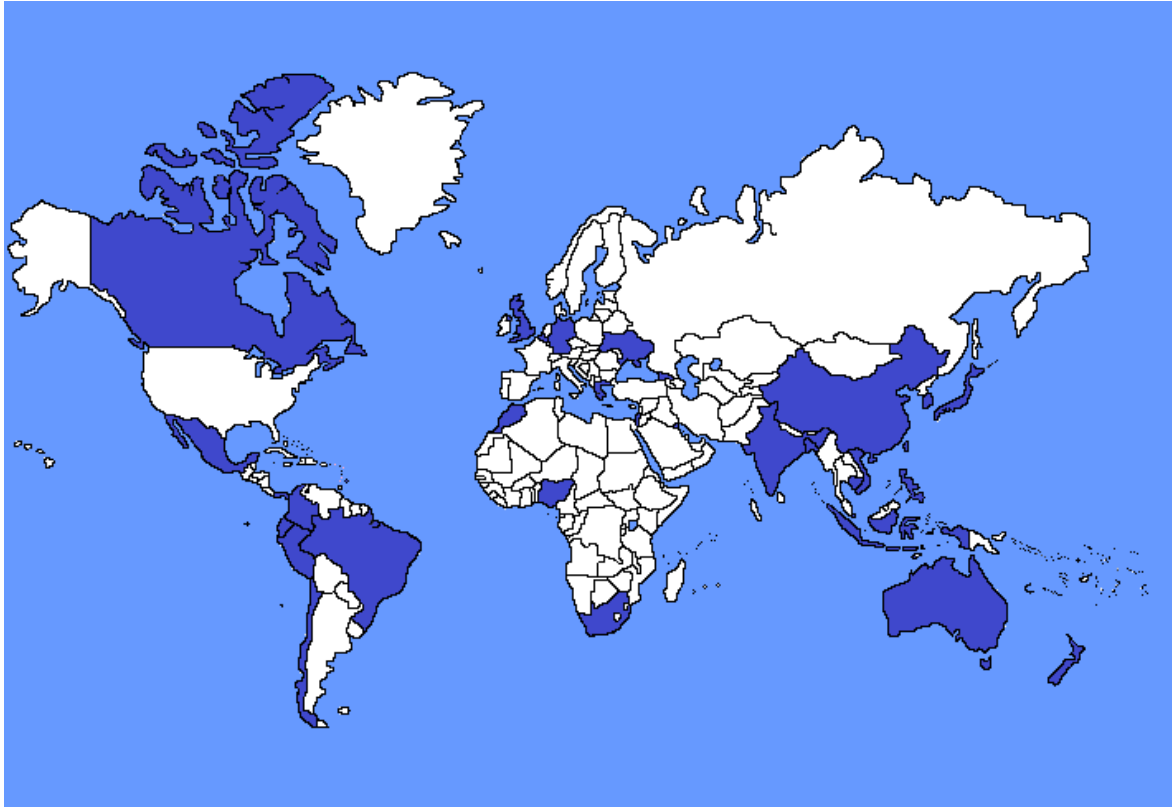
To promote and maintain free and vigorous competition, the FTC continues to build and strengthen relationships with competition agencies internationally and to work through multilateral forums and with domestic partners to promote convergence toward sound competition enforcement and policy. Progress in FY 2020 included:

- **Promoting Convergence and Furthering Case Cooperation:** The FTC engaged on policy issues of common interest and shared enforcement techniques and experience with staff from 32 competition agencies. The agency held high-level meetings with colleagues from several competition authorities, including Australia, Brazil, Canada, the European Union, India, Japan, South Korea, Mexico, New Zealand, and the United Kingdom. The FTC continued to facilitate and engage more deeply in cooperation and coordination on individual matters with foreign counterparts. Notably, the FTC, with the DOJ, entered into the Multilateral Assistance and Cooperation Framework among the U.S. antitrust agencies and the competition agencies of Australia, Canada, New Zealand, and the United Kingdom, representing a new benchmark in cross-border enforcement cooperation. In FY 2020, the FTC cooperated on 29 investigations of mutual concern with counterpart agencies from 13 jurisdictions. This included 21 merger matters and 8 conduct investigations; this is the highest number of conduct investigations on which we have engaged in substantial cooperation in any fiscal year since we started maintaining these statistics. A number of these matters involved cooperation with several agencies to achieve effective, sound, and consistent outcomes. For example, during its review of the AbbVie/Allergan merger, Commission staff cooperated with antitrust agencies in Canada, the European Union, Mexico, and South Africa, working closely with the staff of the European Commission to analyze proposed remedies. The FTC also hosts International Fellows from foreign competition agencies who work directly with FTC staff to gain first-hand understanding of and experience with the practices and approaches that the FTC uses in its enforcement, which they then bring back to their agencies. The FTC has hosted 93 competition officials from 32 jurisdictions since the program's inception in 2007 through the end of FY 2020.
- **International Competition Network (ICN):** The FTC is a leader in the ICN, a preeminent venue for the coordination of international antitrust policy. In FY 2020, the FTC continued to serve on its Steering Group, as well as co-chairing the implementation group, which promotes use by member agencies of ICN best practice recommendations and work product, and the ICN's team of working group leaders who coordinate the network's substantive work. The FTC also oversees the ICN's online training program to promote sound analytical and procedural practices across all aspects of antitrust enforcement. During the past year, the FTC was a significant contributor to new ICN work on mergers and dominance in digital markets and on the competition assessment of laws and regulations. The FTC also led the drafting of the ICN's advice to competition agencies on dealing with the challenges of the COVID-19 pandemic and its economic consequences. This ICN Statement reaffirms the relevance of competition to economies in crises and the importance of



