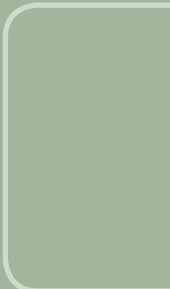
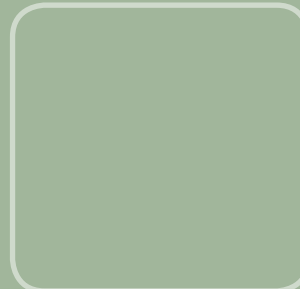
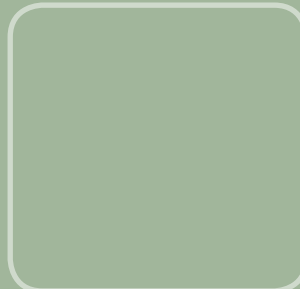




## FEDERAL TRADE COMMISSION



## PERFORMANCE AND ACCOUNTABILITY REPORT Fiscal Year 2006





## MESSAGE FROM THE CHAIRMAN



**Deborah Platt Majoras**  
Chairman

It is my pleasure to present the Federal Trade Commission's *Performance and Accountability Report* for Fiscal Year (FY) 2006. This is a unique and important time for the FTC's mission as we increasingly encounter an online, high-tech, global marketplace. Our strategic goals are to protect consumers and maintain competition in this dynamic environment, and the FTC applies three objectives—**identify, stop, and prevent** fraud, deception, and anticompetitive conduct—to achieve these goals. We are committed to: identifying the latest scams and anticompetitive practices that develop in this marketplace; stopping them through law enforcement; and preventing consumer injury through education. The strategies to achieve these objectives are outlined in our recently issued Strategic Plan for FYs 2006-2011 ([www.ftc.gov/strategicplan](http://www.ftc.gov/strategicplan)). This FY 2006 report provides an overview of the FTC's mission, accomplishments, performance, and financial management.

This report highlights our accomplishments in high priority areas, as well as challenges facing the FTC. Of these challenges, identity theft continues to top the list of categories of consumer complaints that the FTC receives. In May 2006, President Bush signed an Executive Order creating the nation's first ever Identity Theft Task Force, comprised of 17 departments and agencies. U.S. Attorney General Alberto R. Gonzales chairs, and I co-chair, the Task Force, which is charged with developing a national strategy to better prevent identity theft, coordinate prosecution, and ensure recovery for victims ([www.consumer.gov/idtheft/taskforce](http://www.consumer.gov/idtheft/taskforce)).

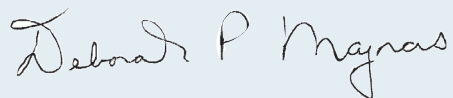
The Performance Section of this report lists the key outcomes for each of our two strategic goals, which include areas such as protecting and educating consumers on such issues as data security, spam, and telemarketing, and promoting competition and innovation, in energy, health care, and real estate industries, among others. Globalization of competition and consumer protection principles also is a challenge to the United States and other countries around the world. In the coming year, the FTC will continue to address these and other challenges that are important to consumers. More information on the FTC's activities and its wealth of consumer and business education materials can be found at our website at [www.ftc.gov](http://www.ftc.gov).

Without strong management practices, the FTC could not accomplish its mission. We place a high priority on sound financial management, information technology, human resources, and administrative support services, and are rewarded with high quality services that make our work flow smoothly. In particular, an important goal of the FTC is to implement good financial management practices to ensure that our resources are well-managed and wisely used. The FY 2006 independent financial

audit resulted in the FTC's tenth consecutive unqualified opinion, the highest audit opinion available. The audit of the FTC's financial statements, which includes tests of internal controls and compliance with laws and regulations, is conducted in accordance with Government Auditing Standards and the Office of Management and Budget (OMB) Bulletin No. 06-03. No material internal control weaknesses were identified. The Reports Consolidation Act of 2000 requires an assessment of the completeness and reliability of the program and financial data contained in this report. Based on criteria issued by OMB, I conclude that the data are complete and reliable.

The Financial Section of this report includes the Top Management Challenges as identified by the Office of the Inspector General (OIG). These challenges focus on data security and effective control and administration of the FTC's Information Technology Security Program and safeguards in the consumer redress administration program. As the OIG acknowledges, the FTC has taken significant action in these areas, but more can, and will, be done. The FTC, which has the responsibility of enforcing laws safeguarding personally identifiable information, is acutely aware of these issues and has moved to tighten our own data security measures. To ensure our continued attention to this issue, I named a new Chief Privacy Officer in FY 2006, and we have a senior information security officer, who acts on behalf of the Office of Information and Technology Management. In the redress administration area, the Director of the Bureau of Consumer Protection issued a policy on selecting receivers in June 2006; the program staff also increased the size of their audit sample size and is exploring the automation of audit procedures to provide even more security.

I believe that the performance and financial information described in this report will give American consumers confidence in the FTC's work to protect the nation's marketplaces. I look forward to working with agency staff in the coming year to continue providing high-quality service, earning consumer trust in the job we are doing.



Deborah Platt Majoras  
November 14, 2006



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## MANAGEMENT DISCUSSION AND ANALYSIS

### FTC At-a-Glance

#### *Mission*

To prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity.

#### *Vision*

A U.S. economy characterized by vigorous competition among producers and consumer access to accurate information, yielding high-quality products at low prices and rewarding efficiency, innovation, and consumer choice.

#### *Strategic Goal 1*

**Protect Consumers:** Prevent fraud, deception, and unfair business practices in the marketplace.

#### *Strategic Goal 2*

**Maintain Competition:** Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

### Mission

The FTC addresses issues of major concern to American consumers and performs its mission through the use of a variety of tools, including law enforcement; rulemaking; research and studies on marketplace trends and legal developments; and consumer and business education and outreach. The FTC promotes informed consumer choice and public understanding of the competitive process. The work of the FTC is critical to protecting and strengthening free and open markets in both the United States and the world.

The FTC has two separate but related strategic goals. The first is to Protect Consumers by preventing fraud, deception, and unfair practices in the marketplace. The second is to Maintain Competition by promoting free markets and preventing anticompetitive practices and arrangements, vigorous competition spurs innovation, provides more choices, and lowers prices among the goods and services offered to consumers. These two goals are closely related and complement each other—when consumers have accurate information about goods and services, they can make sound decisions among the choices presented, thus benefiting from and prompting competition. In the consumer protection area, current areas of major concern include law enforcement challenges involving a wide variety of fraudulent and deceptive activity, consumer privacy, data security, and identity theft; and issues of both

fraud and privacy in the electronic marketplace, including spyware and spam. Among other activities, the FTC also monitors the marketing of media violence to children; maintains and enforces the National Do Not Call Registry (DNC); and enforces credit, financial, and retail laws and regulations. In addition, the FTC implements a vigorous business and consumer education outreach program. Finally, the agency maintains a national Consumer Response Center for consumer inquiries and complaints, which receives more than 30,000 contacts per week via its toll-free numbers and Internet complaint forms (see Appendix: Contact Information).

In the competition area, the FTC investigates mergers and anticompetitive conduct, focusing its resources on sectors of the economy that most impact consumers, such as energy, health care, and high technology. For example, the FTC reviews each year well over 1,000 proposed mergers, most reported under the Hart-Scott-Rodino Premerger Notification Act (HSR), to determine if they are likely to reduce competition substantially in the relevant markets. The agency closely monitors price movements in retail gasoline and searches for any anticompetitive conduct. It also investigates anticompetitive conduct that could deprive consumers of lower-cost generic drugs or physician services or other arrangements that similarly could deny consumers the benefits of competitive health care. Finally, in both consumer protection and competition, the agency's focus is increasingly global. It works with competition and consumer protection agencies around the world to promote cooperation in cases of mutual interest and convergence toward best practices.

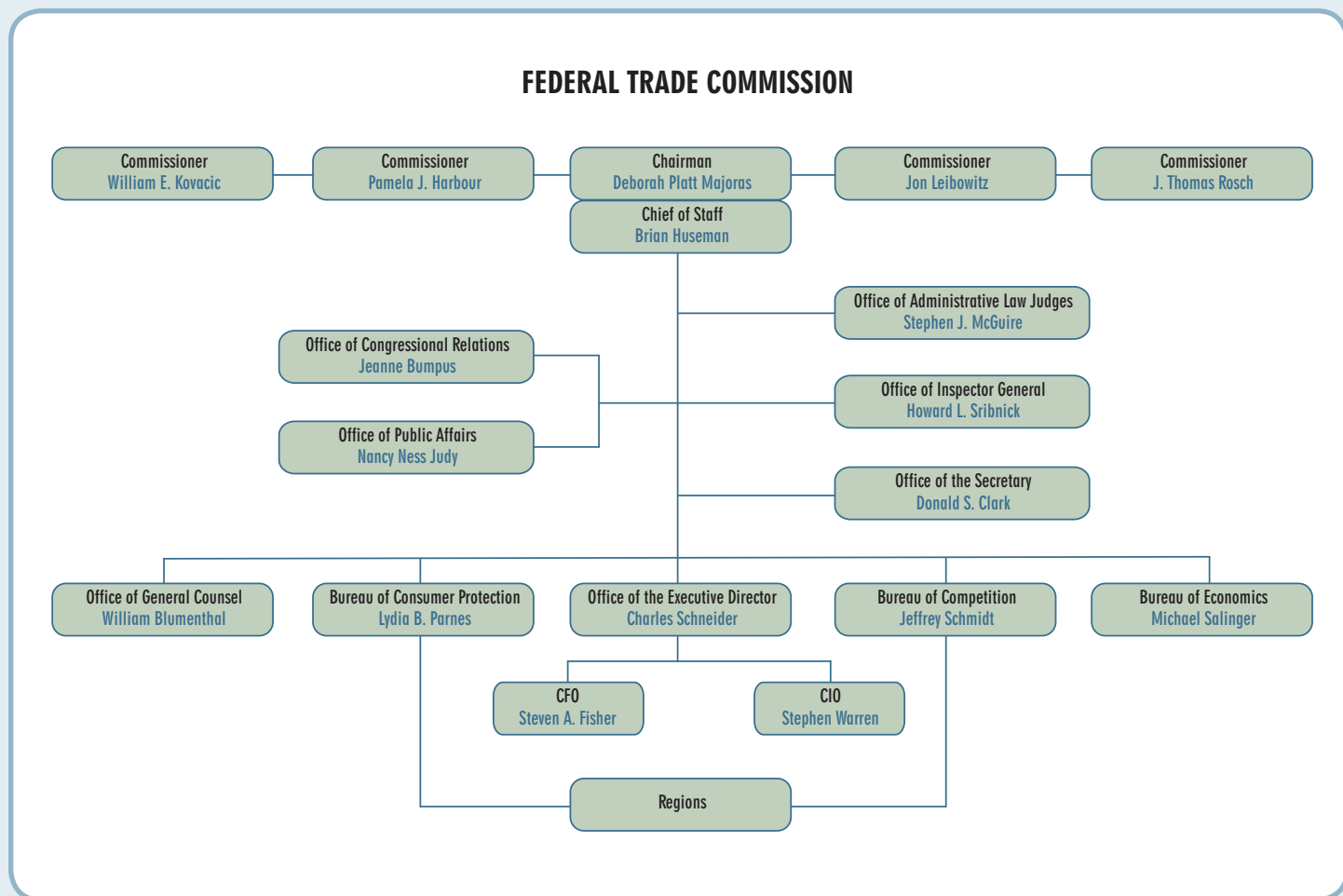
The impact of the FTC on the nation's marketplace is significant. The FTC is the only federal consumer protection agency with jurisdiction over a wide spectrum of consumer issues. Consumers are affected every day by the FTC's activities as they, for example, receive fewer telemarketing calls, obtain free credit reports, receive less spam, receive identity theft victim assistance, access truthful information about health and weight loss products, pay lower prescription drug prices due to the availability of generic drugs, and enjoy competitive prices for goods as a result of merger reviews and actions taken by the FTC. The FTC is an independent federal agency with a total staff of approximately 1,100 individuals working in its Washington, D.C. headquarters and in seven regions across the country. In addition to its broad law enforcement authority and more limited rulemaking activities, the FTC has unique jurisdiction to gather, analyze, and make public information concerning markets, the state of competition, and business practices. With this information and analysis, the agency contributes to the policy deliberations of the Congress, the Executive Branch, other independent agencies, and state and local governments.

