

**Evaluation of the Federal Trade Commission's  
Bureau of Consumer Protection Resources**



**OIG Evaluation Report No. 14-003**

**October 2, 2014**

## Executive Summary

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The Federal Trade Commission (FTC) has led the way as a consumer protection agency for nearly 100 years. The agency enforces laws that prohibit business practices that are anticompetitive, deceptive, or unfair to consumers, and seeks to do so without impeding legitimate business activity. The FTC also educates consumers and businesses to encourage informed consumer choices, compliance with the law, and public understanding of the competitive process.

The impact of the FTC's consumer protection work is significant. Over the past 3 years, for example, the FTC returned over \$196 million to victims of deceptive or unfair practices and forwarded \$117 million to the U.S. Treasury. Among the most popular programs established by the FTC is the National Do Not Call Registry, which allows consumers to opt-out of receiving certain telemarketing calls. The Registry currently includes over 223 million telephone numbers. The FTC's Bureau of Consumer Protection (BCP) also reported that in Fiscal Year (FY) 2013 it:

- achieved a 98% success rate in the cases it brought either in federal court or before an Administrative Law Judge,
- received and processed over two million consumer complaints,
- issued 13 reports on a variety of consumer protection topics, released 256 new consumer and business education publications, and distributed 33 consumer and business education videos and audio public service announcements.

These accomplishments demonstrate that the FTC has a significant and positive impact on consumer protection. As a result, the agency must make effective use of limited resources by targeting its law enforcement and education efforts to maximize its desired outcome to protect consumers. A complex marketplace, ever-evolving fraud schemes, declining budgets, and increasing workloads require continuous reassessment of management practices in achieving that objective.

The FTC Office of Inspector General (OIG) performed an evaluation of FTC's allocation and management of consumer protection resources within the BCP. While other Bureaus and offices contribute to the FTC's consumer protection mission, the scope of this review was primarily on the BCP. Specifically, this review focused on assessing the BCP's enforcement and non-enforcement strategies, goals, policies and procedures. The OIG also interviewed officials in seven other federal, state, and local agencies to identify potential best practices that could be considered to further enhance the effectiveness of the FTC's consumer protection program.

In addition, the OIG met with officials in the Bureau of Economics (BE) regarding the BE's relationship with BCP and contribution to the FTC's consumer protection mission. The BE contributes to all aspects of the Commission's consumer protection mission, including case development; case review; litigation support; development and review of trade regulation rules, industry guidelines and policy initiatives; design and conduct of research studies, surveys, and special projects; development of advocacy projects; economic and statistical training for BCP and regional office legal staff; international consumer protection missions; organization of conferences highlighting academic research relevant to the consumer protection mission; and professional outreach to academic, government, and industry groups. BE economists also have been entrusted with primary responsibility for conducting a million dollar, multi-year study

mandated by Congress; worked side-by-side with consumer protection attorneys as part of investigation, research, or litigation teams; provided a quick evaluation of a routine fraud case; and conducted original, policy relevant, consumer research.

This evaluation found that the BCP's strategic planning is a best practice in comparison to other agencies the OIG examined. In fact, strategic planning at the Bureau and agency level is noteworthy compared to other agencies. This evaluation also identified opportunities, if implemented, that could further maximize consumer protection and enhance an already strategic and successful program. In this report we provide several suggestions for improvement that we recommend the FTC consider, including those highlighted below:

- Utilizing a more structured methodology for strategic planning, consumer protection enforcement, and education initiatives. A more formal process to evaluate the universe of consumer complaints using defined factors, such as estimated consumer harm or economic impact, with assigned weights for each factor, would provide a greater assurance that the priorities in the BCP's strategic plan will optimize the pursuit of its consumer protection mission.
- Periodically realigning or "right sizing" BCP resource allocations by taking a baseline approach for determining how many staff resources should be assigned in each division based on alignment to the strategic and annual planning processes.
- Continuing to build out the Management Data Dashboard (MDD) to integrate disparate management information systems, including disparate data on the costs of enforcement and non-enforcement activities.
- Where they do not currently exist, creating timeliness goals and budgets for investigations, including goals for common deliverables and milestones, such as the go-no go decision.
- Establishing general written "rule of thumb" guidelines for making enforcement decisions on cases, which provides general guidance on the types of enforcement activities to pursue and when.
- Surveying the users of the Consumer Sentinel to determine if the value it provides is commensurate with the associated cost.
- Developing additional tools to systematically collect enforcement and outreach outcomes for planning and management purposes. This may require a joint effort among the bureaus and/or other consumer protection agencies to identify the best means to measure the agency's impact on consumers.
- Re-evaluating the role of the BE in BCP consumer protection activities and determining if joint longer term planning and coordination on consumer protection goals and strategies would be beneficial.

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## I. Background

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The FTC is an independent law enforcement agency with both consumer protection and competition jurisdiction in broad sectors of the economy. Its mission is to work to protect consumers by preventing anticompetitive, deceptive, and unfair business practices, enhancing informed consumer choice and public understanding of the competitive process, and accomplishing this without unduly burdening legitimate business activity. The agency administers a wide variety of laws, such as the Federal Trade Commission Act (FTC Act), Fair Credit Reporting Act, and Clayton Act. In total, the FTC has enforcement or administrative responsibilities under more than 70 laws. The FTC also enforces rules issued pursuant to the FTC Act or other laws, including the Business Opportunity Rule and the Telemarketing Sales Rule.

The FTC is headed by a five-member Commission, nominated by the President and confirmed by the Senate, each serving a 7-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's mission is carried out by the Bureaus of Consumer Protection (BCP), Competition, and Economics, as well as the Office of the General Counsel, the Office of International Affairs, the Office of Policy and Planning, the Office of the Secretary, the Office of the Executive Director, the Office of Congressional Relations, the Office of Public Affairs, the Office of Administrative Law Judges, the Office of Equal Employment Opportunity, and the Office of Inspector General.