vigilant enforcement. In light of emerging digital economy issues faced by competition agencies, the FTC proposed and helped initiate important new ICN work to explore the interface between competition, consumer protection, and data privacy enforcement and policies. The Commission also hosted an innovative virtual annual ICN conference once an in-person event became infeasible. The conference attracted over 2,500 viewers from around the world.

## International Competition Agency Engagement



*In addition to the jurisdictions indicated on this map, the FTC provided competition policy advice and training to numerous members of regional and other multilateral bodies such as the ICN, OECD, ACF, APEC, ASEAN, and CARICOM.*

- **Other Multilateral Fora:** The agency continued its active participation and leadership in the OECD, APEC, UNCTAD, and the Inter-American Competition Alliance to promote cooperation and convergence. For example, the FTC played a key role in developing the OECD Competition Committee’s long-term project on competition in the digital economy, and is collaborating with the OECD’s Secretariat to work on, among other topics, the application of competition laws to intellectual property rights and international enforcement cooperation. For the latter project, the FTC is serving on a special project group tasked with developing a joint OECD/ICN report focused on assessing members’ experience with international enforcement cooperation. In FY 2020, the FTC also served as a lead contributor to the preparation of OECD recommendations on procedural fairness in competition investigations and enforcement, and on competitive neutrality.
- **Relations with Newer Agencies:** The FTC continued engagement through meetings and exchanges with counterparts around the world. FY 2020 also marked the 10-year anniversary of the InterAmerican Competition Alliance, which the FTC helped found to foster enforcement cooperation in the Americas. With the rapid growth in the number of jurisdictions with competition laws over the past decades, the FTC has expanded its program of technical assistance to help other agencies apply

their laws in ways that support competitive markets and compatible analysis and outcomes in cross-border matters. In FY 2020, the FTC continued its technical assistance program in Ukraine by placing experienced FTC lawyers in its competition agency, as resident advisors, to share approaches to enforcement and investigation and to assist in drafting amendments to the law. The FTC also assisted the Philippine Competition Commission's efforts to introduce competition concepts to the judiciary, regulatory bodies, law schools, and the private sector. Until international travel was restricted, the FTC conducted 13 competition technical assistance programs on site in 12 jurisdictions, including participating in two regional programs for ASEAN member states. The FTC continued its technical assistance program throughout the pandemic by conducting virtual training for the staff of competition agencies in Mexico, Peru, the Philippines, Ukraine, and regional programs for agencies in Africa (through the African Competition Forum), the Caribbean (for CARICOM and its member agencies), and Eastern Europe.

- **Working Within the U.S. Government:** Throughout the year, the FTC worked with U.S. government agencies to address, in a coordinated and effective manner, competition issues that implicate broader U.S. policy interests. Those issues include the protection of intellectual property, non-discriminatory treatment of U.S. companies, and due process in antitrust investigations and proceedings. We also played an active role in the U.S. delegation negotiating the competition chapter of the U.S.-UK Trade Agreement.
- **State Government Partners:** BC routinely works with state AGs in its enforcement efforts. State AGs also routinely join as co-plaintiffs in the FTC's federal court litigations.

#### **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**



## Performance Measures



**Key Performance Goal 2.3.1:** Percentage of FTC cases involving at least one substantive contact with a foreign antitrust authority in which the agencies followed consistent analytical approaches and reached compatible outcomes.