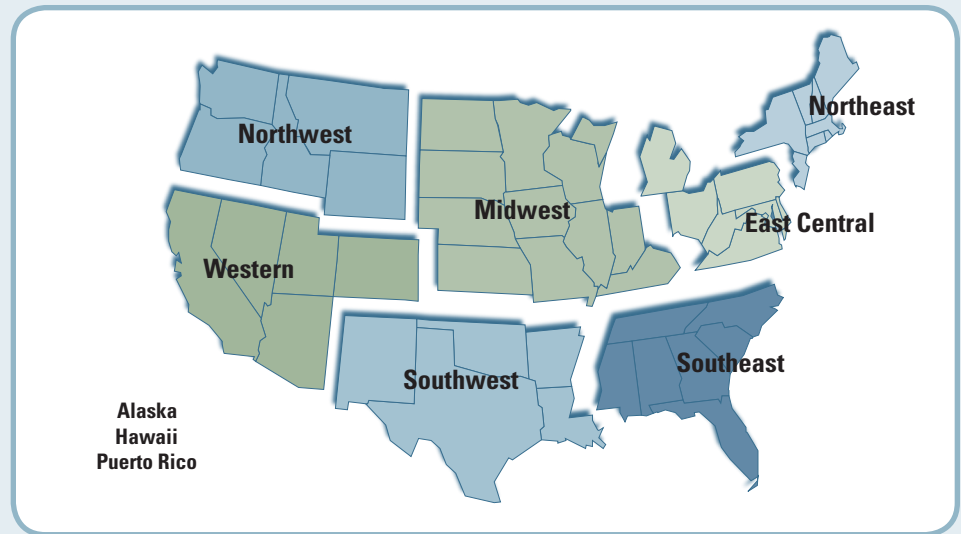


## Organization

The FTC is headed by a Commission comprised of five members who are nominated by the President and confirmed by the Senate, and who serve staggered seven-year terms. The President chooses one Commissioner to act as Chairman. No more than three Commissioners can be of the same political party. In FY 2006, the Chairman was Deborah Platt Majoras, and the Commissioners were Pamela Jones Harbour, Jon Leibowitz, William E. Kovacic, and J. Thomas Rosch.

The FTC's organizational structure is directly related to its two strategic goals. There are two major law enforcement bureaus, Consumer Protection and Competition, supported by an Economics Bureau, regional offices, and mission support offices. The FTC's FY 2006-2011 Strategic Plan ([www.ftc.gov/strategicplan](http://www.ftc.gov/strategicplan)) presents the objectives, strategies, implementation plans, performance measures, and evaluations for each goal.





The mission of the FTC is to protect consumers and maintain and promote competition in the marketplace. The agency applies a number of objectives, performance goals, and desired outcomes to determine how well it is performing its mission, including identifying, stopping, and preventing fraud and anticompetitive mergers or conduct through shared data collection, strategic law enforcement actions, and effective consumer and business education. It is difficult, if not impossible, to measure the value, in monetary terms or otherwise, of deterrence and education, but the agency is confident, taking into account the new performance measures included in its recent FY 2006-2011 Strategic Plan ([www.ftc.gov/strategicplan](http://www.ftc.gov/strategicplan)) as discussed below, that consumers benefit from accurate consumer information and the deterrence of unfair or deceptive acts and anticompetitive mergers or conduct.

A measurable outcome of FTC's mission is substantial financial savings to consumers through law enforcement actions to stop specific frauds and anticompetitive conduct or mergers. The FTC has developed performance measures directed at these law enforcement actions. Even so, the FTC strives to develop better performance measures that directly target these desired outcomes. The agency conducted a review of its performance measures for its recently issued FY 2006-2011 Strategic Plan and developed new outcome measures for coming years.

The systems and methodologies for collecting performance data are reviewed by the FTC's OIG. Senior economists from the FTC's Bureau of Economics review statistical data, as appropriate. Performance measure results are reviewed by senior management and the Commission periodically throughout the fiscal year. The FTC is continuously striving to improve both the way it measures its performance, and the methods it uses to capture results. In FY 2007, the agency plans to document the methodology for each of its measures in the strategic plan and work with the OIG to ensure that methodology is sound.

## Performance Summary

In FY 2006, the FTC measured its achievement of outcomes using three long-term performance measures: (1) the five-year consumer protection performance measure to save consumers approximately \$2 billion through law enforcement actions stopping consumer fraud; (2) the five-year maintaining competition performance measure to take action against anticompetitive mergers in markets with a total volume of commerce of at least \$200 billion; and (3) a second five-year maintaining competition measure to take law enforcement action against anticompetitive nonmerger conduct in markets with a total volume of commerce of at least \$100 billion.

For its first long-term measure, the agency's FY 2006 target was to save consumers more than \$400 million by stopping fraudulent practices in the marketplace. During FY 2006, the FTC saved consumers an estimated \$293 million. Consumer savings are measured by estimating the annual fraudulent and deceptive sales made by defendants in the 12 months prior to the FTC's filing of a complaint. The savings calculation may underestimate the FTC's impact because it assumes that the fraud and deception would have continued for only one additional year. Nonetheless, this method provides a uniform measure for calculating savings and minimizes speculation about the likely duration of the fraud and deception. Due to the variance of savings on an annual basis, this measure has a five-year target of \$2 billion. Having exceeded the annual target in FY 2003, and achieved 87 percent and 92 percent, respectively, in FY 2004 and FY 2005, the agency remains within reach of the five-year target.

For both merger and nonmerger enforcement long-term measures, the agency measured the volume of commerce in markets in which it takes successful enforcement action as an indicator of the scope of the FTC's antitrust enforcement activities. As noted in the FTC's 2003-2008 Strategic Plan, external factors, such as level of merger activity, may cause the results to fluctuate significantly from year to year. Consequently, the two volume-of-commerce targets are each expressed in terms of an aggregate target for the five-year strategic plan period, rather than as yearly targets.

The five-year target for the volume of commerce in markets benefiting from FTC merger enforcement action is \$200 billion, or \$40 billion per year. In FY 2006, the FTC's merger enforcement actions affected markets in which the total volume of commerce was \$13.4 billion; over the first three fiscal years of the five year plan (2004 through 2006) the total volume of commerce in affected markets has been approximately \$84.2 billion, or approximately 70 percent of the three-year target.



The five-year target for the volume of commerce in markets benefiting from FTC nonmerger enforcement action is \$100 billion, or \$20 billion per year. In the course of FY 2006, the FTC's nonmerger enforcement actions affected markets in which the total volume of commerce was \$1.4 billion. This measure has fluctuated greatly, going from \$2.6 billion in FY 2004 to \$19 billion in FY 2005 and back down to \$1.4 billion for FY 2006. During the first three years that this measure has been in place, the overall volume-of-commerce for nonmerger enforcement actions has thus been approximately \$23.3 billion or 39 percent of the three-year target.

In evaluating and developing measures for its FYs 2006-2011 Strategic Plan, the agency focused on its long-term outcome measures. On the consumer protection side, the measure to save consumers more than \$400 million by stopping fraudulent practices in the marketplace was modified to broaden the type of case included in the measure. As the agency moves from a focus on fraud cases to non fraud cases such as those involving identity theft, data security, and spam, the measure was changed to read: Stop approximately \$400 million a year in economic injury to consumers; by 2011, the FTC will have saved consumers at least \$2 billion through its consumer protection law enforcement. This revised measure will permit the FTC to measure its performance for all types of cases that involve consumer injury.


In the merger area, the target for 2006 was set near the peak of the merger wave and no longer is representative of the number of mergers currently reviewed. Thus, the targets were adjusted downward to reflect recent experience. It is not the FTC's intention to seek out mergers that involve large amount of sales to meet a target, but rather bring action against anticompetitive mergers. In addition, it was determined that the term "annual sales" was more meaningful to consumers than volume of commerce. The new measure reads: Over the five-year period 2006-2011, take action against mergers likely to harm competition in markets with a total of at least \$125 billion in sales. To meet this goal, the FTC will need to take action each year against mergers likely to harm competition in markets with an average total of \$25 billion in annual sales.

In the nonmerger area, a similar analysis of results in the past three year was done and the targets adjusted. The new nonmerger measure reads: Over the five-year period 2006-2011, take action against nonmerger anticompetitive conduct in markets with a total of at least \$40 billion in annual sales. To meet this goal, the FTC will need to take action each year against anticompetitive conduct affecting markets with an average total of \$8 billion in annual sales.

The FTC also added two additional merger and nonmerger measures under the maintaining competition enforcement objective. The first new merger measure is: Over the five-year period 2006-2011, save consumers an estimated \$400 million through enforcement actions against nonmerger anticompetitive conduct likely to harm competition in markets. To meet this goal, the FTC will need to save consumers an average of \$80 million per year. The first new nonmerger measure is: Over the five-year period 2006-2011, save consumers an estimated \$400 million through enforcement actions against nonmerger anticompetitive conduct likely to harm competition in markets. To meet this goal, the FTC will need to save consumers an average of \$80 million per year. Both the merger and nonmerger measures include the explanation: Because external factors may cause the results to fluctuate significantly from year to year, this performance goal is expressed in terms of an aggregate target for the five-year strategic plan period, rather than as a yearly target. Using these two new measures, the FTC will calculate consumer savings as a result of its merger and nonmerger enforcement actions.

The second new merger and nonmerger long-term measures provide a measure of the efficiency of the FTC's maintaining competition activities. The merger measure says: Achieve a level of consumer savings from merger enforcement over the five-year strategic plan period that is at least six times the amount of agency resources (in dollars of total resources) allocated to the merger program during that period. The nonmerger measure says: Achieve a level of consumer savings from nonmerger enforcement over the five-year strategic plan period that is at least four times the amount of agency resources (in dollars of total resources) allocated to the nonmerger program during that period. These results will be an indicator of the return on taxpayer's dollars.

The table on the following page summarizes the Performance Measure Targets and Results for FY 2006.

<b>FY 2006 PERFORMANCE MEASURE TARGETS AND RESULTS</b>		
<b>MEASURE</b>	<b>ACTUAL</b>	<b>TARGET</b>
<b>GOAL 1: Protect Consumers</b>		
<b>OBJECTIVE 1.1</b>		
<b>1.1.1:</b> Annual number of consumer complaints and inquiries entered into database.	<b>1,011,000</b> ✓	950,000
<b>1.1.2:</b> Annual number of consumer complaints and inquiries related to identity theft entered into database.	<b>342,000</b>	350,000
<b>OBJECTIVE 1.2</b>		
<b>1.2.1:</b> Dollar savings for consumers from FTC actions which stop fraud.	<b>\$293 million</b>	\$400 million
<b>1.2.3:</b> Number of data searches conducted by FTC and law enforcement personnel of the FTC's Consumer Sentinel database.	<b>107,600</b> ✓	40,000
<b>1.2.4:</b> Number of data searches conducted by law enforcement personnel of the FTC's identity theft database.	<b>4,325</b> ✓	2,000
<b>OBJECTIVE 1.3</b>		
<b>1.3.1:</b> Number of education publications distributed to or accessed electronically by consumers.	<b>53.0 million</b> ✓	25.0 million
<b>1.3.2:</b> Number of education publications related to identity theft distributed to or accessed electronically by consumers.	<b>9.4 million</b> ✓	3.3 million
<b>1.3.3:</b> Number of Spanish-language education publications distributed to or accessed electronically by consumers.	<b>2,400,000</b> ✓	550,000
<b>GOAL 2: Maintain Competition</b>		
<b>OBJECTIVE 2.1</b>		
<b>2.1.1:</b> Percent of HSR second requests resulting in enforcement action.	<b>59%</b>	60% - 80%
<b>2.1.3:</b> Number of nonmerger investigations resulting in enforcement action.	<b>40%</b>	60% - 80%
<b>OBJECTIVE 2.2</b>		
<b>2.2.1:</b> Positive outcome of cases brought by FTC due to alleged violations.	<b>100%</b> ✓	80%
<b>2.2.3:</b> Volume-of-commerce in markets in which FTC took action to prevent anticompetitive mergers.	<b>\$13.4 billion</b>	\$40.0 billion
<b>2.2.5:</b> Volume-of-commerce in markets in which FTC took action to prevent anticompetitive conduct.	<b>\$1.4 billion</b>	\$20.0 billion
<b>OBJECTIVE 2.2</b>		
<b>2.3.2:</b> Quantify number of hits on antitrust information on FTC Web site.	<b>10.6 million</b> ✓	10.0 million
 MET OR EXCEEDED TARGET		

## Ongoing and Future Challenges

### Consumer Protection Mission

The FTC's priorities include addressing the following consumer protection challenges:

**Monitoring Emerging Trends.** The FTC needs to keep pace with emerging trends so that it can target resources in areas where consumers are most harmed. To this end, in November 2006, the FTC is hosting hearings on "Protecting Consumers in the Next Tech-Ade," which will look at the intersection of new technologies and their applications in the global consumer marketplace. Experts from the business, government, and technology sectors, consumer advocates, academics, and law enforcement officials will examine changes that have occurred in marketing and technology over the past decade, and discuss emerging trends, applications, products, services, and other issues, challenges, and opportunities affecting consumer protection that may arise over the next ten years.

**Improving Data Security.** The continuing announcements of data security breaches highlights the importance of safeguarding sensitive consumer information, and were a major factor leading to the creation of the President's Identity Theft Task Force, of which the FTC Chairman is a Co-Chair. Data security in particular is one of several areas of concern to the FTC in its work to protect consumers' privacy and combat identity theft. Through law enforcement and consumer and business education, the FTC has a leading role in creating a culture of security by addressing the misuse of consumers' sensitive information and helping consumers protect their privacy and identities.

**Stopping Technology Abuses.** The FTC brings cases against those who abuse technology and educates consumers on how to avoid these problems. To this end, the FTC's highest priority is to stop spyware and other deceptive and unfair practices that make it difficult or dangerous for consumers to operate their computers. The FTC also enforces the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act), under which it brought eight law enforcement actions in fiscal year 2006 stopping deceptive or fraudulent spam email.