The FTC's BCP mandate is to protect consumers against unfair, deceptive, or fraudulent practices. The BCP enforces a variety of consumer protection laws enacted by Congress, as well as trade regulation rules issued by the FTC. Its actions include individual company and industry-wide investigations, administrative and federal court litigation, rulemaking proceedings, and consumer and business education. In addition, the BCP contributes to the FTC's ongoing efforts to inform Congress and other government entities of the impact that proposed actions could have on consumers. The BCP is divided into seven divisions:

- **Division of Advertising Practices-** protects consumers from unfair deceptive advertising and marketing practices that raise health and safety concerns as well as those that cause economic injury.
- **Division of Financial Practices-** promotes truthfulness and fairness in the provision of debt collection, mortgage, credit card, other debt relief services; payday lending; and motor vehicle sales, financing, and leasing.
- **Division of Enforcement-** litigates civil contempt and civil penalty actions to enforce federal court injunctions and administrative orders in FTC consumer protection cases; coordinates FTC actions with criminal law enforcement agencies through its Criminal Liaison Unit; develops, reviews, and enforces a variety of consumer protection rules; and administers the BCP's bankruptcy program.
- **Division of Marketing Practices-** responds to problems of consumer fraud in the marketplace.
- **Division of Privacy and Identity Protection-** oversees issues related to consumer

- privacy, credit reporting, identity theft, and information security.
- **Division of Consumer and Business Education-** Gives consumers the tools they need to make informed decisions and gives businesses the tools they need to comply with the law.
  - **Division of Planning and Information (DPI)-** oversees the Consumer Response Center, the Consumer Sentinel, and administers the core financial, administrative, and litigation support activities of the BCP.

In addition to the BCP's seven divisions, they have eight regional offices. Approximately 83% of the FTC's regional staff are dedicated to the BCP mission.

The BCP collects complaints regarding hundreds of issues from data security and false advertising to identity theft and Do Not Call violations. The BCP shares these complaints with law enforcement agencies worldwide for follow-up and uses them to bring cases either in federal court or before an Administrative Law Judge. In FY 2013, 98.6% of all cases filed by the FTC were successfully resolved through litigation, a settlement, or issuance of a default judgment. Also in 2013, the FTC obtained orders amounting to approximately \$297 million in monetary relief for consumers to "redress" harm suffered. In addition, the FTC obtains injunctive relief that stops the challenged conduct and prevents future harmful conduct.

On the education and outreach front, in FY 2013 the BCP: a) released 256 new consumer and business education publications, b) distributed 33 consumer and business education videos and audio public service announcements, and c) issued 13 reports on a variety of consumer protection topics. Figure 1 illustrates BCP accomplishments and highlights from January 1-December 31, 2013.

The FTC's BE also contributes to the FTC's consumer protection mission. The BE contributes to all aspects of the Commission's consumer protection mission, including case development; case review; litigation support; development and review of trade regulation rules, industry guidelines and policy initiatives; design and conduct of research studies, surveys, and special projects; development of advocacy projects; economic and statistical training for BCP and regional office legal staff; international consumer protection missions; organization of conferences highlighting academic research relevant to the consumer protection mission; and professional outreach to academic, government, and industry groups. BE economists also have been entrusted with primary responsibility for conducting a million dollar, multi-year study mandated by Congress; worked side-by-side with consumer protection attorneys as part of investigation, research, or litigation teams; provided a quick evaluation of a routine fraud case; or conducted original, policy relevant, consumer research. Approximately 1/3 of the BE's resources are devoted to the FTC's consumer protection mission.

**Figure 1: BCP Accomplishments and Highlights for 2013**

# CONSUMER PROTECTION

## ACTIONS FILED

Administrative	23
Federal	43
Civil Penalty	13

## ORDERS OBTAINED

Administrative	29
Redress, Disgorgement, & Permanent Injunction	91
Civil Penalty	14
Civil Contempt	3

## POLICY INITIATIVES

Workshops & Conferences	10
Rulemakings Completed	3
Reports	8

### TOTAL AMOUNT OF REDRESS & DISGORGEMENT ORDERED:

**\$297 million**

### TOTAL AMOUNT OF CIVIL PENALTIES ORDERED:

**\$20 million**

#### Top 5 Redress Judgments\*

Ivy Capital	\$134 MIL
Pro Credit Group	\$25.3 MIL
Glen E. Burke	\$20.2 MIL
Information Management Forum	\$17 MIL
American Tax Relief	\$15 MIL

#### Top 5 Civil Penalty Cases\*

Mortgage Investors Corporation of Ohio	\$7.5 MIL
National Fidelity Information Services	\$3.5 MIL
NCO Group	\$3.2 MIL
Time Warner Cable	\$1.9 MIL
National Attorney Collection Services	\$1 MIL

*\*Does not include amounts suspended by the court based on inability to pay; any default judgments are included.*

**767,744** consumers received redress totaling over **\$23.27 MILLION**

## II. Objectives, Scope, and Methodology

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The objective of the evaluation was to review the BCP's processes for allocating and managing resources for its consumer protection programs. Specifically, our review focused on assessing enforcement and non-enforcement strategies, goals, policies and procedures. We also explored best practices in selected organizations with a similar mission. To accomplish our objectives we:

- a) Held discussions with FTC employees and officials in the BCP, the BE, and the Financial Management Office (FMO);
- b) Reviewed the policies, procedures, and management reports of the BCP; and
- c) Interviewed officials at the following agencies for best practices:
  - The Securities and Exchange Commission (SEC)
  - The Federal Communications Commission (FCC)
  - The Office of the Comptroller of the Currency (OCC)
  - The Consumer Financial Protection Bureau
  - The Federal Deposit Insurance Corporation (FDIC)
  - The Montgomery County Office of Consumer Protection
  - Office of the Attorney General of Virginia Consumer Protection Section

The evaluation was conducted in the FTC offices in Washington, D.C. We conducted this evaluation in accordance with the *Quality Standards for Inspection and Evaluations* issued by the Council of the Inspectors General on Integrity and Efficiency.

### **III. Results**

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#### **A. The BCP's Strategic Planning Process and Alignment of Resources**

The FTC has an agency-level strategic plan that serves as the “road map” for the agency’s goals, objectives, strategies, and performance measures over a 5-year period. Similarly, the BCP has an internal 5-year strategic plan to define the program areas to which it will devote its resources. While strategic planning at both the organizational and bureau level is a best practice in comparison to other agencies the OIG visited, we believe the approach could be enhanced by incorporating a documented process that is repeatable over time, aligning resources consistent with the priorities in the plan, and improving management level reporting. These suggested enhancements should give the FTC, the BCP, and interested stakeholders greater assurance that processes are consistent and consumer impact is optimized.

##### **1. Strategic Planning at the Agency Level**

The FTC’s most recent strategic planning cycle was among the most participatory of the agencies we visited. All major components of the FTC were included in the process. All offices were interviewed and information gathered on their strengths, weaknesses, opportunities, and threats. This input was consolidated and put into a logic model. Using the logic model as a guide, and with the assistance of a strategic planning contractor, a working group made up of representatives from across the FTC developed a draft strategic plan. An Executive Steering Committee composed of senior agency officials provided strategic level guidance to the working group, reviewed the group’s draft plan, and approved the version forwarded to the Commission. The Commission approved the plan after providing their respective input.