OIA strives to ensure appropriate cooperation on and coordination of investigations under parallel review by the FTC and foreign competition agencies. This measure gauges the effectiveness of the FTC's enforcement cooperation with foreign antitrust authorities pursuing parallel enforcement activities.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
100%	96%	98%	100%	100%	95%	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC cooperated on 29 enforcement matters. FTC staff engaged in substantive case cooperation with 13 agencies, including those of Australia, Brazil, Canada, China, the European Union, Germany, Israel, Japan, Mexico, New Zealand, Singapore, South Africa, and the United Kingdom. The FTC and its counterpart agencies reached compatible outcomes in all cases completed during the fiscal year. While the FTC will continue to strive for 100 percent success, the target reflects the possibility of inconsistent outcomes, particularly as additional antitrust agencies assert their jurisdiction and as more agencies prosecute cases based on unilateral conduct theories.

**Performance Goal 2.3.2:** Number of instances in which the FTC provided policy advice or technical assistance to foreign competition agencies or governments, directly and through international organizations.

This measure quantifies the FTC's efforts to assist newer foreign competition authorities to enhance their enforcement capacity, build sound regulatory frameworks, improve agency effectiveness, and promote competition policies in their economy. These efforts include providing policy advice and direct technical assistance, as well as professional development opportunities for international partners through the International Fellows program.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
171	160	151	165	155	130	Exceeded		

**FY 2020 Highlights:** In FY 2020, the FTC provided policy advice through consultations, written submissions, and comments on proposed laws and guidelines to foreign competition agencies in 118 instances. The FTC's policy advice remains highly regarded and sought after by new and experienced competition agencies, and by participants in international organizations and conferences. The agency also conducted 29 technical assistance missions, which included a number of regional programs that engaged staff from multiple agencies, and hosted eight officials from foreign agencies as part of our International Fellows Program in support of the competition mission.

## Other Indicator

**Indicator 2.3.IND.1:** Percentage of full investigations in which the FTC and other U.S. federal, state, and local government agencies shared evidence or information that contributed to FTC law enforcement.

Due to the wide geographic impact of merger and nonmerger actions, it is important that the FTC share information and resources with other domestic federal, state, and local government agencies in the investigation and enforcement of competition cases. This indicator reports the number of full merger and nonmerger investigations concluded in a given fiscal year that involved information sharing with domestic federal, state, or local government agencies.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	52.6%	31.8%	22.2%

### **STRATEGIC GOAL 3: ADVANCE THE FTC'S PERFORMANCE THROUGH EXCELLENCE IN MANAGING RESOURCES, HUMAN CAPITAL, AND INFORMATION TECHNOLOGY.**

The FTC believes that advancing organizational performance at all levels creates a strong foundation for overall mission success. The agency's work in furtherance of Strategic Goal 3 highlights ongoing efforts to provide quality and timely services to the agency and enhances the agency's ability to focus on protecting consumers and maintaining competition.

Goal 3 is inherently collaborative and encompasses all of the agency's key management areas: human capital; infrastructure and security; information technology resources; and financial management. Work in Goal 3 fosters leadership, transparency, and accountability across the agency and establishes a culture of customer service and effective planning, administration, and management. FTC employees at all levels are expected to show leadership in their areas of responsibility by exhibiting a willingness to develop and coach others, a commitment to teamwork, and a drive to find innovative and efficient solutions.

The FTC has established three objectives to guide work in this area:

- **Objective 3.1:** Optimize resource management and infrastructure.
- **Objective 3.2:** Cultivate a high-performing, diverse, and engaged workforce.
- **Objective 3.3:** Optimize technology and information management that supports the FTC mission.

Goal 3 and its Strategic Objectives comprise the Stewardship-Focused component of the FTC's 2020 Performance Report.

### **Objective 3.1: Optimize resource management and infrastructure.**

**Goal Leaders: Executive Director, Office of the Executive Director (OED); General Counsel, Office of the General Counsel (OGC)**

#### **Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

#### **FY 2020 Progress Update**

As part of its security and emergency preparedness efforts, the FTC completed a review of the Continuity of Operations (COOP) plan, finalized a new annex to address the current COVID-19 pandemic, and hired a dedicated Emergency Specialist. In addition, the FTC has developed new guidance for FTC staff to ensure their safety while using its facilities as the FTC implements its COVID-19 Pandemic Return to Work Plan. In order to ensure the safety of FTC staff during the COVID-19 pandemic, the FTC moved quickly to make many work processes completely virtual, including onboarding, off boarding, filing documents with the FTC, and serving FTC subpoenas and requests. The FTC completed installation of new surveillance cameras at FTC headquarters as part of the electronic security system update.

The agency also continued to manage its facilities in FY 2020. The FTC worked with the General Services Administration (GSA) to identify federal workspace that meets FTC needs for the Atlanta and San Francisco Regional Offices. The FTC also is in the planning stages of the leasing process for Constitution Center, the HQ Satellite building, which will provide a new workspace for FTC staff due to the current lease expiration. Finally, the FTC, in consultation with GSA, replaced the cafeteria in the HQ building with a micro-market. This service change offers a variety of food options in a more amenity-rich and accessible space for staff.