**Building International Partnerships.** The FTC is involved in law enforcement and policy development efforts with its consumer protection counterparts around the world. Since law enforcement cases increasingly involve an international component, the FTC continues to develop international partnerships to pursue these matters. The FTC also continues to promote international development of market-oriented consumer protection policies. For example, the FTC released a

report during FY 2005 advocating the passage of proposed legislation, the US SAFE WEB Act, which would improve the FTC's ability to combat cross-border consumer protection law violations, particularly violations involving spam and spyware. This legislation is awaiting congressional action.

**Improving Data Collection.** The FTC continues to target its law enforcement efforts in large part based on the analysis of consumer complaint data that it gathers in the agency's Consumer Information System (CIS) database. CIS enables the agency and its law enforcement partners to detect trends in consumer fraud as they occur. To meet the increasing volume of consumer complaints, the added number of users of the CIS system, and the increased demands on access to pertinent data, the FTC is planning for the redesign, development, implementation, and operation of an updated CIS. This update will ensure that the system is fully used by the agency and its law enforcement partners, and that the information it collects is reliable.

**National Do Not Call Registry.** The National Do Not Call (DNC) Registry has been an unqualified success, and has logged more than 130 million telephone numbers since its inception. The FTC has brought law enforcement actions against many businesses violating the DNC provisions of the Telemarketing Sales Rule. Most entities covered by the DNC Rule comply, but for those who do not, tough enforcement is a high priority for the FTC.

**Credit and Financial Fraud.** The FTC enforces many of the nation's consumer credit statutes, including the recent Fair and Accurate Credit Transactions Act (FACT Act). The agency also conducts studies and rulemakings that implement the provisions of the FACT Act and provide guidance to policymakers. The FTC also will continue to enforce consumer credit statutes and rules, such as the Fair Credit Reporting Act, Fair Debt Collection Act, Equal Credit Opportunity Act, and others, to protect consumers from deceptive lending practices and other illegal credit practices.

## Maintaining Competition Mission

The FTC's priorities include addressing the following maintaining competition challenges.

**Preventing and Stopping Anticompetitive Mergers.** Companies are constantly restructuring and merging, seeking new ways to market both new and old products to a growing consumer market. During the 1990s, the number of mergers reported to the FTC tripled, and the dollar value of commerce affected by those mergers increased eleven-fold. While merger activity has eased considerably since 2000, and the number of reportable transactions was reduced by a statutory change to the

HSR Premerger Notification Program in 2001, recent trends suggest that merger activity is increasing, in terms of both number and complexity of transactions. The total dollar value of reportable transactions roughly doubled between 2002 and 2006, with a smaller, but still a substantial, increase in the number of reportable transactions. The number of merger filings has a direct impact on the allocation of resources within the FTC's Maintain Competition goal. A large increase in filings can drain resources from nonmerger activities, which may affect the agency's overall performance in maintaining competition.

**Preventing and Stopping Anticompetitive Business Practices.**

The ongoing transition to a knowledge-based economy from a primarily manufacturing-based economy highlights important questions about the relationship between the antitrust and intellectual property laws. In certain industries characterized by continued technological developments and regulatory reform, competition is supplanting regulation as the primary means of protecting consumers' interests. The FTC relies on research, workshops, and hearings to refine its theoretical framework and its empirical understanding of industry practices, which increase the agency's ability to promote competition and consumer welfare in the marketplace. Health care quality, petroleum pricing, e-commerce, and intellectual property are just a few of the topics on which the FTC will seek to develop a significant knowledge base to guide future enforcement and policy decisions.

**Promoting Sound Competition Policy at the International Level.**

Because antitrust enforcement increasingly crosses U.S. borders, the agency must continue its work in the international arena. Many merger investigations involve companies engaged in international commerce. More than 100 governments enforce a competition law, and antitrust enforcement by multiple authorities is increasingly common. Although antitrust laws and enforcement policies around the world share many goals, there are some differences that may increase the costs faced by firms that seek to combine assets or businesses, establish distribution channels, or pursue other business arrangements across borders. This includes both the cost to comply with different antitrust requirements and the risk of inconsistent outcomes. Thus, the current growth and diversity of antitrust enforcement mechanisms can create tension with the ultimate goal of promoting competitive economies. The FTC will continue to work bilaterally and through international organizations to increase the procedural and substantive convergence of antitrust enforcement, including in the merger review process. The FTC also will broaden and deepen its already strong cooperation with other antitrust agencies on individual cases and antitrust policy issues. Finally, when appropriate, the FTC provides technical assistance to foreign antitrust authorities, particularly in countries in the process of developing competition laws or enforcing newly adopted laws.

**Energy.** The petroleum industry continues to be a key focus of FTC investigative and enforcement resources. Over the past year, the agency has completed important law enforcement investigations and reports, and it will continue to investigate and study the industry closely. For example, in May 2006 the FTC delivered to Congress its report on whether gasoline prices had been manipulated and whether gasoline price gouging occurred after Hurricane Katrina. In addition, the FTC will continue to update and enhance its Oil and Gas Industry Initiatives Web site that provides consumers with important information on the FTC's oversight of the petroleum industry ([www.ftc.gov/ftc/oilgas](http://www.ftc.gov/ftc/oilgas)).

**Real Estate.** Real estate cases have become an increasingly important component of the FTC's nonmerger agenda. For example, the FTC recently brought an action challenging a collective agreement by real estate brokers to enforce a rule that limited the ability of consumers, using low-cost real estate brokers, to market their home listings on important public Web sites. The FTC expects to bring additional real estate cases in the near future and will continue to prioritize its enforcement and advocacy efforts to preserve competition in this important sector, which greatly impacts so many of the nation's consumers. In addition, in July 2006, the FTC debuted its real estate competition Web page ([www.ftc.gov/bc/realestate](http://www.ftc.gov/bc/realestate)) that provides important consumer educational materials on competition in the industry.

**Health Care.** In the health care industry, the FTC will continue to bring enforcement actions against the most basic and perhaps most pernicious anticompetitive behavior—price fixing among horizontal competitors—often physicians. The FTC also will remain vigilant in the detection and investigation of agreements between drug companies that delay generic drug entry into the marketplace. The agency will continue to bring enforcement actions to preserve competition in markets for health care products and services.

**Section 2 of the Sherman Antitrust Act.** The FTC and the DOJ are holding joint public hearings on how best to identify anticompetitive exclusionary conduct for purposes of antitrust enforcement under Section 2 of the Sherman Antitrust Act. The hearings seek to distinguish the specific types of conduct that may harm competition and consumer welfare as compared to conduct that is pro-competitive or benign. The lessons learned from these hearings will help guide the FTC's future law enforcement and policy efforts in this important area.



## Financial Highlights

### Summary of Financial Position

As of September 30, 2006, the financial condition of the FTC was sound. During FY 2006 FTC's overall financial position improved with an increase in total exchange revenues of about 13 percent or \$15 million and an increase in total assets of about 24 percent or \$63 million. The FTC's revenues are derived from spending authority from offsetting collections and from direct appropriation. The increase in both revenues and assets in FY 2006 is based on higher amounts accrued relative to spending authority from offsetting collections.

Spending authority from offsetting collections is comprised of amounts received for services performed under reimbursable agreements and collection of fees under the HSR Act and the National DNC Registry. In FY 2006, spending authority from offsetting collections accounted for about 62 percent of total revenues and financing sources realized versus 35 percent received via direct appropriation (about 3 percent is imputed financing). Exchange revenue totaled \$133 million and \$118 million for FYs 2006 and 2005, respectively.

### Explanation of Key Financial Statement Line items and Major Fluctuations in Amounts

In addition to having a higher volume in spending authority from offsetting collections, this year's significant increase in both total assets and total liabilities pertain primarily to actions involving civil penalties and redress cases. Specifically, the FTC obtained judgments late in the FY thereby increasing year end amounts in Cash and Other Monetary Assets, Accounts Receivable, and Accrued Liabilities.

There was an increase in Cash and Other Monetary Assets of 23 percent or \$19 million relating to amounts collected for consumer redress but not yet disbursed to claimants. Correspondingly, there was a 24 percent or \$12 million increase in the amount of undisbursed consumer redress reported as part of "Other" liabilities on the balance sheet. Further, net Accounts Receivable (Consumer redress) and the offsetting liability "redress receivables, accrued and due to claimants" increased by 55 percent or \$46 million. These amounts represent amounts accrued (based on judgments obtained) but not yet collected and distributed. Further, since judgments were obtained towards the end of the FY, actual collections decreased by about 40 percent, from \$62 million during FY 2005 to \$37 million in FY 2006.

## Overview of Stewardship Information

The major components of the FTC's custodial activities are summarized below. Each of the following components impact amounts reported as "non-entity" assets, corresponding liabilities and amounts reported on the statements of custodial activity in the financial statements and accompanying notes.

### *Premerger Filing Fees*

All Hart-Scott-Rodino (HSR) premerger filing fees are collected by the FTC pursuant to section 605 of P.L. 101-162, as amended, and are divided evenly between the FTC and the DOJ. The collected amounts are then credited to the appropriations accounts of the two agencies (FTC's "Salaries and Expenses" and DOJ's "Salaries and Expenses, Antitrust Division").

### *Civil Penalties and Fines*

Civil penalties collected in connection with the settlement or litigation of the FTC's administrative or federal court cases are collected by either the FTC or DOJ as provided for by law. DOJ assesses a fee equivalent to three percent of amounts collected before remitting them to the FTC. The FTC then deposits these collections into the U.S. Treasury. Civil penalties collected also include amounts collected for undecided civil penalty cases held in suspense until final disposition of the case.

### *Consumer Redress*

The FTC obtains consumer redress in connection with the settlement or litigation of both its administrative and its federal court cases. The FTC attempts to distribute funds thus obtained to consumers whenever possible. If consumer redress is not practical, the funds are paid (disgorged) to the U. S. Treasury, or on occasion, other alternatives, such as consumer education, are explored.

## Summary of Key Financial Indicators

### *Revenues Earned and Other Financing Sources*

The primary source of revenue earned was premerger filing fees under the HSR Act, with \$111 million in fiscal year 2006 and \$100 million in fiscal year 2005, respectively. Qualifying mergers with a transaction amount over \$53 million in total assets are charged a filing fee. The fee is based on a three-tiered structure and is divided equally between the FTC and the Antitrust Division of the Department of Justice (DOJ). The disposition of amounts collected for the DOJ is reported on the Statements of Custodial Activity. The number of filings increased by 140 with 1,732 recorded in FY 2006 and 1,592 recorded in FY 2005, respectively. Premerger filing fees represented 51 percent and 47 percent of the total revenue and financing sources to the agency in fiscal years 2006 and 2005, respectively.

The second largest source of revenue was Do Not Call (DNC) fees. Fees are based on the number of area codes downloaded and have resulted in collection of fees of \$22 million and \$18 million for fiscal years 2006 and 2005, respectively. DNC fees represented 10 percent and 8 percent of the total revenue and financing sources for fiscal year 2006 and 2005, respectively.

An additional source of revenue was earned through reimbursable agreements with other federal agencies. Total reimbursable earnings were \$1 million and represented about 1 percent of total revenue and financing sources for both fiscal years 2006 and 2005, respectively.

Also, an imputed revenue source was recognized to provide unfunded employee benefits cost in the amount of \$7 million in fiscal years 2006 and 2005, respectively. These represented 3 percent of total revenue and financing sources for fiscal years 2006 and 2005, respectively.

In addition to revenue earned, other financing sources were realized through a direct appropriation from the General Fund of the Treasury, and other non-expenditure transfers, in the amount of \$77 million in fiscal year 2006 and \$87 million in fiscal year 2005. The budgetary authority appropriated from the General Fund was reduced by the amount of offsetting collections (HSR and DNC fees) received during the year to arrive at the final amount of resources appropriated from the General Fund. Direct appropriation and transfers represent 35 percent and 41 percent of total revenue and financing sources received for fiscal years 2006 and 2005, respectively. Financing sources that are not needed to fund the cost of operations are added to Cumulative Results of Operations and Net Position.

### ***Cost Summary***

The gross cost of operations for 2006 fiscal year was \$208 million and represents an increase of 6 percent over the fiscal year 2005 gross cost of operations which was \$197 million. During 2006, expenses for salaries and related benefits totaled \$129 million, or 62 percent of the gross cost of operations. Rental expense was \$17 million, or 8 percent, and the remaining \$62 million, or 30 percent, included travel, facility maintenance and equipment rental, utilities, imputed benefit costs, depreciation, and other items.

In FY 2006 the gross cost of the Consumer Protection Mission, which relates directly to the Protect Consumers strategic goal, was \$119 million, and the gross cost of the Maintaining Competition Mission, which relates directly to the Maintain Competition strategic goal, was \$88 million. The FTC's total net cost of operations, i.e., gross cost less offsets, was \$74 million. These amounts are shown in the Statement of Net Cost, which can be found in the financial section of this report.

## Management Assurances

### Federal Managers Financial Integrity Act (FMFIA) Statement of Assurance

The FMFIA requires federal agencies to provide an annual statement of assurance regarding management controls and financial systems. This statement was based on the review and consideration of a wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including OIG audits, and the inspectors general's opinion on the FTC financial statements and OIG reports on internal control and compliance with laws and regulations. In addition, FTC is not identified on the Government Accountability Office's (GAO) High Risk List related to controls governing various areas.