While this process is a model for others to follow, it is not formally incorporated into a procedure manual and therefore is at risk of not being repeatable. One of the officials we interviewed stated that the most recent strategic planning process was documented through the Performance Institute Capstone Project. We suggest that this capstone paper describing the FTC’s strategic planning process be incorporated into the agency’s procedure manual so it will be repeatable in the future.

##### **2. Creating a More Structured Process for Strategic Planning in the BCP<sup>1</sup>**

The BCP’s current process for strategic planning involves several sources. For example, staff members within each BCP division determine areas they think the BCP should focus on based on current trends in the market, previous cases, the BCP’s top priority areas, emerging issues and trends, information from news sources, issues from consumer advocacy groups, technical and academic reports and analysis, demographic trends, and referrals from Congress. The BCP also receives input from the BE and the Office of International Affairs. From this process, the BCP’s strategic plan is drafted.

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<sup>1</sup> It should be noted that when the agency’s strategic planning process started, the only Bureau that had already developed their own strategic plan was the BCP.

The BCP's current planning approach is commendable, but is somewhat informal and reliant on professional judgment in assessing the array of factors to consider in establishing its strategic plan. We believe the BCP would benefit from having a more formal process for identifying focus areas. For example, the Office of the Comptroller of the Currency (OCC) has a process to identify emerging risks for the banking system and adjust its oversight strategies accordingly. The OCC uses quarterly reports called "risk radar screens" that rank risks to the national banking system according to level of severity. The "risk radar screen" included credit, operational, reputation, strategic, interest rate, and liquidity categories.

The BCP could adopt a similar concept as it applies to its consumer protection mandate by employing a methodology that consistently evaluates certain selection factors, such as severity of impact to the consumer, potential monetary recovery, prior results, political risk, deterrent value, legal precedent, and other factors. An analysis of program areas along these categories could drive the BCP's focus and ensure an appropriate mix of enforcement or educational initiatives. Each of the selection factors could be weighted differently based on the magnitude of the impact it has on the consumer or priorities defined by the BCP. This type of approach would optimize consistency and increase return on investment based on consumer protection priorities established by the FTC (i.e., consumer redress, the potential deterrent value, establishing a legal precedent, etc.).

The BCP also generates reports that are not formally integrated into the strategic planning process. For instance, the FTC publishes the top 10 consumer complaints each year. However, this information is only informally considered during the strategic planning process. While the consumer complaint lists do not necessarily reflect trends in the marketplace because they are affected by changes in contributors to the database over the years, management could consider including the top complaint trends as one of the formal selection factor in assessing the universe of consumer protection issues to which it could devote resources.

### **3. Aligning Resources Based on the Strategic Plan**

BCP budgets and staffing are typically rolled over from year to year, and each enforcement division within the BCP has relatively the same amount of resources (see Table 1 below). The Director of the BCP indicated that although the number of staff is generally not reset from year to year, work is transferred between divisions when needed. While this approach provides flexibility in assigning work based on current priorities, periodically realigning resources to address long-term goals, objectives, and initiatives would allow the BCP to build a greater depth of expertise and efficiency in those areas over time.

We believe the BCP should consider periodically taking a baseline approach to reset resources in conjunction with the strategic and/or annual planning process and make resource realignment recommendations to the Commissioners, accordingly. We note that certain specialized skills throughout agency staff may render such a process particularly challenging, but undertaking such a realignment exercise would provide a greater level of confidence that resource deployment and utilization among the BCP divisions is providing the maximum return on investment in consumer protection terms. This approach would be a proactive alignment of resources, and it would not preclude the BCP from also realigning resources in response to

workload demands. A robust process for both proactive and reactive realignment of BCP resources would maximize both the BCP’s mission effectiveness and its flexibility.

**Table 1: Number of Staff across BCP Divisions (May 2014)**

<b>BCP Division</b>	<b>Staff Count</b>
Office of the Director (including BCP Honors Paralegals)	31
Enforcement Division	45
Division of Planning and Information (DPI)	50
Division of Marketing Practices	42
Division of Advertising Practices	48
Division of Financial Practices	46
Division of Consumer and Business Education	21
Division of Privacy and Identity Protection	48

#### **4. Consumer Sentinel Resources**

The FTC collects millions of complaints about companies regarding their business practices online, by phone, or by mail. Complaints filed online are completed directly by the consumer on the FTC website. The Consumer Response Center (CRC) in the DPI processes complaints received by phone and by mail. The complaints may include the consumer’s contact information, the type of product or service involved, information about the company or seller, and details about the transaction.

The CRC enters these complaints into FTC’s secure online database, the Consumer Sentinel, which is an impressive and unique investigative cyber tool that provides members of the Consumer Sentinel Network with access to the millions of consumer complaints collected. It is free and available to federal, state, and local law enforcement agencies, and to select international law enforcement authorities. There are currently about 2,100 Consumer Sentinel users, including approximately 100 FTC staff and 200 non-FTC staff who log into Consumer Sentinel every week. In addition, almost 40 separate law enforcement, local, and federal entities contribute data to Consumer Sentinel. Capturing complaints in Consumer Sentinel helps the FTC and law enforcement partners detect patterns of fraud and abuse, which may lead to investigations and enforcement actions that eliminate or deter unfair business practices.

Maintaining the Consumer Sentinel, the Do Not Call database, and operating the CRC costs the BCP approximately \$12 million a year, plus a dedicated staff of about 14 employees. The OIG did not determine how much of these costs are associated with maintaining the Consumer Sentinel, specifically.

The DPI monitors who contributes to the Consumer Sentinel and can tell who uses it and when, but there is no data available on the results of any investigations or other successful outcomes based on information obtained through Consumer Sentinel. The BCP should consider surveying the users of the system to determine if the value it provides is commensurate with the associated cost. While informal surveys provide a degree of feedback on user satisfaction with

the database, more information on the outcomes that have been realized by the Consumer Sentinel users would further justify costs that the FTC incurs to maintain the system.

The DPI also prepares reports from the Consumer Sentinel, such as the “top violators” report and the “surge” report, to identify emerging consumer complaint trends. These reports are provided to the BCP divisions. However, there is no formal process to obtain feedback to determine if these reports add value or are used to help drive case selection. If these reports are not useful or only marginally useful to the divisions, resources could be redirected. If so, one option to consider is the establishment of a small team (i.e., think tank) to conduct drill down analyses of the data in Consumer Sentinel and integrate the results more directly into the planning processes at both the bureau and division levels.