The Commission continued to successfully manage and improve its fiscal operations. The FTC completed the transition of the agency's financial management, procurement, and travel systems from the Interior Business Center to the Department of the Treasury's Shared Service Provider, Administrative Resource Center, in October 2019. FMO developed and issued comprehensive standard procedures for litigation support services for remote BC and BCP litigation teams. FMO also identified critical responsibilities and controls to ensure timely and comprehensive support for BC and BCP litigation teams, coordinating FMO, Office of the Chief Information Officer (OCIO), and Office of the Chief Administrative Services Officer (OCASO) support.

FMO continued to implement the Enterprise Risk Management (ERM) program plan and strategy. Specifically, FMO identified, assessed, and monitored risks related to mission performance and updated the agency risk profile. The risk-management efforts helped agency leadership determine where to apply resources to address the FTC's highest priorities and risks. FMO will continue to support efforts to monitor and update risk registers to highlight and help the agency manage the most significant risks.

As a result of the COVID-19 pandemic, the FMO Acquisitions Branch followed new federal guidance to extend the Sentinel Network Services (SNS) contract and ensure there are no SNS service interruptions. Acquisitions negotiated with the company for the continued support given COVID-related logistical difficulties at call centers that needed to be disbanded while call handlers worked remotely. Acquisitions also completed a difficult and complex re-solicitation process to put a new contract into place to remedy issues in the old SNS contract that has just ended. The new, long-term award was made and superseded the old one without any service interruption.

The agency made significant progress towards paperless procurement and automated reporting of acquisition activities through more comprehensive use of our financial reporting tool, Oracle Business Intelligence.

**FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

[section to be released later with Annual Performance Plan]

## Performance Measures

**Performance Goal 3.1.1:** The extent to which the FTC is prepared to protect people and property and to continue mission essential operations during emergencies.

- (a) Achieve a favorable COOP rating.
- (b) The number of products and activities related to Physical Security that inform staff and provide opportunities to practice emergency procedures.

(a) The FTC COOP Plan defines the necessary planning and actions that are required to ensure the preservation and performance of the FTC's essential functions. Continuity planning facilitates the performance of FTC essential functions during all-hazards emergencies or other situations that may disrupt or potentially disrupt normal operations. The FTC COOP Plan is validated through annual tests, training, and exercises that confirm the agency's ability to perform essential supporting functions during an emergency. The annual government-wide Eagle Horizon exercise helps agencies assess and validate components of their continuity plans, as well as the policies, procedures, systems and facilities agencies use to respond to and recover from an emergency. This assessment also serves to identify issues for subsequent improvement.

(b) The Physical Security Branch develops promotional and educational materials such as posters, publications, classroom and web-based training courses, and exercises and drills designed to give employees the information they need to remain safe in the workplace. This measure tracks the number of products (posters, publications, etc.) and activities (training opportunities, drills, etc.) focused on workplace safety and security that are provided to FTC employees.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
(a) 90% (b) N/A	(a) 95% (b) N/A	(a) 95% (b) 39	(a) 95% (b) 70	(a) COOP exercise cancelled (b) 115	(a) 80% (b) 42	(a) N/A (b) Exceeded		

**FY 2020 Highlights:** The Federal Emergency Management Agency (FEMA) cancelled the annual Eagle Horizon exercise due to the COVID-19 pandemic. As a result, the FTC did not evaluate and score its COOP plan.

The FTC published numerous products related to employee safety throughout the year due to the pandemic. The agency ensured key information was distributed to the workforce and focused on emergency preparedness, insider threat awareness, and COVID-19 pandemic safety practices.

**Performance Goal 3.1.2:** Percentage of survey respondents who are satisfied or very satisfied with the timeliness of administrative operations.

OED conducts an annual online Customer Satisfaction Survey that is voluntary, anonymous, and offered to all FTC employees. Respondents are asked to indicate their level of satisfaction with a range of OED services on a 5-point scale of Very Satisfied to Very Dissatisfied. This measure tracks the level of customer satisfaction with OCASO's responsiveness to phone and email requests (Question #34).

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	81%	82%	87%	78%	75%	Exceeded		

**FY 2020 Highlights:** Agency staff are satisfied with the timeliness of response to a wide variety of administrative service requests provided by OCASO. Services included in the survey include transportation, space, facilities, physical security, and records management, among others.

**Performance Goal 3.1.3:** Achieve a favorable (unmodified) audit opinion from the agency's independent financial statement auditors.