In response to the FMFIA, the agency developed a management control program which holds managers accountable for the performance, productivity, operations and integrity of their programs through the use of management controls. Additionally, senior managers at the agency are responsible for evaluating the adequacy of the management controls surrounding their activities and determining whether they conform to the principles and standards established by the Office of Management and Budget (OMB) and the GAO. The results of these evaluations and other senior management information are used to determine whether there are any management control problems to be reported. The FTC statement of assurance appears below:

As the Chairman of the Federal Trade Commission (FTC) it is my responsibility to ensure the FTC's resources are efficiently managed and effectively used. The objective of the FTC's management control system is to provide reasonable assurance that:

- obligations and costs are in compliance with applicable laws;
- assets are safeguarded against waste, loss, and unauthorized use of appropriations;
- revenues and expenditures applicable to agency operations are properly recorded and accounted for, permitting accurate accounts, reliable financial reports, and full accountability for assets; and
- programs are efficiently and effectively carried out in accordance with applicable laws and management policy.

During FY 2006 the FTC established an internal control senior assessment team. The FTC assessment team reviewed and evaluated selected FTC internal controls during FY 2006. The management controls were reviewed in accordance with the requirements of FMFIA, the Office of Management and Budget (OMB) Circular No. A-123, Management Accountability and Control, and GAO internal control standards.

Based on the management control program, reviews, and consideration of other information, including OIG audits, senior management’s assessment of the effectiveness of the entity’s internal controls is that controls are adequate to provide reasonable assurance in support of effective and efficient programmatic operations, reliable financial reporting, and compliance with laws and regulations; and that the FTC’s financial management system is in compliance with the FFMIA.

**Section 2 of the FMFIA** requires federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place during FY 2006 provide reasonable assurance that FTC systems and management controls comply with the requirements of the FMFIA. The FTC has no material weaknesses to report for FY 2006 relating to Section 2 of the FMFIA.

The following table reflects material weakness statistics reported under Section 2 of the FMFIA in recent years by the Federal Trade Commission.

NUMBER OF MATERIAL WEAKNESSES Section 2 FMFIA				
	NUMBER AT BEGINNING OF YEAR	NUMBER CORRECTED	NUMBER ADDED	NUMBER REMAINING END OF FISCAL YEAR
FY 2004	0	0	0	0
FY 2005	0	0	0	0
FY 2006	0	0	0	0

**Section 4 of the FMFIA** requires that agencies financial management systems controls be evaluated annually. The FTC evaluated its financial management systems for the fiscal year ending September 30, 2006 in accordance with the FMFIA and OMB Circular No. A-127, Financial Management Systems, section 7, guidance. The audit results, management reviews, and statements provided by agency officials and external financial service providers, provide reasonable assurance under Section 4 of the FMFIA that the FTC’s financial systems controls generally conform to the principles and standards developed by the Comptroller General of the United States, OMB, and the Department of the Treasury. Pursuant to Section 4 of the FMFIA, OIG audits have included selected Commission accounting and financial systems in use over the past fiscal year. Further, as further described under Federal Financial Management Improvement Act (FFMIA) of 1996 below, FTC is in compliance with the FFMIA.

The following table reflects material non-conformance statistics reported under Section 4 of the FMFIA in recent years by the Federal Trade Commission.

<b>NUMBER OF MATERIAL NON-CONFORMANCES Section 4 FMFIA</b>				
	<b>NUMBER AT BEGINNING OF YEAR</b>	<b>NUMBER CORRECTED</b>	<b>NUMBER ADDED</b>	<b>NUMBER REMAINING END OF FISCAL YEAR</b>
FY 2004	0	0	0	0
FY 2005	0	0	0	0
FY 2006	0	0	0	0

I am pleased to report the Federal Trade Commission has no FMFIA Section 2 material weaknesses to report for FY 2006 and can provide reasonable assurance under Section 4 of the FMFIA that the FTC's financial systems generally conform to the principles and standards developed by the Comptroller General of the United States (CG), OMB, and the Department of the Treasury. Based on the results of an Agency-wide management control assessment, financial management systems review, and input from senior officials, I certify, with reasonable assurance that the FTC is in compliance with Section 2 and Section 4 of the FMFIA Act.



Deborah Platt Majoras

## Federal Financial Management Improvement Act (FFMIA) of 1996

The FFMIA of 1996 requires federal agencies to report on agency substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. Under this law, the agency heads are required to assess and report on whether these systems comply with FFMIA on an annual basis. In assessing compliance with FFMIA, FTC adheres to the FFMIA implementation guidance provided by OMB and considers the results of OIG and any GAO audit reports, annual financial statement audits, and any other information available.

The FTC maintains a system of internal controls to provide reasonable assurance that its assets are protected from fraud and abuse, transactions are properly executed and recorded, and operations are conducted in accordance with established policies and procedures. The FTC's accounting system conforms in all material respects with the principles, standards, and related requirements specified in the FFMIA.

The FTC's accounting, personnel, payroll, and accounts payable processing is performed under contract by the Department of the Interior's National Business Center in Denver, Colorado. Further, FTC has controls in place to ensure the integrity of both payment and payroll processing. Based on all information assessed, the Chairman of FTC has determined that FTC is compliant with requirements of the FFMIA of 1996.

## Summaries of Material Weaknesses and Non-Conformances

As described in the FFMIA Statement of Assurance above, there are currently no material weakness or non-conformances to report.

## Improper Payments Information Act

The Improper Payments Information Act (Public Law (P.L.) No. 107-300) defined requirements to reduce improper/erroneous payments made by the federal government. OMB also has established specific reporting requirements for agencies with programs that possess a significant risk of erroneous payments and for reporting on the results of recovery auditing activities. A significant erroneous payment as defined by OMB guidance is an annual erroneous payment in a program that exceeds both 2.5 percent of the program payments and \$10 million.

The agency reviews controls and systems under the FFMIA to ensure that the agency has controls that can be relied on. In this review, the agency has not identified any programs where significant erroneous payments have occurred within the agency. The agency will continue to review programs on an annual basis to determine if any significant erroneous payments exist.



## Limitations of the Financial Statements

The principal financial statements and related footnotes are the responsibility of FTC senior management. In preparing the statements management makes certain assertions about valuation of assets and liabilities, overall presentation, obligation and rights, completeness, ownership, full disclosure and existence. However, the following are limitations to the financial statements.

- a. They have been prepared to report the entity's financial position and results of operations pursuant to the requirements of 31 U.S.C. 3515(b).
- b. While the statements have been prepared from the entity's books and records in accordance with U. S. Generally Accepted Accounting Principles (GAAP) for Federal entities and the formats prescribed by OMB (i.e., OMB Circular A-136, Financial Reporting Requirements) the statements are in addition to the financial reports used to monitor and control budgetary resources.
- c. The statements should be read with the realization that they are for a component of the U.S. Government, (i.e., sovereign entity).

## Debt Collection Improvement Act

The Debt Collection Improvement Act prescribes standards for the administrative collection, compromise, suspension, and termination of federal agency collection actions and referrals to the proper agency for litigation. Although the Act has no material effect on the FTC since it operates with minimal delinquent debt, all debt more than 180 days old has been transferred to the U.S. Department of the Treasury for cross-servicing. In addition, recurring payments were processed by electronic funds transfer (EFT) in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

## Audit of FTC's 2006 Principal Statements

The Office of Inspector General of the Federal Trade Commission has examined the Agency's financial statements. The Inspector General's report on the principal statements, internal controls, and compliance with certain laws and regulations accompanies the statements. The financial statements were prepared in conformity with the hierarchy of accounting principles approved by the Federal Accounting Standards Advisory Board (FASAB) and the Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements.

## Federal Information Security Management Act (FISMA)

The FTC continues to stay vigilant in ensuring that there are no material weaknesses in administrative controls over information systems and is always seeking methods of improving its secure configuration. As part of the effort to meet or exceed the requirements of FISMA, three agency systems have undergone certification and accreditation; the FTC's certification and accreditation policy was revised to conform with the standard established by the National Institute of Standards and Technology (NIST); the agency reviewed and modified its Change Management process; and the Acceptance Test environment was separated from the Production and Development environments. The FTC also conducted an assessment of its security controls against the new NIST Special Publication 800-53, Recommended Security Controls for Federal Information Systems, and found that more than 80 percent of the recommended controls have been implemented.

## Prompt Payment Act

The Prompt Payment Act requires federal agencies to make timely payments to vendors, including any interest penalties for late invoice payments. In fiscal year 2006, the FTC paid interest penalties on 78 payments. In fiscal year 2006, the FTC paid interest penalties on 78 invoices, 2 percent, of the 4,372 vendor invoices processed, representing payments of approximately \$2,360. The FTC paid only \$0.01 in interest penalties for every 100 dollars disbursed in fiscal year 2006.

## Future Challenges in Financial Management

The FTC is moving forward to meet the goal of its Five-Year Financial Systems Strategic Plan. The FTC is working towards leveraging advancements in technology to improve the integration, accessibility, and real-time nature of financial information required by program managers. To this extent, FTC plans to upgrade its core financial management system to increase data sharing among the various components of our FMS, including acquisition, funds control, and general ledger, and various other modules. Further, as part of this effort, the FTC plans to incorporate mechanisms that will facilitate better tracking of program costs relative to its strategic goals and objectives and performance measure results. By improving the capability to track costs to strategic goals and objectives, FTC will be moving towards having the ability to prepare performance-based budgets.

## Progress in Implementing Key Administration Initiatives

In support of the President’s Management Agenda, during FY 2006 FTC Implemented an agency-wide “end-to-end” travel management system, in support of the e-Gov Travel Services (eTS) initiative. The FTC expects the system to help achieve cost saving in terms of improvements to process efficiencies and via reduced fees per transaction.

Additionally, during this year FTC completed the majority of the work in relation to a Program assessment rating tool (PART) review conducted by OMB. Although the results of the PART review are expected to be finalized and published in February 2007, FTC is confident that the review will demonstrate positive results in terms the overall effectiveness of the agency.



### PROTECTING PRIVACY

The FTC and a partnership including cybersecurity experts, online marketers, consumer advocates, and federal officials maintain a multimedia, interactive consumer education campaign to help consumers stay safe online. *OnGuardOnline.gov*, a Web site hosted by the FTC, provides practical tips from the federal government and the technology industry to help consumers guard against Internet fraud, secure their computers, and protect their personal information. For more information, visit [www.onguardonline.gov](http://www.onguardonline.gov).

## PERFORMANCE SECTION

### Goal 1: Protect Consumers

#### Prevent Fraud, Deception, and Unfair Business Practices in the Marketplace

As the nation's leading consumer protection agency, a primary goal of the FTC is to protect consumers by preventing fraud, deception, and unfair business practices in the marketplace. It applies three related objectives to achieve this broad-reaching goal:

- **Identify** fraud, deception, and unfair practices that cause the greatest consumer injury.
- **Stop** fraud, deception, and unfair practices through law enforcement.
- **Prevent** consumer injury through education.

First, the FTC identifies practices that cause consumer injury by analyzing the consumer complaint data collected in its Consumer Information System (CIS) database, holding public discussions, and monitoring the marketplace, including the Internet. Next, the FTC uses this information to target law enforcement efforts. Its law enforcement program aims to stop and deter fraud and deception, protect consumers' privacy, and increase compliance with its consumer protection statutes to ensure that consumers have accurate information for purchasing decisions. Finally, the FTC targets its education efforts to give consumers the information they need to protect themselves from injury and to explain to businesses how to comply with applicable laws.

#### Objective 1.1: Identify Fraud, Deception, and Unfair Practices That Cause the Greatest Consumer Injury

The first step in preventing fraud, deception, and unfair business practices in the marketplace is to identify the practices that cause the greatest consumer injury.

##### *Strategies*

To identify consumer protection problems, the FTC collects and analyzes data from many sources. Its Consumer Response Center receives consumer complaints and inquiries via a toll-free number (1-877-FTC-HELP), mail, and the Internet. Partners such as the National Fraud Information Center of the National Consumers League, the Internet Fraud Complaint Center (a partnership between the FBI and the National White Collar Crime Center), Better Business Bureaus, and PhoneBusters (the Canadian fraud database), also share the consumer complaint data they collect with the FTC.

All of this information is entered into the FTC's CIS database and then analyzed by FTC staff to identify trends and target fraudulent, deceptive, and unfair business practices. The agency shares the more than

3.55 million fraud complaints that it has collected with nearly 1,600 other law enforcement agencies across the United States, Canada, and Australia via an encrypted Web site. Although the FTC is not empowered to act on behalf of individual consumers, the consumer complaint database enables the FTC and its law enforcement partners to coordinate their enforcement efforts, and to spot trends and target the most serious consumer frauds. The constant input and analysis of current complaint data have allowed the FTC to move quickly to stop illegal practices before they cause more harm to consumers.

Consumers can call the FTC’s second toll-free number, 1-877-ID-THEFT, or view its Web site ([www.consumer.gov/idtheft](http://www.consumer.gov/idtheft)) to obtain information about, and report, identity theft. During FY 2006, the agency received 342,000 identity theft complaints and inquiries. The FTC uses this data to spot patterns that can help criminal law enforcement agencies prosecute identity theft and help businesses avoid the financial consequences of this crime. Criminal cases are identified by the joint FTC and U.S. Secret Service Case Referral Program, and strong leads are referred to regional task forces, many led by the Secret Service Financial Crimes Division.