One of the external agencies we selected to determine if they had any best practices was Virginia’s Office of Attorney General. We found that their website provides guidance to consumers on where to file various types of complaints, including those outside the Office of Attorney General’s jurisdiction. The FTC website provides good information and tools for filing complaints with the FTC, but could provide consumers more information on other entities that also may have jurisdiction over complaints. While the FTC receives only a small number of complaints that are misdirected, we suggest the FTC consider enhancing its website to help direct consumers to other entities with appropriate jurisdiction over their complaints, analogous to Virginia’s Office of Attorney General approach. This would not only provide a valuable service to consumers, but also potentially improve the efficiency of FTC operations by precluding misdirected complaints.

## **5. Management Reporting**

The FTC has a Management Data Dashboard (MDD) that provides financial reports and certain information on staff activity, matters management, etc. While the evolution of the MDD is headed in the right direction, the data collected is from disparate systems that are not integrated to provide agency leaders with a broad perspective on the status of their operations. For example, at the time this evaluation was performed, staff hours charged to an investigation was available, but not the contract, travel, or other costs associated with an investigation. Integrated data on costs would better equip agency leadership to plan and monitor its work. When data management systems are not integrated and compatible, excessive use of resources and inconsistent analysis of program results can occur. In order to make informed decisions and ensure accountability, the FTC needs data management systems that can generate timely, accurate, and useful information.

The BCP should also consider creating a management reporting mechanism in the MDD similar to the Federal Communications Commission (FCC), which is intended for use by the Chairman and other senior leaders. The FCC’s dashboard breaks out consumer complaint data in a variety of ways, including complaint sources, top complaint areas, watch lists, biggest movers, emerging issues and numbers of complaints received in various categories.

## **B. The BCP's Case Selection and Management Processes**

Generally, each enforcement division within the BCP determines which cases it will pursue, manages these cases, and recommends enforcement decisions for each case. These processes are relatively informal. For example, each litigating Division has biweekly meetings with the BCP Director to discuss, among other things, investigations and enforcement strategies. The BCP Director, in turn, has regular meetings with the FTC Commissioners to discuss these issues. Moreover, the Bureau has conducted some *ex post facto* studies that have proven useful in certain cases. While these processes have resulted in significant and successful cases, we believe a more formal approach would ensure that defined factors are consistently applied in selecting cases. This should help the BCP to advance to the next level an already successful consumer protection program.

The work in the Consumer and Business Education (CBE) division is dependent on what the enforcement divisions and regional offices are doing since CBE partners with them on those efforts. CBE conducts many worthwhile consumer and business education and marketing initiatives, and consumer satisfaction surveys of CBE's educational materials demonstrate success in those areas. However, there are no formal criteria or guidelines to inform which initiatives to select. Most of CBE's discretionary work is reactive in nature based on market conditions, consumer complaint data, current consumer issues and trends, and requests from congressional offices and state law enforcement partners. CBE obtains feedback on the value of its products in several ways, including customer satisfaction surveys, monitoring traffic to the FTC website and comments to its blog posts, and tracking the number of publications that consumers order.

In addition, the role of the BE with respect to the BCP's mission and performance should be re-evaluated. Based on our interviews with officials in both bureaus, it appears there may be opportunities to improve joint planning efforts and to clarify processes for referring and reviewing consumer protection matters.

### **1. Case Selection**

There are five litigating divisions within the BCP. Case selection is primarily determined by each division and is usually based on a discussion with the management team within each division. Each division may consider different factors for selecting a case such as harm to consumers, if there are other related cases, the volume of sales, if the subject of the complaint is a repeat offender, the egregious nature of the complaint, and so on. The factors that are considered may also vary among cases within a division. As the process stands now, the divisions do not document why the cases selected were deemed to have a greater potential impact on consumer protection over those not selected. We believe that creating a more formal process with general written guidelines for what factors to consider will provide a greater degree of consistency and confidence that cases selected are aligned to BCP's priorities and goals.

## **2. Case Management and Monitoring**

Case management and monitoring varies across each division within the BCP. For example, the Divisions of Enforcement and Marketing Practices track case status and list deadlines for the next anticipated steps. The Division of Financial Practices establishes timeframes for investigations and key deadlines. The Division of Advertising Practices uses a quarterly status report that reflects case status, the timeliness of cases, and next anticipated deadlines, which allows managers to evaluate whether a case is progressing. Twice a year, the BCP also compiles a list of all investigations that have been open for 6 months in order to keep track of the pace of investigations. In addition, the BCP limits and tracks the length of time a case is in consent negotiations before BCP staff forward a complaint recommendation to the Commission.

While some divisions have reports that list what cases their staffs are working on, including the case status and timelines, others do not. Moreover, while many of the BCP managers estimate budgets for cases, these are not formal budgets. Most managers do not track the total costs of cases, and some do not track timeliness in meeting key milestone or deliverable dates. Even if a division tracks time spent on a case, oversight and accountability remain subjective if there is no case plan or budget tied to deliverables. Without timeliness goals, cases could “churn” at the expense of moving on to more productive matters.

The BCP should consider implementing timeliness goals similar to the FDIC and the SEC. The FDIC’s examinations have staff day standards (i.e., 80% of examinations should be completed within the established standards) and managers get reports to monitor the timeliness of examinations. The SEC has measures on the average time to close a complaint and has timeliness guidelines for when the first enforcement action should take place. While work in these agencies may be easier to measure because examinations are somewhat repetitive in nature, certain aspects may be adaptable to the FTC’s environment.

These measures may help the BCP allocate limited resources where they are most needed, ensure cases are completed timely, and provide standards for measuring performance. Current performance plans below the Senior Executive Service level include generic standards, but specific goals and metrics, such as productivity, quality, customer satisfaction or other pertinent measures linked to BCP or division level plans are not included. In addition, better historical information on the costs of various types of investigations or education initiatives could assist in strategic and case planning, resource allocation decisions, and monitoring of ongoing work.

## **3. Enforcement Decisions on Cases**

Once divisions within the BCP open a case and conduct an investigation, the division determines whether an entity is engaging in unfair or deceptive practices. If an entity is engaging in unfair or deceptive practices, the division makes a recommendation to the BCP Director, who decides whether to forward the recommendation to the Commission. The Commission then determines what enforcement outcome to pursue, such as:

- Issuing letters warning businesses that their conduct violates the law or encouraging businesses to examine whether their practices comply with the law;
- Filing and litigating complaints in federal district court, seeking preliminary and permanent injunctions, redress, and other equitable relief;
- Litigating administrative complaints issued by the Commission before an administrative law judge; or
- Referring complaints that seek civil penalties to the Department of Justice (DOJ), and assisting the DOJ in litigating those cases (civil penalty cases can include complaints alleging violations of an FTC Rule as well as complaints alleging violations of an administrative order).