FTC management is responsible for the preparation and fair presentation of annual financial statements in accordance with U.S. generally accepted accounting principles. As required by law, the FTC's financial statements are audited annually by independent auditors. The auditors will determine whether the annual financial statements and related notes present fairly, in all material respects, the assets, liabilities, and net position in accordance with U.S. generally accepted accounting principles. The ideal outcome is an unmodified opinion. Potential negative outcomes include a qualified or adverse opinion, or a disclaimer from opinion.

FY 1997 to FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
Unmodified Opinion	Unmodified opinion	Unmodified Opinion	Met		

**FY 2020 Highlights:** The agency's FY 2020 independent financial audit yielded our 24th consecutive unmodified opinion, the highest audit opinion available. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with internal controls, financial systems, or laws and regulations.



**Performance Goal 3.1.4:** Percentage of new entrant, annual, and termination Public Financial Disclosure Reports that are filed within the required timeframe.

Ensuring public confidence in the integrity of FTC operations is paramount. The Ethics in Government Act of 1978, as amended, requires covered officials at the FTC to file public financial disclosure reports (OGE Form 278e) addressing their finances as well as other interests outside the federal government. The reports allow for a systematic review of the financial interests of both current and prospective senior staff. The timely filing of the OGE Form 278e helps prevent actual conflicts of interest and ensures the FTC's Ethics Team is able to identify and address potential conflicts. This measure tracks the percentage of public disclosure reports filed within the required timeframe. Timeframes vary based on the type of required filing, and the FTC's Ethics Team may grant limited extensions of the filing deadline for good cause.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	N/A	N/A	98.3%	95.1%	95%	Met		

**Performance Goal 3.1.5:** Percentage of contract actions awarded within FTC's established Procurement Action Lead Time (PALT).

The agency's Acquisitions Branch engages in the time-intensive process of awarding government contracts, task orders, and modifications. To measure the efficiency of this work, this measure tracks the percentage of contract actions awarded within established lead times. The lead-time varies depending on the type of contract.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
78%	65%	57%	67%	90%	70%	Exceeded		

**FY 2020 Highlights:** With the agency's transition to a new financial and procurement system, the agency is now able to generate its PALT percentage automatically from a system report. Previously, PALT was calculated manually off a spreadsheet of all contract actions kept by Acquisitions staff. This should lead to more accurate reporting. Data from FY 2016 to FY 2019 still reflects manual calculation.

## Objective 3.2 Cultivate a high performing, diverse, and engaged workforce.

**Goal Leaders:** Executive Director, OED; Director, Bureau of Consumer Protection; Director, Bureau of Competition; Director, Bureau of Economics; General Counsel, OGC; Director, Office of EEO/OFI

### Strategies, External Factors, and Risks

[section to be released later with Annual Performance Plan]

### FY 2020 Progress Update

#### **Leveraging Technology to create human capital efficiencies:**

In FY 2020, the FTC's Human Capital Management Office (HCMO) implemented two new human resources data systems to improve the efficiency and effectiveness of its FTC's human capital management programs: the Personnel Security Case Tool and the Electronic Telework Agreement System.

- **Personnel Security Case Tool (Service Now - Human Resources Service Delivery Module):** Built upon the ServiceNow HR Service Module, this new system improves the ability of the Personnel Security Office to conduct investigations, track upcoming investigations, and report results to the Office of the Director of National Intelligence. The new system receives electronic delivery of investigation results from the Defense Counterintelligence and Security Agency in a secure manner. This system will become the cornerstone of the FTC's transformation of the onboarding and offboarding system.
- **Electronic Telework Agreement System:** Leveraging the SharePoint platform, HCMO rolled out a new electronic Telework Agreement System to allow all FTC employees to submit new and updated telework agreements electronically. This system replaces the manual paper process, which required the agency to store hard copies of signed telework agreements. The new electronic system builds a telework forms workflow in SharePoint to route employee-submitted agreements, first to their supervisors for approval and then to HCMO's Telework Coordinator. The system allows employees to submit all intermittent, regular, and full-time telework requests. Additionally, the system allows HCMO to track and report employees' telework status, which was previously not available in the paper-based system.

**Strengthening Senior Executive's Performance Plans:** The agency migrated all SES FY 2020 performance plans into the USA Performance (USAP) software system, and expects to migrate SL/ST performance plan templates into this system in FY 2021, after OPM upgrades USAP.

**Process Modernization:** The agency is modernizing its human capital (HC) systems by, among other things, migrating from paper-based to electronic systems. The success of these projects requires the FTC to recruit and retain staff with the requisite project and database management skills to successfully implement and manage electronic databases and provide support to internal customers. The FTC's ability to recruit the HC workforce of the future is impacted by a strong labor market for federal HC professionals in the Washington, D.C. area, the availability of opportunities at higher-paying agencies and in the private sector, and by staff turnover in HCMO. Another factor affecting the FTC's ability to recruit is the limited availability of qualified, experienced HC professionals with federal HC experience.