The FTC, along with the Secret Service and the Department of Justice (DOJ), initiated a training program in 2002 to provide local and state law enforcement officers with practical tools to enhance combined efforts to combat identity theft, including information about accessing consumer complaint data. During FY 2006, the FTC and its partners conducted 23 seminars and trained nearly 3,200 law enforcement officers from more than 1,050 agencies.

Finally, the FTC hosts workshops and conferences at which interested parties discuss practices that cause consumer injury. The workshops and conferences allow the parties to articulate their concerns and identify relevant strategies to combat these problems. Thus, the FTC is able to hear a variety of views on timely topics and help all parties understand the ramifications of these issues.

***Performance Measures and Results***

To assess its effectiveness in identifying fraudulent and deceptive practices, the FTC measured the number of consumer complaints and inquiries added to its CIS database. In FY 2006, the FTC added 1,011,000 entries into its database, exceeding the target of 950,000. Included in these entries were 342,000 consumer complaints and inquiries related to identity theft, close to the target of 350,000.

These performance measures ensure that the agency’s enforcement activities are targeted at areas of greatest consumer concern, thus making the agency responsive to consumer needs and changes in the marketplace and efficient in its consumer protection efforts. They also help

<b>Performance Measure 1.1.1</b>	
Annual number of consumer complaints and inquiries entered into database. (numbers in thousands)	
YEAR	ACTUAL
2001	430
2002	680
2003	944
2004	994
2005	1,015
2006	1,011 Target: 950
<b>Performance Measure 1.1.2</b>	
Annual number of consumer complaints and inquiries related to identity theft entered into database. (numbers in thousands)	
YEAR	ACTUAL
2003	321
2004	314
2005	348
2006	342 Target: 350

ensure that the agency effectively leverages law enforcement resources by sharing this important information.

### ***Performance Assessment and Future Trends***

The large number of consumer complaints and inquiries added to the FTC's database gives the agency a broad view of what reporting consumers are experiencing. The database allows the FTC and its law enforcement partners to identify and develop cases against fraudulent and deceptive operators that cause the greatest consumer injury. By analyzing consumer complaints, the FTC can refine its enforcement and education efforts to target the top consumer complaints. Indeed, many of the FTC's enforcement actions are responsive to consumer complaints, and the agency will add a performance measure on this point in FY 2007.

Not only does the FTC's database help identify the most serious and commonly reported consumer protection problems, it quickly informs the agency of emerging scams so that the agency can move rapidly to stop consumer injury. In addition, by collecting data from consumers and other sources and sharing it with other law enforcers, the FTC is able to coordinate and augment the effectiveness of law enforcement agencies across the country and in Canada and Australia. To make the database even more valuable, the FTC continues to pursue new international partnerships to increase its collection of information from consumer agencies in other countries. For example, through the *econsumer.gov* Web site ([www.econsumer.gov](http://www.econsumer.gov)), the agency partners with other members of the International Consumer Protection Enforcement Network, an international group that identifies and shares information about worldwide consumer protection issues.

The FTC will continue to expand its complaint database and increase its use by recruiting and training additional law enforcement partners. It also will make better use of its rich store of data by identifying repeat offenders and sharing this information with other law enforcers. In addition, the FTC will increase its capacity to analyze data quickly in order to identify and respond to fraud, deception, and identity theft in their early stages and help prevent consumer injury. The data will be used to provide more information to the public—by giving consumers information to protect themselves from scams, deceptive practices, and identity theft, and providing trend and statistical information to those involved in public policy discussions about consumer protection issues in the marketplace.

The evaluations listed under this and all other objectives in the agency's FY 2003-2008 Strategic Plan do not reflect the actual analyses and evaluations currently performed by the agency in most cases. To address this issue, the agency developed program evaluations for each of

the objectives set forth in the new FTC's 2006-2011 Strategic Plan that demonstrate that the FTC will work to (1) improve the integration of budget and performance by linking goals and objectives to results, (2) develop improved processes for collection, use, and analysis of management data, and (3) follow a basic standard of data quality, including objectivity, utility, and integrity for the information used in measuring performance, and for any performance or other data that the agency may distribute publicly. Independent evaluations are included to meet the requirements of OMB's Program Assessment Rating Tool (PART).

## Objective 1.2: Stop Fraud, Deception, and Unfair Practices Through Law Enforcement

Once fraud, deception, and unfair business practices are identified in the marketplace, the FTC focuses its law enforcement efforts on areas where it can have the greatest impact for consumers.

### *Strategies*

The FTC's enforcement efforts include cases covering a range of topics—from data security to spyware to fraudulent spam to deceptive lending practices and credit counseling services to misleading health claims. The FTC plays a vital role in protecting consumers' privacy, emphasizing both enforcement and education. It focuses on telemarketing, spam, identity theft, spyware and unauthorized adware, and financial privacy, through enforcement of the CAN-SPAM Act, FACT Act, Gramm-Leach-Bliley Act and the Safeguards Rule, the Telemarketing Sales Rule, and Section 5 of the FTC Act.

With advances in technology, spammers, spyware operators, fraudulent telemarketers, and other scam artists can strike quickly on a global scale. An increasing number of complaints the FTC receives involve international transactions, and an increasing number of law enforcement investigations the FTC undertakes involve some international component. As a result, the FTC has implemented a comprehensive program to combat cross-border consumer protection law violations. The FTC continues to develop new bilateral and multilateral enforcement partnerships and to strengthen existing ones.

In the nonfraud area, the FTC works to ensure compliance with the consumer protection statutes that it enforces. Given its broad jurisdiction and limited resources, it focuses on the most serious identified problems, using varied enforcement tools and encouraging self-regulation in appropriate situations. One area of particular concern to the FTC is the advertising and marketing directed to youth, including violent entertainment products, online gambling, and alcohol. In 2006, the FTC released the results of its latest nationwide undercover mystery shop of electronic and video game stores, and announced enforcement actions in this area. The FTC also issued a report with the Department



of Health and Human Services recommending concrete steps that industry can take to change their marketing and other practices to make progress against childhood obesity. The FTC also works closely with industry and interested groups to seek their input on FTC policymaking efforts. For example, recent FTC workshops on Protecting Consumers in the New Mortgage Marketplace and the Appliance Labeling Rule were heavily attended by private sector participants.

### *Performance Measures and Results*

The agency's FY 2006 target was to save consumers more than \$400 million by stopping fraudulent practices in the marketplace. During FY 2006, the FTC saved consumers an estimated \$293 million. Consumer savings are measured by estimating the annual fraudulent and deceptive sales made by defendants in the 12 months prior to the FTC's filing of a complaint. The savings calculation may underestimate the FTC's impact because it assumes that the fraud and deception would have continued for only one additional year. Nonetheless, this method provides a uniform measure for calculating savings and minimizes speculation about the likely duration of the fraud and deception. Due to the variance of savings on an annual basis, this measure has a five-year target of \$2 billion. Having exceeded the annual target in FY 2003, and achieved 87 percent and 92 percent, respectively, in FY 2004 and FY 2005, the agency remains within reach of the five-year target.

#### **Performance Measure 1.2.1**

Dollar savings for consumers from FTC actions that stop fraud and deception.  
(numbers in millions)

YEAR	ACTUAL
2001	\$487
2002	\$561
2003	\$606
2004	\$349
2005	\$366
2006	\$293 Target: \$400

#### **Performance Measure 1.2.3**

Number of data searches conducted by FTC and law enforcement personnel of the FTC's Consumer Sentinel database.  
(numbers in thousands)

YEAR	ACTUAL
2003	28
2004	87
2005	79
2006	108 Target: 40

#### **Performance Measure 1.2.4**

Number of data searches by law enforcement personnel of the FTC's identity theft database.

YEAR	ACTUAL
2003	2,167
2004	2,120
2005	1,680
2006	4,325 Target: 2,000

As an indicator of the usefulness of the FTC's consumer complaint databases, the agency measures the number of data searches by its staff and other law enforcement personnel. During FY 2006, more than 107,600 data searches of the FTC's complaint database were conducted by the FTC and other law enforcement personnel, far exceeding the target of 40,000. The number of identity theft complaint searches by law enforcement personnel in FY 2006 was 4,325, exceeding its target of 2,100.

The FTC targets its enforcement resources towards areas of greatest risk to consumer health, safety, and economic well-being, with particular attention to emerging threats from new practices or technologies. These measures help guide deployment of the agency's enforcement activities to ensure that they provide the most efficient level of protection to consumers.

### *Performance Assessment and Future Trends*

The measure of the dollars saved by stopping fraud is an important one. FTC's experience in most cases is that once it files a complaint in federal district court and obtains a court order, the defendants stop their fraudulent practices. If they fail to comply, they are subject to contempt proceedings. Thus, in stopping these frauds, the agency directly stops further consumer losses caused by these defendants. By

publicizing these law enforcement actions and distributing consumer education materials, it seeks to alert consumers to fraudulent and deceptive practices, educate them to avoid such practices in the future, and ultimately increase consumer confidence in the marketplace, while deterring similar behavior by would-be violators. The FTC also can demonstrate its work to stop fraudulent and deceptive practices by measuring the number of orders it obtains.

The high number of searches by law enforcers of the FTC's complaint databases demonstrates the relationship of consumer complaints to law enforcement results. By making extensive use of this tool, law enforcers are able to bring actions against those who violate the law. The FTC's efforts to develop and maintain complaint databases pays off when cases are brought as a result.

In the future, the FTC will continue its aggressive law enforcement program and will target traditional and emerging frauds and unfair and deceptive practices. The focus on data security and high-tech scams will continue, as will emphasis on order enforcement, criminal referrals, and referrals to foreign law enforcement partners.

### **Objective 1.3: Prevent Consumer Injury Through Education**

An educated consumer and business community is a first line of defense against fraud and deception.

#### ***Strategies***

The FTC is committed to using education and outreach as cost-effective methods to prevent consumer injury, increase business compliance, and add an extra dimension to its law enforcement program. Virtually every consumer protection effort contains an educational component, from compliance Internet surfs and law enforcement sweeps to the announcement of new rules and regulations. Through reports, publications, Web sites, media events, speeches, advocacy efforts, and collaborative activities with other organizations, the FTC reaches tens of millions of consumers and businesses every year. During FY 2006, the agency issued 125 new or revised publications—covering a full range of subjects such as saving money at the gas pump, online shopping, social networking sites, credit issues, and identity theft. The FTC also issued new electronic education tools, including quizzes, e-cards, and teaser Web sites.

The CIS database helps the FTC tailor its education efforts to topical areas where fraud, deception, unfair practices, and information gaps are causing the greatest injury. Consumers are given the tools they need to spot potentially fraudulent and other illegal promotions, and businesses are advised how they can comply with the law. As with the agency's law enforcement, more of its educational efforts now involve

the Internet. The FTC not only addresses consumer issues involving the Internet, but it also uses the Internet as a tool to reach consumers.

The FTC coordinates with hundreds of private and public partners to provide information about specific campaigns, products, and services. It continues to manage the *www.consumer.gov* Web site, which offers one-stop access to federal consumer information. The *www.consumer.gov* Web site is linked to the interagency *firstgov.gov* Web site. The FTC continues to increase the federal agency partnership base for *www.consumer.gov*, with more than 180 agencies participating.

To reach the growing population of Hispanic consumers in the United States, the FTC has expanded its Hispanic Outreach Program. The FTC's Spanish-language page, *www.ftc.gov/ojo* continues to increase its library of translated consumer publications.

### *Performance Measures and Results*

The FTC gauges the impact of its education efforts by tracking the number of consumer and business education publications it distributes to the public in response to consumer requests. During FY 2006, the FTC exceeded its target of 25 million publications by distributing 53 million publications. This includes 9.4 million publications related to identity theft and 2.4 million Spanish-language publications.

These performance measures help ensure that the agency is engaging in a sufficient amount of educational activity and that the educational materials are aimed at particularly vulnerable populations.

### *Performance Assessment and Future Trends*

In FY 2006, the number of publications distributed far exceeded the agency's target. The increasing use and accessibility of the Internet helps explain this increase, as does the success of the FTC in its outreach efforts, relevancy of its messages to the public, and its translation of 125 publications to Spanish. The targets for FY 2007 and beyond have been raised significantly in the FTC's 2006-2011 Strategic Plan. In addition, as discussed below, new measures have been added to gauge the agency's success in reaching as many consumers as possible.

The FTC seeks to alert as many consumers as possible to the telltale signs of fraud, deception, and unfair business practices, and other critical consumer protection issues through dissemination of its education messages. Ideally, the agency would like to measure the extent to which its educational materials improve consumer understanding and help them get better value for their money. This effect would be extremely difficult to measure, but tracking the distribution of publications provides a rough idea of how many consumers believe the information will prove useful.