There are several factors considered on an informal basis when making those decisions; however, there are no written guidelines to help guide the decision within each division. We believe the BCP would benefit from creating general written guidelines for making enforcement decisions on a case akin to the OCC. The OCC has “rule of thumb” guidelines that provide guidance on the types of enforcement activities to pursue and when. We believe creating general written guidelines for enforcement decisions would promote consistency across the BCP while preserving flexibility to apply professional judgment in specific circumstances.

#### **4. The Role of the BE in the BCP’s Mission and Performance**

The BE is generally required to conduct an independent economic analysis on matters and investigations that the BCP sends forward to the Commission for approval of a proposed enforcement action. The two bureaus sometimes have differences of opinion on the appropriate enforcement actions to recommend to the Commission, and this difference of opinion is valuable in informing the Commissioners’ decision-making.

BE staff also contribute to the development of many of the FTC’s consumer protection cases during investigations, consent negotiations, and formulation of complaints and remedies. In addition, they review the economic, statistical, and policy issues raised by the allegations, evidence, and remedies of nearly every consumer protection matter forwarded to the Commission by BCP and regional office staff, including all complaint recommendations, proposed orders, and settlement agreements. If a case proceeds to litigation, BE staff provide litigation support in a consulting or expert witness capacity.

Through our discussions with BCP and BE managers, we learned that there is no common understanding or standardized approach for coordination between the two bureaus on consumer protection issues. BE’s approach for coordinating with BCP varies by BCP division and even by individual attorneys in those divisions. BE managers believe they have a clear understanding of what BE’s role is with respect to BCP cases and activities, but they do not believe all of BCP share their understanding of BE’s role, function, or process.

In addition, BE managers indicated that their support of the BCP is generally reactive, and the BCP usually does not request their support early in the process. In contrast, BCP managers believed they include BE economists early in the process and their attorneys work with the economists on case investigations. In BCP managers’ opinion, BE management often does

not get involved in the case until a recommendation is made to the Director of the BCP, and at that point, BE employs a multi-level review that slows the process. However, BE managers believed their staffing and resource levels impact how their work gets done more than their internal review process does.<sup>2</sup>

To provide greater consistency in coordinating activities and to minimize delays in the process, the two bureaus should re-evaluate current practices to better define the criteria and timing for coordination on matters where BE's involvement is required.

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<sup>2</sup> The OIG did not conduct an independent examination of BE's resources as part of this review, but will consider examining it in a subsequent review.

## IV. Recommendations

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To address the findings set forth above, we make the following recommendations:

1. The Executive Director of the FTC should consider incorporating the Performance Institution Capstone Project paper describing the FTC's strategic planning process into the agency's procedure manual so it is repeatable in the future.
2. The Executive Director of the FTC should consider continuing to build out the MDD to integrate disparate management information systems, including disparate data on the costs of enforcement and non-enforcement activities. Making this information available to FTC and BCP senior leadership would better inform strategic and tactical planning and facilitate greater accountability and performance measurement processes.
3. The Director of the BCP should consider utilizing a more structured methodology for strategic planning, consumer protection enforcement, case selection process, and education initiatives. A more formal process to evaluate the universe of consumer complaints using defined factors, such as estimated consumer harm or economic impact, with assigned weights for each factor, would help prioritize initiatives, allocate resources, and provide a greater assurance that the priorities in the BCP's strategic plan will optimize the pursuit of its consumer protection mission.
4. The Director of the BCP should consider periodically realigning or "right sizing" BCP resource allocations by taking a baseline approach for determining how many staff resources should be assigned in each division based on alignment to the strategic and annual planning processes.
5. The Director of the BCP should consider surveying the users of the Consumer Sentinel to determine if the value it provides is commensurate with the associated cost, and to adjust resources based on the results, if appropriate.
6. The Director of the BCP should consider determining how reports produced from the Consumer Sentinel are being used by the divisions in the BCP, and then make adjustments to, discontinue, or create new reports, accordingly.
7. The Director of the BCP should consider creating a small analytics team (think tank) to analyze the data in the Consumer Sentinel, and other sources, and formally integrate the results into BCP planning processes.
8. The Director of the BCP should consider creating a management dashboard that provides an array of data on consumer complaints similar to the FCC approach. This management dashboard could incorporate the data needed to monitor the cost, timeliness, and quality of enforcement and non-enforcement activities.
9. The Director of the BCP should consider enhancing the FTC website to provide consumers guidance on where to file complaints that are not within the FTC's jurisdiction.

10. The Director of the BCP should consider improving the current case selection process (including strategic planning, biweekly Division meetings, weekly Associate Directors meetings, and regular meetings with the Commissioners) by creating a formal, consistent assessment process for case selection at the bureau and division levels with general guidelines that define factors to consider when deciding on cases to select for investigation. This includes incorporating lessons learned from *ex post facto* reviews and weighing bureau defined selection factors, such as actual or potential consumer injury, against the universe of consumer complaints and emerging issues.
11. Where they do not currently exist, the Director of the BCP should consider creating timeliness goals and budgets for investigations, including goals for common deliverables and milestones, such as the go-no go decision. This would also include creating reports to assist managers in monitoring these timelines and budgets.
12. The Director of the BCP should consider including specific goals and metrics in the performance plans of all BCP managers and employees, as appropriate.
13. The Director of the BCP should consider establishing general written “rule of thumb” guidelines for making enforcement decisions on cases, which provides general guidance on the types of enforcement activities to pursue and when.
14. The Director of the BCP should consider re-evaluating the role of the BE in BCP consumer protection activities and determining if joint longer term planning and coordination on consumer protection goals and strategies would be beneficial. This could include utilizing feedback mechanisms that, irrespective of each bureau’s position on a case, would provide actionable insights into how the two bureaus can best work jointly to set consumer protection strategies and goals, better understand the needs and concerns of the other, and to adjust processes accordingly. Some examples of feedback mechanisms include conducting inter-bureau surveys, holding structured quarterly meetings between bureau managers, or developing a practice of having more brief conversations between bureau managers on specific cases.
15. The Director of the BCP should consider developing additional tools to systematically collect enforcement and outreach outcomes for planning and management purposes. This may require a joint effort among the bureaus and/or other consumer protection agencies to identify the best means to measure the agency’s impact on consumers.<sup>3</sup>

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<sup>3</sup> The OIG did not identify best practices in this area, but will consider a follow on review focused on the measurement of consumer protection outcomes.