## **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**

## Performance Measures

**Performance Goal 3.2.1:** The extent to which FTC employees consider their agency to be a best place to work.

Employee satisfaction is measured by averaging the results from three questions on the Federal Employee Viewpoint Survey (FEVS). Measuring the overall job satisfaction of FTC employees provides managers with important information regarding employees' general satisfaction with their organization and the work they do. Overall job satisfaction is closely correlated with employee retention.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
81%	83%	85%	84%	N/A FEVS delayed	Exceed the government- wide average by 10 points	N/A FEVS delayed		

**Performance Goal 3.2.2:** The extent employees believe the FTC encourages an environment that is open, diverse, and inclusive.

This measure is based on the FEVS New IQ Index, which gauges the extent to which employees believe the agency has policies and programs that promote a work environment that is open, diverse, and inclusive. The New IQ Index identifies behaviors that help create and sustain an inclusive work environment. Workplace inclusion is a contributing factor to both employee engagement and organizational performance.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
75%	78%	78%	78%	N/A FEVS delayed	Exceed the government- wide average by 10 points	N/A FEVS delayed		



**Key Performance Goal 3.2.3:** The extent to which employees believe the FTC cultivates engagement throughout the agency.

The Employee Engagement Index of the FEVS determines this measure. The Index gauges the extent to which employees believe that management listens and provides meaningful support and feedback in various areas that assist staff in supporting the overall mission of the agency. The index is based on FEVS questions that assess three sub-factors: Leaders Lead, Supervisors, and Intrinsic Work Experience.

- **Leaders Lead:** Employees' perceptions of leadership's integrity as well as leadership behaviors such as communication and workforce motivation.
- **Supervisors:** Interpersonal relationship between worker and supervisor, including trust, respect, and support.
- **Intrinsic Work Experience:** Employees' feelings of motivation and competency relating to their role in the workplace.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
82%	83%	83%	84%	N/A FEVS delayed	Exceed the government- wide average by 10 points	N/A FEVS delayed		

**Performance Goal 3.2.4:** The extent to which employees believe FTC management promotes a results-oriented performance culture.

The Results Oriented Performance score of the FEVS determines this measure. The score indicates the extent to which employees believe their organizational culture promotes improvement in processes, products and services, and organizational outcomes.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
70%	73%	74%	75%	N/A FEVS delayed	Exceed the government- wide average by 10 points	N/A FEVS delayed		

### Other Indicators

**Indicator 3.2.IND.1:** Percentage of eligible FTC employees who have telework agreements.

This indicator provides information on overall employee participation in the FTC telework program. Telework is a valuable tool that supports workplace flexibility by allowing an employee to perform work — during any part of regular, paid hours — at an approved alternative worksite (e.g., home, telework center). It is an important tool for achieving a resilient and results-oriented workforce.

NOTE: In FY 2020, we are reporting a higher frequency of telework participation as the agency mandated staff to work remotely in response to continuity of operations planning for the COVID-19 pandemic emergency. Prior data measured routine telework participation in the program as a workforce flexibility provided to FTC staff.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	85%	88%	99%

**Indicator 3.2.IND.2:** Number of requests for reasonable accommodations resolved through the FTC's reasonable accommodations process.

This indicator tracks the resolution of requests for reasonable accommodation submitted to the HCMO Disability Program Manager by FTC employees or job applicants with permanent or temporary disabilities that affect the performance of their job duties. Tracking this data helps ensure the agency complies with the policies and procedures outlined in the Administrative Manual, Chapter 3: Section 300 - Disability Anti-Discrimination Policy and Reasonable Accommodation Procedures, and the Rehabilitation Act of 1973.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	46	84	32

**Indicator 3.2.IND.3:** Average number of days to issue a certificate of eligible candidates to a hiring manager.

This indicator tracks the average number of days it takes for HCMO staff to issue a certificate of eligible candidates to hiring managers after a job opportunity announcement has closed. Providing a list of eligible job candidates in a timely manner enables managers to continue to meet the FTC mission by filling vacant positions with qualified persons as quickly as possible.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	13.5 days	19 days	15.3 days

**Indicator 3.2.IND.4:** Average number of days to make a hiring decision.

This indicator tracks the average number of days between the date hiring managers receive a certificate of eligible candidates and the date managers return hiring certificates to HCMO for processing after they make a hiring decision. Making timely hiring decisions increases the likelihood that hiring managers will be able to recruit qualified, top candidates.

FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual
N/A	29 days	32 days	31.6 days



## **Objective 3.3 Optimize technology and information management that supports the FTC mission.**

**Goal Leader: Executive Director, OED**

**Strategies, External Factors, and Risks**

**[section to be released later with Annual Performance Plan]**

### **FY 2020 Progress Update**

During FY 2020, the FTC completed projects to implement several new technologies, applications, and systems designed to improve performance and user experience, while simultaneously enhancing the agency's information security profile. These include: migrating agency email to a secure cloud-based email and office productivity platform; deploying an application whitelisting tool to prevent unauthorized changes to agency endpoints and a user behavior analytics tool to monitor anomalies; implementing a cloud-access security broker to provide secure access to cloud-based systems and trusted external sites; and adopting a cloud-based identity and access management tool to enhance user authentication and establish a foundation for future improvements to user account management.

The FTC continues to upgrade, reengineer, and replace aging, end-of-support infrastructure components and applications to increase user functionality and decrease the risk of downtime, system failures, and security vulnerabilities. In FY 2020, the FTC completed projects to upgrade local area network switches and desktop and server operating systems.

The FTC continues to make progress in dispositioning its paper records, in compliance with federal records management regulations and requirements. In FY 2020, the FTC destroyed over 2,700 boxes of temporary records stored at the National Archives and Records Administration (NARA) and Washington National Records Center (WNRC). As part of its review, NARA has asked the FTC to update its retention schedules for all mission and policy-related records. The FTC will resume transferring permanent records and destroying temporary records after NARA approves new records schedules.

The FTC designated Records and Information Liaisons as points of contact across the agency to assist in the implementation of records management policies and procedures. The agency has established quarterly training and developed a critical element that can be used in employee performance evaluations. In September 2019, NARA assessed email records management within 14 small agencies, including FTC. The FTC is exploring technological solutions to address NARA's recommendations.

The FTC has continued to make updates on the information technology systems that support the FTC mission. The FTC implemented a new integrated library catalog, replacing a 20-year-old system that reduces the FTC's reliance on in-house technology in favor of a modern cloud solution to support agency staff better. The FTC also developed a SharePoint-based site that permits staff to search agency records easily. Additionally, the FTC has begun to update the FTC's electronic information system inventory with key characteristics related to records management.

As the FTC modernizes IT systems and increases the use of shared and cloud-based services, agency policies and procedures regarding records management, privacy, information security, and risk management may not align with technology and best practices for modernized digital services, causing delays in deployment,

increased level of effort, and customer dissatisfaction if expected functionality is not available. Additionally, any constraint on resources, including funding and personnel, needed for IT investments could hinder modernization efforts and the FTC's ability to refresh and replace aging infrastructure components. Finally, traditional methods of contracting for IT services may hinder the FTC's ability to leverage agile development methods and promote creativity and innovation amongst contractors.

## **FY 2021-2022 Next Steps and Future Actions to Meet Strategic Objective**

**[section to be released later with Annual Performance Plan]**

## Performance Measures

### Performance Goal 3.3.1: Availability of information technology systems.

Information technology systems must be available and accessible to support the FTC mission. Lack of availability and accessibility severely constrains employees' and managers' ability to serve the public and stakeholders. This measure tracks service outages and monitors the uptime of 11 critical information technology services, as well as the agency's infrastructure backbone, including:

- Email
- FTC-specific applications and systems
- Wireless services
- Internet
- Intranet
- Phone and Voicemail
- Wide Area Network
- The agency's primary public website ([www.ftc.gov](http://www.ftc.gov))
- Litigation support applications and systems
- Economic support systems
- Remote employee access

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
99.75%	99.70%	99.71%	99.98%	99.97%	99.60%	Exceeded		

**FY 2020 Highlights:** Major FTC systems, such as email, litigation support systems, and public websites, maintained high availability in line with cloud provider service level agreements and continuous improvements and upgrades in platform technologies.

### Performance Goal 3.3.2: Percentage of IT spend on Provisioned IT Services.

This measure tracks the agency's progress in moving IT services to the cloud. Transitioning to cloud-based services is a key component of FTC's Information Resource Management Strategic Plan and will benefit the FTC through increased flexibility, dependability, and, ultimately, cost savings.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	N/A	36.6%	37.0%	40.0%	40.0%	Met		

**FY 2020 Highlights:** FTC continued its efforts to migrate from legacy on-premise infrastructure to provisioned services, meeting targets for spending on provisioned services. Projects directly contributing to provisioned service spending include legacy custom application migration to cloud-based platforms and deployment of a cloud-based identity and access management system.