<b>Performance Measure 1.3.1</b>	
Total number of education publications distributed to or accessed electronically by consumers. (numbers in millions)	
YEAR	ACTUAL
2001	15.0
2002	19.3
2003	28.0
2004	26.5
2005	35.3
2006	53.0 Target: 25.0
<b>Performance Measure 1.3.2</b>	
Number of education publications related to identity theft distributed to or accessed electronically by consumers. (numbers in millions)	
YEAR	ACTUAL
2003	3.0
2004	3.7
2005	3.7
2006	9.4 Target: 3.3
<b>Performance Measure 1.3.3</b>	
Number of Spanish-language education publications distributed to or accessed electronically by consumers. (numbers in thousands)	
YEAR	ACTUAL
2003	458
2004	737
2005	1,157
2006	2,400 Target: 550

The measure of the number of publications distributed by the FTC indicates its impact in educating consumers, although it does not fully capture the millions of FTC publications that are distributed to consumers by others. While the number of print publications the FTC distributed remained relatively static, the number of publications accessed through the Internet soared as more consumers and businesses go online. In 1996, the agency distributed only 140,000 publications online. During FY 2006, 43 million online publications were distributed. Use of the Internet to disseminate information about fraud and technology-related matters plays an integral role in the FTC's education, deterrence, and enforcement efforts, permitting the agency to reach vast numbers of consumers and businesses quickly, simply, and at low cost.

Going forward, the FTC will continue to focus consumer and business education efforts on subjects identified by its consumer complaint databases where information gaps cause the greatest injury, and that address the emerging issues of the day. The FTC will continue to use technology creatively, including new interactive media, to extend the reach of consumer and business education. The FTC will continue to work to identify and educate underserved consumer groups to help protect them from becoming victims of fraud. As another means to measure performance in this area, starting in FY 2007, the FTC will track the number of times print media publish articles that refer to the agency's consumer protection activities and circulation of the media that publish those articles each year.

## Key Outcomes for Goal 1: **Protect Consumers**

In FY 2006, the FTC took action on a wide variety of significant consumer protection matters that helped ensure that businesses and consumers alike reaped the full benefits of market innovation and informed choice. The key outcomes of the Consumer Protection goal, objectives, and strategies are described below.

**Data Security and Identity Theft.** The FTC has taken the lead to protect consumers from technology-driven threats to the security of their personal data, computers, and email inboxes. Concerns about data security and identity theft have intensified due in part to widespread media coverage of incidents of personal data theft. Identity theft tops the FTC's list of consumer complaints, accounting for 40 percent of the 616,000 complaints filed in fiscal year 2006. In recognition of the growing importance of these issues, the Consumer Protection Mission realigned in January 2006, creating a new Program of Privacy and Identity Protection to enforce relevant statutes and rules, develop policy, educate consumers and businesses, and analyze the impact of legislative initiatives. During fiscal year 2006, the FTC brought five cases against companies that failed to provide reasonable security for

sensitive customer data. In one case, the FTC reached a settlement with ChoicePoint, Inc., that required the defendants to pay a \$10 million civil penalty—the largest civil penalty in FTC history—and \$5 million in consumer redress for compromising the personal financial records of more than 163,000 consumers in its database. In addition to enforcement work, the FTC is a national leader on data security and identity theft policy and education. The FTC’s Chairman serves as Co-chair, and the Bureau of Consumer Protection Director serves as Deputy Executive Director, of the Identify Theft Task Force recently established by the President. In September 2006, the Task Force adopted interim recommendations on measures that can be implemented immediately to help address the problem of identity theft. The FTC also continues to educate consumers and businesses about steps to take to minimize the risk of identity theft and what can be done to mitigate injury if a problem occurs. In May 2006, the FTC launched a new nationwide education campaign, “AvoID Theft: Deter, Detect, Defend.” In fiscal year 2006, the agency has distributed 3.4million copies of its identity theft publications and logged 6.0 million hits to its identity theft Web site.



## INFORMING CONSUMERS

Hispanic consumers are a powerful economic force, and marketers are reaching out to them with products and services like never before. It’s important for Hispanic consumers to have access to the information they need to make well-informed decisions about how they spend their money, avoid scams and rip-offs, and protect their personal information. That’s why the FTC created *Read Up! How to be an Informed Consumer*, a comprehensive, bilingual guide for consumers. For more information, visit [www.ftc.gov/bcp/edu/microsites/reachout/index.html](http://www.ftc.gov/bcp/edu/microsites/reachout/index.html).

**Spam.** In December 2005, the FTC, U.S. Attorneys, the U.S. Postal Inspection Service, and three state Attorneys General announced a law enforcement initiative targeting eight spamming operations that cluttered consumers’ mailboxes with millions of illegal email messages. In March 2006, an Internet marketer was ordered to pay a \$900,000 civil penalty for violating the CAN-SPAM Act, the largest penalty yet for illegal spam. In April 2006, the FTC joined its foreign partners in calling for stepped up cross-border law enforcement cooperation and increased public/private sector cooperation to combat spam. In September 2006, the FTC brought a permanent halt to and obtained settlements in four illegal spamming operations. The FTC also issued a report to Congress, required by the CAN-SPAM Act, assessing the effectiveness of the Act. The report concluded that technological anti-spam advances have reduced the amount of spam reaching consumers’ in-boxes, and that law enforcement has had some deterrent effect on spammers.

**Spyware and Unauthorized Adware.** Spyware inflicts harm on consumers with increasing frequency. As a result, the Consumer Protection Mission has made spyware investigations and prosecutions a priority. In October 2005, the FTC asked a U.S. District Court to halt an operation in which the defendants used the lure of free software to secretly install spyware and adware that could not be uninstalled by the consumers whose computers it infected. The FTC obtained an order for over \$4 million against the primary defendants and separately settled with other defendants, who agreed to pay \$300,000 in disgorgement. In November 2005, an operation that used the lure of free lyric

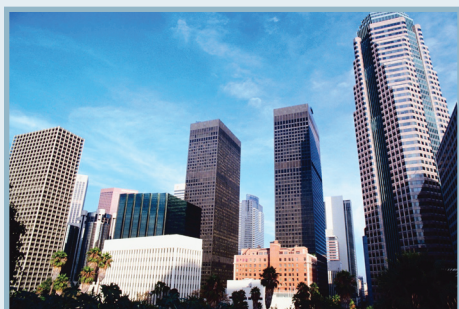


files, browser upgrades, and ring tones to download spyware and adware on consumers' computers was ordered to halt its illegal downloads. The court also halted the deceptive downloads of an affiliate who used unsuspecting bloggers to spread the malicious software by offering free background music. A September 2006 settlement in this matter requires the defendants to give up more than \$2 million of their ill-gotten gains and includes a suspended judgment of \$8.5 million. In a third matter, an operation that deceptively downloaded spyware onto unsuspecting consumers' computers, changing their settings and hijacking their search engines, a U.S. District Court ordered the operators to give up more than \$4 million in ill-gotten gains. Finally, the FTC obtained settlements against two operators that claimed to detect spyware, even when there was not any, and then sold consumers anti-spyware software that either did not work or did not work as advertised. The settlements require the defendants to give up a total of nearly \$2 million in ill-gotten gains.

**Business Opportunities and Work-at-Home Schemes.** The FTC brings law enforcement actions against fraudulent business opportunities under the FTC Act and the Franchise Rule. In November 2005, the FTC stopped a business opportunity scam in which two Internet-based companies allegedly misrepresented "Web broker" packages to unwary customers. In March 2006, defendants in another matter agreed to settle charges that they violated the FTC Act and the Franchise Rule by making false and deceptive promises to franchise purchasers who paid as much as \$8,000 in return for access to overstocked merchandise, expert training in the surplus goods industry, and substantial income. In May 2006, the FTC announced that a civil contempt judgment was entered against a defendant who violated a 2004 court order by continuing to deceptively market and sell envelope-stuffing, work-at-home opportunities to consumers. In addition, a complaint was filed against four individuals and three companies that operated the scheme with the defendant. In April 2006, the FTC proposed a rule to further enhance law enforcement efforts in the bogus business opportunities area.

**Credit and Financial Fraud.** The FTC enforces many of the nation's consumer credit statutes. In January 2006, the FTC settled its action against the founder of a large credit-counseling firm. The settlement shut down the corporate defendants, permanently banned an individual from the credit counseling business, and imposed a \$172 million suspended judgment. In addition, the individual defendant agreed to relinquish virtually all of his assets for consumer redress. The FTC will receive \$35 million for distribution to consumers, and any monies that the receiver obtains in excess of \$35 million will go to the founder's bankruptcy case. Also in January 2006, a consumer credit reporting

agency agreed to pay \$120,000 to settle FTC charges that it did not follow reasonable procedures to assure the accuracy of the information in the consumer reports it sold to mortgage companies. In May 2006, defendants in a credit foundation case agreed to settle FTC charges that they deceptively marketed themselves as a not-for-profit enterprise to entice financially distressed consumers to enroll in debt management plans, and then failed to deliver on promises of personalized credit counseling and dramatic and immediate interest rate reductions. Under the proposed settlements, the defendants will pay more than \$2.4 million in consumer redress, and are prohibited from making deceptive claims about credit counseling or debt management services.



#### FIGHTING CONSUMER FRAUD

The FTC, law enforcement officials, consumer groups, and Hispanic leaders met in Los Angeles to discuss new ways to fight fraud in the community. At the meeting, the FTC announced five law enforcement actions against scammers targeting Hispanic consumers. These actions involved a range of products and services, including advance-fee credit cards, at-home English-language and auto-mechanic training programs, a medical-discount plan, weight-loss products, music CDs, and credit-repair services. The FTC also released new consumer information about medical discount plans.

The Hispanic Law Enforcement and Outreach Forum was sponsored by the FTC, the U.S. Postal Inspection Service (USPIS), the U.S. Attorney's Office in Los Angeles, and the Department of Consumer Affairs for the County of Los Angeles. For more information, visit [www.ftc.gov/opa/2005/10/losangeles.htm](http://www.ftc.gov/opa/2005/10/losangeles.htm).

#### National Do Not Call Registry/Telemarketing Sales Rule.

The National Do Not Call (DNC) Registry has been an unqualified success, and has logged more than 130 million telephone numbers since its inception. Most entities covered by the DNC Rule comply, but for those who do not, tough enforcement is a high priority. During fiscal year 2006, the FTC received more than 1.15 million consumer complaints alleging DNC violations. In December 2005, the FTC announced its then-largest civil penalty in a consumer protection enforcement action—\$5.3 million to settle FTC charges that a satellite television firm and companies it hired to promote its programming violated the DNC provisions of the Telemarketing Sales Rule (TSR). In June 2006, in the FTC's first case to highlight the application of DNC provisions to corporate affiliates, a seller of discount drug cards and its telemarketer were ordered to pay \$300,000 and \$50,000, respectively, to settle charges that they violated the DNC provisions of the TSR. In January 2006, under a settlement reached by the FTC, a company and its CEO became the first service providers to pay a penalty for allegedly violating the "assisting and facilitating" provision of the TSR. The defendants allegedly received money from another company to help it evade compliance with the DNC provisions of the TSR by assisting it in organizing and operating as a sham nonprofit corporation. In May 2006, in the FTC's first case alleging transmission of false caller ID information, the agency sought civil penalties and an injunction against a nationwide telemarketer of mortgage loans for calling people whose numbers are listed on the Registry and doing so without identifying itself.

**Health Fraud.** The FTC is committed to protecting consumers from deceptive and unsubstantiated advertising, particularly health-related claims. In November 2005, FTC staff sent warning letters to 34 Web site operators that make claims that products advertised as natural alternatives to hormone replacement therapy could prevent or treat diseases. The letters, sent to Web sites identified in an FTC Internet surf, warned that any health-related claims must be supported by competent and reliable scientific evidence. In January 2006, one of the largest U.S. direct mail marketers of health-related products agreed to a ban





**GUARDING AGAINST IDENTITY THEFT**  
 To help combat identity theft, the FTC established a new division in its Bureau of Consumer Protection that is staffed with experts in privacy, data security, and identity theft. The Division focuses resources on cutting edge consumer privacy matters through aggressive law enforcement, as well as rulemaking, policy development, and outreach to consumers and businesses. The FTC serves a key role as the central repository for identity theft complaints, facilitates criminal law enforcement in detecting and prosecuting identity thieves, and provides extensive victim assistance and consumer education. For more information, visit [www.ftc.gov/bcp/edu/microsites/idtheft](http://www.ftc.gov/bcp/edu/microsites/idtheft).

from the direct response marketing of foods, unapproved drugs, and dietary supplements for making claims the FTC alleged were false and unsubstantiated and agreed to pay \$1 million and turn over assets worth \$3.5 million to settle the FTC's charges. In May 2006, major weight-loss marketers making questionable claims to peddle skin gels and diet supplements agreed to pay \$3 million to settle FTC charges that their deceptive claims violated federal law.

**Law Enforcement Sweeps.** The FTC continues to leverage its resources through partnerships with state and local law enforcers. During fiscal year 2006, the agency led two sweeps: one targeted individuals who personally sent spam to consumers, in violation of the CAN-SPAM Act; the other targeted violators of the Credit Repair Organizations Act. The FTC and its 12 partners brought 31 cases, including 6 FTC cases.

**Marketing of Media Violence to Children.** In March 2006, the FTC released the results of its nationwide undercover shop of electronic and video game stores. The FTC conducted the shop to collect data on the extent to which retailers prevent children from buying video games that have been rated by the Entertainment Software Rating Board (ESRB) as Mature. The FTC also announced a second comment period for an upcoming survey on awareness of and attitudes towards ESRB ratings. The makers of the popular Grand Theft Auto: San Andreas video game agreed to settle FTC charges that, in advertising the ESRB rating for the game, they failed to disclose information about potentially viewable sexually explicit images and a mini-game that consumers could view if they had access to particular codes that were widely available on the Internet.