## **Appendix A – Acronyms and Abbreviations**

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BCP	Bureau of Consumer Protection
BE	Bureau of Economics
CBE	Consumer and Business Education
CRC	Consumer Response Center
DOJ	Department of Justice
DPI	Division of Planning and Information
FCC	Federal Communications Commission
FDIC	Federal Deposit Insurance Corporation
FMO	Financial Management Office
FTC	Federal Trade Commission
FY	Fiscal Year
MDD	Management Data Dashboard
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General
SEC	Securities and Exchange Commission

## **Appendix B - Report Distribution List**

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Heather Hipsley, Chief of Staff

David Robbins, Executive Director

Jessica Rich, Director, BCP

Daniel Kaufman, Deputy Director, BCP

Christopher Olsen, Acting Deputy Director, BCP

Laura DeMartino, Chief of Staff, BCP

Michael Vita, Acting Director, BE

Janis Pappalardo, Assistant Director Consumer Protection, BE

Valerie Green, Deputy Performance Improvement Officer

**Appendix C**  
**Management's Response to the Report**



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

Office of the Director  
Bureau of Consumer Protection

TO: Kelly C. Tshibaka  
Acting Inspector General

FROM: Jessica L. Rich   
Director

DATE: September 30, 2014

SUBJECT: Management Response to OIG Evaluation Report No. 14-003 – Evaluation of the Federal Trade Commission’s Bureau of Consumer Protection Resources

This memorandum provides management’s consolidated response to the OIG’s recommendations resulting from its evaluation of Bureau of Consumer Protection resources.

**Recommendation 1:** The Executive Director of the FTC should consider incorporating the Performance Institution Capstone Project paper describing the FTC’s strategic planning process into the agency’s procedure manual so it is repeatable in the future.

Responsible Management Official: David Robbins

Action Plan: The Office of the Executive Director (OED) agrees with this recommendation. OED’s Financial Management Office (FMO) will draft and finalize a new section on Strategic Planning, based on the capstone paper and other relevant information, for inclusion in the Administrative Manual.

- September 2014: FMO circulates draft Strategic Planning Administrative Manual section for agency performance measure reporting official review.
- October 2014: FMO circulates draft section for Office of General Counsel (OGC) review.
- November 2014: Final Administrative Manual section ready for posting on FTC’s intranet.
- December 2014: Notification/publication of new Administrative Manual section.

Expected Completion Date: December 15, 2014

**Recommendation 2:** The Executive Director of the FTC should consider continuing to build out the Management Data Dashboard (MDD) to integrate disparate management information systems, including disparate data on the costs of enforcement and non-enforcement activities. Making this information available to FTC and BCP senior leadership would better inform strategic and tactical planning and facilitate greater accountability and performance measurement processes.

Responsible Management Official: David Robbins

Action Plan: OED agrees with this recommendation. IG report No. 14-003, page 8, stated "...at the time this evaluation was performed, staff hours charged to an investigation was available, but not the contract, travel, or other costs associated with an investigation." Since then, OED has taken and is taking the following additional steps:

- March 2014: MDD deployed Release R3.1 to incorporate all costs (expert witness, travel, etc.) associated with investigation, with the exception of court reporting and litigation support costs.
- June-July 2014: MDD Release R3.1 was rolled out to BCP managers through many demos given by super users.
- October 2014: MDD will deploy Release R3.2 to further incorporate court reporting and litigation support costs associated with investigations.

Expected Completion Date: November 1, 2014

**Recommendation 3:** The Director of the BCP should consider utilizing a more structured methodology for strategic planning, consumer protection enforcement, case selection process, and education initiatives. A more formal process to evaluate the universe of consumer complaints using defined factors, such as estimated consumer harm or economic impact, with assigned weights for each factor, would help prioritize initiatives, allocate resources, and provide a greater assurance that the priorities in the BCP's strategic plan will optimize the pursuit of its consumer protection mission.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees that it would be useful to memorialize its strategic planning process so that it is repeatable in the future. For many years, BCP has conducted strategic planning to identify priorities and allocate resources. The planning process has involved gathering ideas and data from a variety of sources, including all BCP staff, and evaluating ideas using a number of factors, such as estimated consumer harm. BCP plans to draft a document summarizing the general processes it has followed and share it with all staff.

In general, BCP considers a number of factors in prioritizing and allocating resources for enforcement and educational initiatives. Such factors include consumer complaints solicited and collected through the FTC's Consumer Sentinel database. Because consumer complaints are self-reported, however, they may not provide a complete snapshot of the scams in the marketplace and do not constitute a statistical sampling. Therefore, BCP also relies on nationwide surveys conducted by the Bureau of Economics about the incidences of fraud in the country, as well as information about marketplace and technological changes from independent research; industry, advocacy group, and press reports; and a wide array of other sources. Additionally, BCP conducts outreach to different industries, consumer groups, and others to learn about emerging trends. Further, BCP obtains input from FTC Commissioners and Congressional members and staff about issues and priorities. BCP has decided that there are significant drawbacks to setting and weighting uniform considerations to be used in making all enforcement and education

decisions. For example, although BCP considers the amount of consumer harm caused by a practice in allocating resources to enforcement or education, focusing only on cases that have already caused substantial harm could result in delays in cutting-off scams in their incipiency or under-deterrence in areas where harm is difficult to measure during the investigatory stage. These drawbacks could hinder BCP's ability to remain nimble in responding to changes in the marketplace and emerging consumer protection issues.

- November 2014: BCP circulates a draft summary of its strategic planning process to its senior managers for review.
- December 2014 – January 2015: BCP incorporates comments from its managers and finalizes its strategic planning summary.
- February 2015: BCP posts the summary on its intranet site.

Expected Completion Date: February 27, 2015

**Recommendation 4:** The Director of the BCP should consider periodically realigning or “right sizing” BCP resource allocations by taking a baseline approach for determining how many staff resources should be assigned in each division based on alignment to the strategic and annual planning processes.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation, and believes that its goals are met through a variety of alternative means. For example, the Bureau shifts resources to meet specific priority areas by changing the focus of the cases conducted by the Regions. The Regions handle enforcement actions that fall within the subject matters handled by each of the Bureau's litigating divisions and, therefore, tend to be less specialized than HQ staff. Thus, as priorities change, the subject matter of the Regions' cases change. During the economic downturn, for example, one of the Bureau's priorities was to stop scams targeting financially distressed consumers. The Regions supplemented the work of the particular BCP divisions by handling more cases in this area. The Bureau also shifts resources to meet specific priorities by transferring program areas between divisions. In the past few years, for example, the Bureau transferred responsibility for its work involving mobile cramming and for-profit schools between divisions. These methods of resource allocation have worked well, but BCP nevertheless will continue to evaluate OIG's recommendation to periodically realign division resources.