**Performance Goal 3.3.3:** Achieve a favorable rating in the FTC Cybersecurity Index.

This measure monitors the agency's progress in achieving multiple critical cybersecurity metrics, each of which measures the agency's cybersecurity posture and strength in protecting the confidentiality, integrity, and availability of information systems. The cybersecurity metrics that populate this Index are the percentage of:

- Major systems with a valid Authority to Operate (ATO). Measures the number of major IT systems with a valid ATO, documenting review of system security controls and review and acceptance of system risks.
- Government Furnished Equipment (GFE) workstations that meet the "acceptable" vulnerabilities threshold. Measures the number of GFE workstations with critical and potentially exploitable vulnerabilities, indicating the agency's risk level for cyberattacks. This is a measurement of the most frequently compromised assets.
- GFE workstations scanned quarterly. Measures the number of GFE workstations scanned to ensure vulnerabilities are addressed in a timely manner based on risk and impact. Leading indicator on the repeatability and effectiveness of the vulnerability assessment and remediation processes.
- GFE workstations patched within 30 days. Workstations are scanned monthly to make sure they have the most recent patches. GFE workstations that have been patched within the 30 days prior to the monthly scans have a reduced opportunity to exploit vulnerabilities.
- Assets with valid baseline configuration. Measures the number of assets with a documented and validated baseline configuration. This is an indication of how well the IT environment is known and secured. Undocumented assets cannot be effectively secured.
- GFE workstations that meet the baseline configuration. Measures the number of GFE workstations that deviate from that baseline without a documented risk acceptance. This is an indicator of the effectiveness of the configuration management process.
- Unprivileged users using multi-factor authentication. Measures the number of unprivileged users (i.e., general FTC staff) using multi-factor authentication to access the FTC network, decreasing the risk of unauthorized access to agency systems.
- Privileged users using multi-factor authentication. Measures the number of privileged users (i.e., system administrators with elevated system rights) using multi-factor authentication to access the FTC network, decreasing the risk of insider threat and unauthorized access to highly sensitive data.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	N/A	3 of 8	6 of 8	7 of 8	6 of 8	Exceeded		

**FY 2020 Highlights:** The FTC continues to improve its documentation regarding policy exceptions and IT asset configurations, leading to a direct improvement in the metrics related to valid Authority to Operate and valid baseline configurations.

**Performance Goal 3.3.4:** Percentage of the FTC’s paper records held at the Washington National Records Center that are processed and appropriately either (a) destroyed or (b) transferred to the National Archives and Records Administration.

This measure tracks the agency’s progress in dispositioning its paper records, in compliance with federal records management regulations and requirements. The agency maintains approximately 18,000 boxes of temporary and permanent records at WNRC that are eligible for disposition. The agency will destroy temporary records and transfer permanent records to the NARA in accordance with our records disposition schedule. Disposing of the agency’s WNRC holdings will ensure the agency is compliant with NARA and OMB directives and will reduce spending for offsite storage. Timely transfer of permanent records helps the FTC to avoid incurring digitization costs before NARA’s stated deadline to stop accepting transfers of paper records after 2022.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	N/A	N/A	16.9%	31.3%	≥ 50% of WNRC holdings processed	Not Met		

**FY 2020 Highlights:** In FY 2020, the agency authorized the destruction of 3,987 boxes of WNRC holdings and identified an additional 8,157 boxes to be destroyed. The agency also authorized the transfer of 208 boxes of WNRC holdings to the custody of NARA. However, as is standard practice, these requests were halted mid-year at NARA’s request pending the FTC’s development of new records schedules for mission and policy-related work; this is standard practice when new schedules are needed. The agency is collaborating closely with NARA to develop new schedules and has already begun to submit them to NARA for approval.

**Performance Goal 3.3.5:** Successfully transfer permanent electronic records dated between 2004 and 2016 to NARA in a timely manner.

This measure will track the agency’s progress in processing and transferring its electronic records in order to comply with federal records management regulations and requirements. The agency began maintaining its permanent records in an electronic format in 2004. Pursuant to the agency’s records schedule and the “Managing Government Records Directive,” OMB M-12-18, the FTC is obligated to identify and transfer Permanent Electronic Records to the custody of NARA.

FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2020 Status	FY 2021 Target	FY 2022 Target
N/A	N/A	N/A	2004-2006 records transferred	No records transferred	Transfer permanent electronic records dated 2007-2009	Not Met		

**FY 2020 Highlights:** In FY 2020, the agency identified and authorized the transfer of permanent electronic records for 2007-2009 to the custody of NARA. However, these requests were halted mid-year at NARA’s request pending the FTC’s development of new records schedules for mission and policy-related work; this is standard practice when new schedules are needed. The agency is collaborating closely with NARA to develop new schedules and has already begun to submit them to NARA for approval.