Consumer and Business Education. Consumer and business education is a key component of the FTC's efforts to protect consumers. During fiscal year 2006, the FTC distributed 10 million print publications and logged 43 million hits to its online informational materials. In October 2005, the FTC issued tips on helping victims of the earthquake in South Asia, suggesting wise ways for consumers to give. In May 2006, the FTC debuted an enhanced Web site dedicated to oil and gasoline-related issues. Also in May 2006, the FTC offered an explanation of social networking sites and guidance for parents and children about how to use the sites safely. With millions of consumers planning summer vacations, the FTC launched a new online game, "Gear Up for a Great Trip," which provides tips for travel planning. The FTC also unveiled new sections of OnGuard Online, including an identity theft quiz and a section offering tips for Internet auction buyers and sellers. For the FTC's launch of the eighth annual National Consumer Protection Week, the agency unveiled the "Grand Scam Challenge," online, interactive games that teach consumers about topics such as identity theft, the National DNC Registry, and spam.

**Hispanic Law Enforcement and Outreach.** As the Hispanic market has grown, so has the opportunity for fraud targeting Hispanics. Detecting and preventing consumer fraud against Hispanics has been an important priority since launching our Hispanic Outreach and Law Enforcement Initiative in 2003. During fiscal year 2006, the FTC has held Hispanic Law and Outreach Forums in Los Angeles, Cleveland, Las Vegas, and New York to promote education and awareness of consumer fraud targeted at the Hispanic community and to develop law enforcement responses. To identify appropriate enforcement targets, staff review all forms of Spanish-language media and analyze Spanish-language complaints from Consumer Sentinel. In October 2005, the FTC announced five law enforcement actions against alleged scammers targeting Hispanic consumers, including the marketers of a weight-loss product and music CD collection, which will pay \$231,000 in consumer redress to settle FTC charges that they made deceptive claims in commercials shown on Spanish-language television stations. In November 2005, the FTC launched a new Spanish-language education campaign, *Alerta en Linea*, to help consumers stay safe online. At the New York forum in September 2006, the FTC announced three law enforcement actions and an Internet surf targeting Spanish-language fraud. Furthermore, the FTC distributes 125 Spanish-language publications.

**Criminal Liaison Unit.** The FTC, a civil law enforcement agency, also is committed to protecting consumers from the worst perpetrators of fraud by encouraging their prosecution by criminal law enforcement agencies. From April 2005 through May 2006, there were 59 separate criminal cases in which formal criminal litigation was either ongoing or initiated against 138 FTC defendants or their close associates, or where the FTC provided significant assistance to criminal authorities. In 29 of those cases, 42 defendants received sentences of incarceration or other criminal penalties.

**Consumer Protection Advocacy.** During fiscal year 2006, the FTC filed comments on a broad array of consumer protection-related subjects to various federal and state bodies. The variety of consumer protection issues that FTC advocacy addresses is demonstrated by the following examples:

- In June 2006, the FTC told a meeting of the Internet Corporation for Assigned Names and Numbers (ICANN) that access to the Whois databases (online information directories that contain contact information about Web site operators) is critical to the agency's consumer protection laws, to other law enforcement agencies around the world, and to consumers. The FTC delivered the same message in July 2006 to a House subcommittee, and in September 2006 to the Senate Committee on Commerce, Science, and Transportation.

- In April 2006, the FTC staff provided comments to the Food and Drug Administration in response to a request for public comment regarding its recently issued draft guidelines on labeling statements about the whole grain content of food products.
- In March 2006, the FTC staff sent a letter to a Hawaii State Senator in response to her request for the FTC's views on a bill that proposed to establish a Child Protection Registry and make it unlawful for a person to send a commercial message to any registered contact point if the message advertises products or services that a minor child is prohibited by law from purchasing, or if the message contains or advertises adult content.
- In January 2006, in response to a California Assembly member's request, the FTC staff commented on a bill to amend the California Confidentiality of Medical Information Act.

## Goal 2: Maintain Competition

### *Prevent Anticompetitive Mergers and Other Anticompetitive Business Practices in the Marketplace*

The other primary goal of the FTC is to protect and strengthen the free and open markets that are the cornerstone of a vibrant economy. Aggressive competition among sellers in an open marketplace gives consumers the benefit of lower prices, higher quality products and services, maximum choice, and innovation leading to beneficial new products and services. The FTC's goal is to promote vigorous competition by using the antitrust laws to prevent anticompetitive mergers and to stop business practices that diminish competition, such as agreements among competitors about prices or other aspects of competition (referred to as nonmerger enforcement). The agency applies three related objectives to achieve this broad-reaching goal:

- **Identify** anticompetitive mergers and practices that cause the greatest consumer injury.
- **Stop** anticompetitive mergers and practices through law enforcement.
- **Prevent** consumer injury through education.

First, the FTC staff identifies mergers and business practices that have resulted in or are likely to result in anticompetitive effects by conducting thorough factual investigations and applying economic analysis to distinguish between actions that threaten the operation of free markets and those that are benign or procompetitive. This step is critical because a merger or business practice may be either neutral, beneficial (by enabling sellers to be more efficient and pass those savings along to

consumers), or harmful (by enabling sellers to reduce the output of their product and/or raise the price to consumers). Thus, indiscriminate or ill-considered intervention in the marketplace may do more harm than good.

Second, once the FTC identifies a harmful or potentially harmful merger or business practice, it takes enforcement action under the antitrust laws to stop it, either through an administrative challenge or in federal court. In many instances, the agency is able to reach an agreement with the parties that remedies its competitive concerns and avoids litigation.

Third, the FTC seeks to prevent anticompetitive activity by educating businesses and consumers about the antitrust laws and its efforts to ensure competitive markets. Increased knowledge and understanding facilitate businesses' efforts to comply with the law. They also enable consumers to identify anticompetitive activity more readily and bring it to the FTC's attention for possible enforcement action.

## **Objective 2.1: Identify Anticompetitive Mergers and Practices That Cause the Greatest Consumer Injury**

The first step in preventing anticompetitive mergers and anticompetitive business conduct is determining which mergers and business practices are anticompetitive.

### ***Strategies***

The FTC seeks to identify anticompetitive mergers and practices with as much accuracy as possible. While certain business conduct (such as price fixing among competitors) is clearly anticompetitive, mergers and many other forms of business conduct can benefit, harm, or have no effect on consumers. Consequently, both under- and over-enforcement can harm consumers' interests. The agency seeks to take enforcement action against transactions or conduct that harms consumers, but at the same time, avoid taking enforcement action that prevents businesses from completing transactions or engaging in practices that fundamentally benefit consumers or would have no effect. The FTC also tries to accomplish the identification of enforcement targets as efficiently as possible so that it can devote the bulk of its resources to further investigation of, and possible challenge to, the most problematic mergers and practices. A related, but important, consideration is to conduct the inquiry in a way that minimizes the cost or inconvenience to businesses, while still enabling the agency to gather sufficient information to support its enforcement decisions.

The premerger notification requirements of the Hart-Scott-Rodino (HSR) Act provide the FTC with an effective starting point for identifying potentially anticompetitive mergers, acquisitions, and joint ventures (collectively referred to as mergers) before they are consummated.

The HSR Act requires companies to report certain proposed mergers to the FTC and the DOJ (which jointly enforce the HSR Act) and wait for a specified period (usually 30 days) to allow for antitrust review.

The FTC staff carefully examines each transaction reported under the HSR Act to determine whether it poses a threat to competition. The agency seeks to identify as many of the competitively harmless transactions as possible within the initial waiting period, both to conserve resources and to minimize the delay imposed on businesses. In most cases, the staff can make a reasonable judgment about whether a merger has the potential to be anticompetitive or not after an initial screening based on materials filed with the HSR Act notification. The agency may authorize a more extensive investigation of transactions that raise more difficult questions. Under the HSR Act, the agency may issue a formal request for additional information from the parties (a “second request”), which extends the initial waiting period. Given the typical scope and complexity of the issues, and the fact that the HSR statute permits only one request for additional information relating to a transaction, an investigation extended by the issuance of a second request almost always requires a significant investment of resources by both the agency and the parties.

Most transactions reported under the HSR Act raise no antitrust issues, and the antitrust agencies permit these to proceed. Together, the FTC and the DOJ Antitrust Division issued second requests in less than three percent of reported mergers in FY 2006. Moreover, the enforcement agencies frequently complete the initial screening in less time than the 30 days allowed under the HSR Act. In these instances, the government grants “early termination” of the HSR Act waiting periods, allowing transactions to go forward more quickly. Approximately two of every three filed transactions received early termination in FY 2006.

Despite filing thresholds that are now adjusted annually for inflation, and some decline in merger activity from the historic peak levels reached during the late 1990s, the FTC continued to face a demanding merger review workload in FY 2006. Steady economic growth, together with the increased pace of mergers experienced in FY 2005 and FY 2006, indicates that merger activity remains on the rise. In FY 2006 the agency received 1,860 HSR filings, which represents a 10 percent increase compared to the 1,695 received in FY 2005. Both the dollar value of transactions and the number of second requests issued increased by approximately the same percentage from FY 2005 to FY 2006.

While the major HSR Act amendments in 2001 reduced the number of mergers subject to the advance reporting requirement, they did not change the standard of legality for mergers. While the vast majority of potentially problematic mergers continue to be subject to the re-

vised HSR filing requirements, smaller merger transactions may still be anticompetitive. Consequently, the FTC continues to devote attention to the identification of unreported, usually consummated, mergers that could harm consumers. This effort involves monitoring the trade press, industry sources, and the Internet to stay informed of industry developments; following up on case leads from congressional offices, other Executive Branch agencies, and state and local governments; and encouraging consumers, businesses, and the bar to notify the FTC of possibly anticompetitive mergers.

In the nonmerger area, agency staff review complaints received from consumers, businesses, congressional offices, and elsewhere to identify potentially anticompetitive nonmerger business practices. In addition to responding to complaints, the FTC has pursued a “positive agenda” of planned initiatives; that is, the agency has taken a systematic and proactive approach to identifying specific conduct likely to pose the greatest threat to consumer welfare. Fundamentally, the focus continues to be on the types of practices, such as agreements among competitors, that are most likely to harm consumers. Other considerations include whether the relevant sector of the economy is one, such as health care or energy, that has a significant impact on consumers’ daily lives. Also, the agency considers the deterrent effects of antitrust enforcement on businesses, and whether the FTC has enforcement experience in an area that will enable the agency to make an impact quickly and efficiently. Finally, consideration is given to whether the matter presents an opportunity to contribute positively to the development of antitrust law.

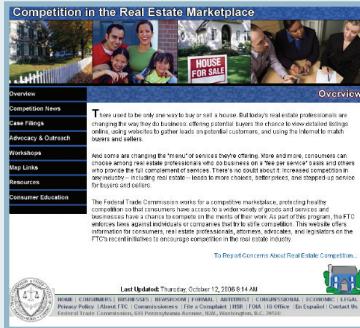
<b>Performance Measure 2.1.1</b>	
Percent of HSR requests resulting in enforcement action.	
YEAR	ACTUAL
2001	68%
2002	68%
2003	70%
2004	55%
2006	59% Target: 60-80%
<b>Performance Measure 2.1.3</b>	
Percent of nonmerger investigations which resulted in enforcement action.	
YEAR	ACTUAL
2004	63%
2005	63%
2006	40% Target: 60-80%

***Performance Measures and Results***

The target for both measures used for this objective is that between 60 and 80 percent of investigations result in enforcement action, where the universe consists of significant investigations that were completed during the fiscal year. A percentage below 60 percent may suggest that the FTC is targeting enforcement resources ineffectively by investigating too many competitively benign practices. A percentage higher than 80 percent may suggest that the agency is focusing too narrowly and thus potentially allowing problematic business practices to go forward without sufficient review.

The FTC took enforcement action in 13 of 22, or 59 percent, of the second request merger investigations concluded during fiscal year 2006. This figure is consistent with the results obtained in fiscal years 2001-2003 and represents an increase with respect to the fiscal years 2004-2005. The agency issued 28 second requests in FY 2006, compared to the 25 it issued in FY 2005. The stabilization in the trend is consistent with the number of reported mergers, and does not reflect a change in the standards governing when a second request is warranted.





**PROTECTING INNOVATION**

The FTC works for a competitive marketplace, protecting healthy competition so that consumers have access to a wider variety of goods and services at competitive prices and businesses have a chance to compete on the merits of their work. FTC has embarked on a number of initiatives to encourage competition in the real estate industry, among them a one-day workshop co-housed with the Department of Justice’s Antitrust Division. The workshop was prompted by the substantial changes in the real estate brokerage marketplace and consumers’ interest in a competitive real estate brokerage industry, the workshop covered such topics as new and innovative brokerage business models, multiple listing services, and the implications of state-imposed minimum-service requirements. For more information, visit [www.ftc.gov/bc/realestate/index.htm](http://www.ftc.gov/bc/realestate/index.htm).