Expected Completion Date: Considered. No action planned.

**Recommendation 5:** The Director of the BCP should consider surveying the users of the Consumer Sentinel to determine if the value it provides is commensurate with the associated cost, and to adjust resources based on the results, if appropriate.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees with this recommendation. Consumer Sentinel provides valuable information to help support the FTC's law enforcement actions, and evidence

suggests that its value to the FTC alone exceeds its costs. In fiscal year 2013, 90.9% of the FTC's consumer protection law enforcement actions targeted the subject of consumer complaints in Consumer Sentinel. As a result of its enforcement actions, the FTC distributed over \$26 million in redress to consumers in FY13, which exceeds the cost of operating Sentinel. Nevertheless, BCP agrees with the OIG that it is important to attempt to ascertain how third parties use Consumer Sentinel data and identify possible improvements that could be made to Sentinel to increase its use by, and value to, third parties. BCP therefore plans to survey Consumer Sentinel users.

- October – November 2014: BCP designs survey questions for Sentinel members and determines the appropriate technological tool to conduct the survey and collect information.
- January 2014: BCP distributes survey.
- February 2015: BCP analyzes the results of the survey and considers possible improvements to Sentinel based on the results.

Expected Completion Date: March 13, 2015

**Recommendation 6:** The Director of the BCP should consider determining how reports produced from the Consumer Sentinel are being used by the divisions in the BCP, and then make adjustments to, discontinue, or create new reports, accordingly.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees with this recommendation. BCP will survey internal users of Consumer Sentinel reports to determine how staff are using the reports and to make adjustments accordingly.

- October 2014: BCP designs survey questions and conducts survey of all FTC recipients of internal Consumer Sentinel reports.
- November 2014: BCP analyzes the results of the survey, and makes any necessary changes to the content or format of these reports.

Expected Completion Date: December 5, 2014

**Recommendation 7:** The Director of the BCP should consider creating a small analytics team (think tank) to analyze the data in the Consumer Sentinel, and other sources, and formally integrate the results into BCP planning processes.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees with the recommendation to consider ways to better analyze and utilize Consumer Sentinel data. BCP's Division of Planning and Information (DPI) currently has a team of data analysts who regularly analyze Consumer Sentinel complaint data in response to questions and requests from staff and management throughout the agency. BCP will convene a group of staff members, including the data analysts as well

as other staff from various divisions and regions, to help identify what additional data analysis may be useful and the most efficient ways to accomplish this analysis (e.g., by the data analysts or investigative staff in the divisions and regions). Depending on the outcome of that review, BCP will determine whether and how to incorporate the results into the planning process.

- October 2014: BCP identifies appropriate staff to take part in brainstorming meeting(s).
- November - December 2014: BCP convenes meeting(s) and evaluates the suggestions presented.
- January - February 2015: DPI makes recommendations to the Bureau Director about the suggestions and conclusions.

Expected Completion Date: February 27, 2015

**Recommendation 8:** The Director of the BCP should consider creating a management dashboard that provides an array of data on consumer complaints similar to the FCC approach. This management dashboard could incorporate the data needed to monitor the cost, timeliness, and quality of enforcement and non-enforcement activities.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation and has determined that the need to implement it will depend on the outcomes from OIG Recommendations 2, 6, and 7. Consumer Sentinel allows all members to run a variety of complaint data reports. In addition, DPI prepares and disseminates internally various complaint data reports. As discussed in the response to OIG Recommendation 6, DPI will be conducting a survey of the use of these internal reports. This survey will help us to determine what information is useful to distribute, what changes may be needed to the reports, and whether providing information in a dashboard format (versus a report) may be helpful. The results of the brainstorming meeting(s) taking place in response to OIG Recommendation 7 may also provide some insight about whether a complaint dashboard would be useful, and if so, what information it should include. Also, as discussed in the response to OIG Recommendation 2, the MDD provides managers with information about the costs and resources used in enforcement actions.

- October 2014: BCP surveys all recipients of Consumer Sentinel internal reports. BCP also identifies appropriate staff to take part in brainstorming meeting(s).
- November - December 2014: BCP analyzes the results of the survey. BCP also convenes the brainstorming meeting(s) and evaluates the suggestions presented.
- January - February 2015: DPI makes recommendations to the Bureau Director about the suggestions and conclusions.

Expected Completion Date: February 27, 2015

**Recommendation 9:** The Director of the BCP should consider enhancing the FTC website to provide consumers guidance on where to file complaints that are not within the FTC's jurisdiction.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees with this recommendation and plans to include additional guidance on the FTC's website.

- October 2014: BCP gathers information on appropriate resources to include on the FTC's website.
- November – December 2014: BCP consults with other government agencies to obtain their concurrence on re-directing complaints and to identify the appropriate methods that consumers should use to contact those agencies (e.g., telephone, website complaint form, etc.).
- January 2015: BCP drafts information for the FTC website.
- February 2015: BCP posts the information on the FTC website.

Expected Completion Date: February 27, 2015

**Recommendation 10:** The Director of the BCP should consider improving the current case selection process (including strategic planning, biweekly division meetings, weekly Associate Directors meetings, and regular meetings with the Commissioners) by creating a formal, consistent assessment process for case selection at the bureau and division levels with general guidelines that define factors to consider when deciding on cases to select for investigation. This includes incorporating lessons learned from ex post facto reviews and weighing bureau defined selection factors, such as actual or potential consumer injury, against the universe of consumer complaints and emerging issues.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation. BCP considers many factors in selecting cases to investigate and in recommending enforcement actions to the Commission. Such factors vary over time due to the agency's broad jurisdiction; constant changes in the economy, marketplace, and technology; and the rapid emergence of new scams that require quick and nimble action by the agency. For example, the amount of company's sales is an important consideration in selecting cases when the sales indicate the extent of potential consumer harm. In other instances, we may place greater weight on curbing an emerging fraud or the deterrent effect that may result from stopping an unlawful practice utilizing newer technology. In addition, in the privacy and data security areas, greater weight may be placed on the number of consumers affected and the types of consumer information that may be compromised. As an efficient organization with effective lines of communication to promote consistency, BCP is wary of creating a formal assessment process that becomes merely a paper exercise or that hinders the Bureau's ability to remain nimble in response to marketplace changes or emerging consumer protection issues.

Expected Completion Date: Considered. No action planned.

**Recommendation 11:** Where they do not currently exist, the Director of the BCP should consider creating timeliness goals and budgets for investigations, including goals for common deliverables and milestones, such as the go/no-go decision. This would also include creating reports to assist managers in monitoring these timelines and budgets.

Responsible Management Official: Jessica Rich

Action Plan: BCP agrees that its managers should set and monitor timeliness goals and budgets for investigations. Timely and efficient case development is a valued part of BCP's culture. BCP will verify that each of its divisions and regions already create timelines and budgets for investigations, including goals for common deliverables and, if not, ensure they are created, leaving flexibility to the managers and staff to implement their preferred format for these plans and their preferred system of monitoring.

- October – November 2014: Interview division and region managers to compile information about processes already in place.
- December 2014: Share information and best practices for creation of timeliness goals and budgets among managers.
- January – February 2015: Implement any necessary changes and verify that all divisions and regions have procedures in place.

Expected Completion Date: February 27, 2015

**Recommendation 12:** The Director of the BCP should consider including specific goals and metrics in the performance plans of all BCP managers and employees, as appropriate.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation and agrees that its evaluation criteria should emphasize productivity and the advancement of BCP's strategic goals. Currently, its evaluation criteria for Senior Executive Service (SES) staff do so. In particular, the performance plans for SES staff include an element, "Results Driven," which focuses on the productivity of a particular unit to meeting the agency's strategic goals. This element is given the most weight in determining the executive's performance rating. Thus, an executive's performance is dependent on the results obtained by his or her unit, and if a division is not productive, the executive bears ultimate responsibility. It is difficult, however, to specify that BCP staff members should complete a specific number of investigations, litigations, rulemakings, or projects because of the varying scope, difficulty, and subject matter of the different projects. For example, looking at investigations alone, the time to complete fraud, advertising substantiation, and data security investigations differs significantly, and even within one subject area,

investigations may vary significantly depending on the volume of data at issue, any discovery fights, the need to obtain expert opinions, etc. Although BCP does not believe it is feasible to put specific metrics in all employee performance plans, BCP agrees that the performance plans should emphasize productivity and meeting the goals of the agency. Therefore, BCP will consult with the FTC's Human Capital Management Office (HCMO) and OGC to determine if it is possible to place greater weight on the results driven element (productivity and initiative) in evaluating staff's performance.

- October – November 2014: Consult HCMO and OGC staff about the possibility of weighting staff's critical elements.
- December 2014 – January 2015: Consult with BCP management about possible options to changing critical elements, and if feasible, determine the appropriate weightings for each critical element in staff's performance plans.
- February – March 2015: Implement any changes or set timetable when changes are permitted to be made to staff's critical elements.

Expected Completion Date: March 27, 2015

**Recommendation 13:** The Director of the BCP should consider establishing general written "rule of thumb" guidelines for making enforcement decisions on cases, which provides general guidance on the types of enforcement activities to pursue and when.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation and believes that it will be addressed by the efforts to be undertaken in connection with OIG Recommendation 11. Given the Bureau's review and approval of each of the division and region's enforcement recommendations – as well as weekly communication between and among the Bureau and both division and region directors about issues of mutual concern – there does not appear to be problems with inconsistent approaches in enforcement recommendations. Nevertheless, as discussed in response to Recommendation 11, BCP values efficient case development and will ensure that its divisions and regions create timeliness goals for all investigations. In addition, the Bureau will consider examining the feasibility of establishing general timeframes for specific types of cases.

Expected Completion Date: Considered. No separate action (beyond Recommendation 11) planned.

**Recommendation 14:** The Director of the BCP should consider re-evaluating the role of the BE in BCP consumer protection activities and determining if joint longer term planning and coordination on consumer protection goals and strategies would be beneficial. This could include utilizing feedback mechanisms that, irrespective of each bureau's position on a case, would provide actionable insights into how the two bureaus can best work jointly to set consumer

protection strategies and goals, better understand the needs and concerns of the other, and to adjust processes accordingly. Some examples of feedback mechanisms include conducting inter-bureau surveys, holding structured quarterly meetings between bureau managers, or developing a practice of having more brief conversations between bureau managers on specific cases.

Responsible Management Official: Jessica Rich

Action Plan: BCP and BE agree with this recommendation and have already begun its implementation. The Directors of both BCP and BE meet on a biweekly basis – and the Deputy Directors meet on an alternating biweekly basis – to discuss pending matters, identify areas of concern, and discuss coordination among staff. Under the Chairwoman’s leadership, management in both Bureaus will be participating in a facilitated discussion to develop strategies for working together effectively.

- September 2014: Regular BCP and BE management meetings have been scheduled.
- October 2014: Participate in facilitated discussions to develop strategies for effective coordination between the Bureaus.
- November 2014: Finalize procedures that the Bureaus can follow to work most effectively.

Expected Completion Date: November 30, 2014

**Recommendation 15:** The Director of the BCP should consider developing additional tools to systematically collect enforcement and outreach outcomes for planning and management purposes. This may require a joint effort among the bureaus and/or other consumer protection agencies to identify the best means to measure the agency’s impact on consumers.

Responsible Management Official: Jessica Rich

Action Plan: BCP has considered this recommendation. To the extent possible, BCP collects enforcement and outreach outcomes to measure the impact of its work on consumers. For example, when BCP sends out warning letters to industry members, alerting them that they may be violating the law, it follows up to determine whether the companies’ practice have changed. Where feasible, BCP also conducts *ex post facto* studies in which it evaluates the extent of facially deceptive claims on websites both before and after FTC enforcement activity in a particular area. Over the years, however, the agency has found that it is difficult to measure certain impacts, given the many factors involved. For example, changes in the levels of complaints for certain industries may indicate a deterrent effect from our efforts or, alternatively, increased consumer awareness. Further, certain measures – such as the number of cases brought – show positive outcomes but do not show the impact and effectiveness of our efforts in deterring violations.

The agency formally evaluates its strategic goals every four years. Each of the agency's Bureaus and Offices – including the Bureaus of Consumer Protection, Economics, and Competition and the Offices of the General Counsel, International Affairs, and Policy Planning – participate in this agency-wide strategic planning process. After senior executive and Commissioner review, the updated plan is shared with the Office of Management and Budget and external stakeholders for comment. External stakeholders include Congress, federal and state agencies, intergovernmental organizations, industry, and academia. The agency considers and incorporates feedback before approving a final plan. Through this process, the agency has modified its strategic goals over time in an attempt to identify more effective ways of measuring the agency's performance. The agency monitors and reports on its progress meeting these goals through its annual Performance and Accountability Report, and uses that opportunity to determine if any modifications to the goals are needed. BCP will continue to work with others in the agency to evaluate its current goals and identify improvements to its measurements.

Expected Completion Date: Considered. No additional action planned.