To measure its success in identifying possibly illegal conduct (or nonmerger cases), the FTC uses a ratio similar to that used to measure the agency’s success in identifying anticompetitive mergers: the percentage of significant nonmerger investigations (i.e., those in which the Commission has authorized the use of compulsory process—its authority to compel the submission of information) that ultimately result in enforcement action. By the end of FY 2006, the FTC achieved a 40 percent result against the 60 to 80 percent target. This result, however, significantly understates the agency’s actual performance in nonmerger enforcement in several respects. First, the statistics for this measure do not include five matters in which the Commission accepted, in the first two weeks of FY 2007, consent orders subject to final approval. The agency’s performance would be 70 percent—within the 60 to 80 percent target—if the results were adjusted to reflect these five signed settlements. Second, agency staff has completed investigations in three additional matters in FY 2006 that are in the final stages of settlement negotiations; staff recommendations in those matters also are expected to reach the Commission in the near future. Third, the statistics do not include four consent agreements obtained in investigations where compulsory process authority was not needed. The agency anticipates that some portion of future nonmerger enforcement actions similarly may not require compulsory process authority. Therefore, in FY 2007, this performance measure will be replaced with one that more accurately reflects the FTC’s nonmerger enforcement efforts.

Success on these measures indicates that the FTC is effectively screening HSR-reported mergers and nonmerger investigations to identify those that raise significant antitrust issues and warrant further investigation and possible enforcement action. The performance measures for this objective were analyzed in the process of developing the FTC 2006-2011 Strategic Plan. New definitions of results and the addition of new measures for FY 2007 and beyond will help the agency better assess the success of its performance under this objective.

***Performance Assessment and Future Trends***

The issuance of a second request is a significant step in a merger investigation. Because the law permits only one second request, the FTC typically issues a very comprehensive request that calls for all relevant information on all possible issues in the investigation. Given the size of the parties involved and the necessarily broad scope of the inquiry, a response may consist of hundreds (or even thousands) of boxes of documents and as many electronic files. Gathering and examining this material involves a major resource commitment by the parties and by FTC attorneys and economists. The HSR Act prevents the parties from proceeding with the merger while this process is taking place. Consequently, a second request can sometimes result in significant delays in closing a transaction.



For all of these reasons, the FTC does not lightly issue a second request. In fact, it does as much as possible within the initial 30 day waiting period to determine which transactions pose no competitive threat, so that the truly benign mergers may proceed without the delay and expense of a second request. In FY 2006, for example, the FTC issued second requests in 1.5 percent of the mergers reported under the HSR Act. At the same time, it is far easier to remedy an anticompetitive merger before it is consummated—which was the underlying reason the HSR premerger notification regime was implemented—so the agency makes every effort to identify and scrutinize potentially harmful mergers during the HSR waiting period.

The FTC's first performance measure reflects the balance between these two considerations. If the staff uses the initial HSR waiting period effectively, the agency should be able to “clear” the great majority of reported transactions, permitting them to go forward without further delay or burden. The FTC also should be able to isolate for more intensive investigation those transactions that could be harmful. While the initial screening process should permit as many benign transactions as possible to pass through, the focus should not be so narrow that only those transactions in which an antitrust problem is relatively obvious are subject to further investigation, while other transactions that may be similarly harmful, but in more subtle ways, can proceed unchallenged.

## **Objective 2.2: Stop Anticompetitive Mergers and Practices Through Law Enforcement**

Law enforcement represents the most direct method by which the FTC pursues its goal of stopping mergers and business practices that significantly threaten competition and harm consumers. In both merger and nonmerger enforcement, the FTC focuses primarily on transactions or practices most likely to harm consumers, that is, mergers of firms competing in the same market or markets, and agreements among direct competitors. Other activities, such as unilateral action by a single firm, or a merger or agreement involving a supplier and customers or between a firm and a potential competitor, also may threaten competition and therefore are subject to FTC scrutiny.

Since the FTC and DOJ jointly enforce the HSR Act, the FTC directs much of its attention and resources to certain segments of the economy that are particularly important to consumers and in which it has particular expertise. These include energy and natural resources, food, health care, consumer goods and services, pharmaceuticals, and technology.

### ***Strategies***

To stop potentially anticompetitive mergers and practices through law enforcement, the FTC seeks legal remedies under the antitrust laws,

through federal court action, administrative proceedings, or negotiated settlements. For mergers, the preferred—that is, the most effective and cost-efficient—strategy is to prevent anticompetitive mergers before they occur. The agency implements this strategy primarily through its authority to seek a federal court injunction preventing the transaction. In many cases, the merging parties elect not to defend a court challenge and instead agree to resolve competitive concerns through a consent agreement. This approach is suitable when the competitive problem relates to only a portion of the transaction, such that a divestiture of assets will be sufficient to preserve or restore competition while allowing other competitively neutral or beneficial aspects of the merger to go forward. In other instances, the parties may abandon a transaction after assessing the likely outcome of an FTC court challenge. When a merger already has been consummated, the FTC generally relies on administrative litigation to restore competition lost as a result of the merger.

In nonmerger matters, the FTC seeks to stop ongoing activity that harms competition. The Commission may initiate administrative proceedings before an Administrative Law Judge to adjudicate the issues and establish a basis for an order that the parties to the proceeding “cease and desist” the conduct. The FTC also has authority to seek relief in federal courts, though it historically has used this option sparingly in nonmerger matters. Again, the agency often is able to negotiate a consent agreement with the parties that remedies the problem without need for litigation.

In both merger and nonmerger matters, thorough investigation, as well as sophisticated legal and economic analysis, is of critical importance to ensuring accurate assessment of the potential for competitive harm resulting from the transaction or conduct in question and, if necessary, demonstrating the likelihood of harm before an adjudicative body. When the FTC concludes that the likelihood of such harm indicates a law violation, and no settlement is possible, the Commission authorizes its staff to litigate the matter.

Economic theory and evidence demonstrate that competition results in lower prices, better quality, and more innovation in markets. Because successful enforcement of the antitrust laws protects competition and therefore promotes these consumer benefits, it is important that the FTC succeed when it challenges anticompetitive mergers and practices. Even if the agency successfully identifies an anticompetitive merger or practice, consumers derive no benefit unless the FTC obtains a positive outcome—that is, appropriate relief, through either settlement or successful litigation.

The frequency with which the agency obtains positive outcomes is an important indicator of its success in producing tangible benefits for consumers. Positive results include the parties' abandonment of an anticompetitive transaction after antitrust concerns are identified, an administrative consent agreement to resolve antitrust concerns, or a successful challenge in court. A negative result occurs when parties refuse to settle antitrust concerns raised by the agency, and court action fails to achieve the agency's objectives. This is not to say that the FTC, or any law enforcement agency, should win every case. Some cases involve very close questions, on which reasonable minds can and do differ. Other cases may be very difficult from a litigation standpoint, but are still worth pursuing. All of the FTC's antitrust challenges are defended by highly competent and well-financed counsel.

In addition, the FTC's responsibilities include taking action to help shape the development of the antitrust laws. To fulfill this duty, the agency inevitably must bring cases that pose litigation risks—especially where there is no clear precedent and the FTC is seeking to establish a new legal principle. The FTC also helps consumers by bringing cases to clarify, or improve upon, existing precedent.

The Commission issues complaints when, based on the findings of staff investigations, the Commission has "reason to believe" the merger or conduct is anticompetitive. The agency's complaints are also founded on sound policy considerations. However, the ultimate outcomes depend on legal determinations often made by courts following appeal of Commission decisions, as well as development of a full factual record. The FTC's mission includes bringing cases that highlight difficult issues and seeking to persuade the courts of the merit of its views on what the law should be. Bringing cases that test the boundaries of the law is an important part of the FTC's responsibilities, even though the results are far from certain. The target for this performance measure reflects the reality that, even when the agency brings a meritorious case and litigates it well, success is not assured. In addition, setting the standard too high could be detrimental if the effect were to deter the agency from bringing important, but risky, cases.

### *Performance Measures and Results*

The FTC's 2006 target was to obtain a positive result in at least 80 percent of the matters in which it determined that a merger or a course of conduct was anticompetitive. The agency exceeded its target in FY 2006 achieving relief through litigation, reaching a successful settlement agreement, or persuading parties not to proceed with an anticompetitive acquisition in 22 of 22 or 100 percent of enforcement matters brought to conclusion during the fiscal year.

<b>Performance Measure 2.2.1</b>	
Percentage of positive outcomes when the FTC challenges anticompetitive mergers and practices.	
YEAR	ACTUAL
2001	94%
2002	100%
2003	100%
2004	100%
2005	95%
2006	100% Target: 80%
<b>Performance Measure 2.2.3</b>	
Dollar volume of commerce in markets in which the FTC took successful action to protect competition from anticompetitive mergers. (numbers in billions)	
YEAR	ACTUAL
2004	\$ 8.5
2005	\$ 61.8
2006	\$ 13.4 Target: \$ 40.0
<b>Performance Measure 2.2.5</b>	
Dollar volume in markets in which the FTC took successful action to protect competition from anticompetitive conduct. (numbers in billions)	
YEAR	ACTUAL
2004	\$ 2.6
2005	\$ 19.4
2006	\$ 1.4 Target: \$ 20.0



**MAINTAINING A COMPETITIVE MARKETPLACE**

The FTC maintains competition in the petroleum industry to protect consumers from anticompetitive conduct and unfair or deceptive acts or practices in the industry. FTC created a Web site that describes FTC's oversight of the petroleum industry and features reports and economic working papers, Congressional testimony, advocacy work, conference proceedings, and studies. The site features RSS news and information feeds to provide users with updates and information on new initiatives. For more information, visit [www.ftc.gov/ftc/oilgas/index.html](http://www.ftc.gov/ftc/oilgas/index.html).

For both merger and nonmerger enforcement, the agency measures the volume of commerce in markets in which it takes successful enforcement action as an indicator of the scope of the FTC's antitrust enforcement activities. As noted in the FTC's 2003-2008 Strategic Plan, external factors, such as level of merger activity, may cause the results to fluctuate significantly from year to year. Consequently, the two volume-of-commerce targets are each expressed in terms of an aggregate target for the five-year strategic plan period, rather than as yearly targets.

The five-year target for the volume of commerce in markets benefitting from FTC merger enforcement action is \$200 billion, or \$40 billion per year. In FY 2006, the FTC's merger enforcement actions affected markets in which the total volume of commerce was \$13.4 billion; over the first three fiscal years of the five year plan (2004 through 2006) the total volume of commerce in affected markets has been approximately \$84.2 billion, or approximately 70 percent of the three-year target.

The five-year target for the volume of commerce in markets benefitting from FTC nonmerger enforcement action is \$100 billion, or \$20 billion per year. In the course of FY 2006, the FTC's nonmerger enforcement actions affected markets in which the total volume of commerce was \$1.4 billion. This measure has fluctuated greatly, going from \$2.6 billion in FY 2004 to \$19 billion in FY 2005 and back down to \$1.4 billion for FY 2006. During the first three years that this measure has been in place, the overall volume-of-commerce for nonmerger enforcement actions has thus been approximately \$23.3 billion or 39 percent of the three-year target.

These measures evaluate agency performance in two ways: the percentage of merger enforcement actions that have successful outcomes, and the volume of commerce affected (benefitted) by merger and nonmerger enforcement action. The use of a volume of sales performance measure does not mean that the FTC will only investigate and take enforcement action in markets with large sales volumes. The FTC investigates and takes enforcement action as necessary in all markets where considerable consumer harm is likely. These measures help guide the agency in challenging conduct that causes substantial consumer injury through targeting of its resources effectively and efficiently. These measures evaluate appropriate case selection and resolution, whether through litigation or settlement, as well as the crafting of sufficient and effective remedies.

***Performance Assessment and Future Trends***

The high success rate of positive outcomes in actions initiated by the FTC helps deter anticompetitive behavior. Parties who agree to cease and desist orders, or who abandon mergers about which the agency has expressed concern, do so in recognition of both the FTC's policy expertise and its ability to successfully litigate contested matters. If

the agency were perceived to be less successful in obtaining the relief it deems necessary on behalf of consumers, more parties would resist rather than settling FTC charges. The agency does not, however, expect to achieve 100 percent success each year. The 80 percent target for this performance measure recognizes that the agency occasionally must pursue extremely difficult and risky cases. Litigation is one of the most effective ways for the agency to influence the development of competition law and policy, which is a critical goal of the agency's maintaining competition mission.

The results on the two volume-of-commerce measures illustrate why the agency expressed its targets in terms of five-year amounts. Indeed, the trends exhibited over the last five fiscal years indicate that year to year the size of individual FTC cases varies widely, and a small number of large matters can have a significant impact on these measures. Also, although the volume of commerce directly covered by an FTC enforcement action may be low, an FTC enforcement action can have a deterrent effect on a larger volume of commerce, even in unrelated industries. Any FTC enforcement action helps to educate the business community as a whole about what types of conduct are likely to be viewed by the FTC as anticompetitive, and thus to prevent such conduct.

Based on recent experience and analyses of the measures, the targets for the volume-of-commerce measures have been lowered in the new FTC 2006-2011 Strategic Plan. The merger target being used in this current year was set at a time when merger filings were near a peak. Over the past three years, merger filings have stabilized, so new targets have been set that more accurately reflect the filings. The nonmerger cases were also analyzed and the target adjusted for FY 2007 and beyond. Additional measures were added to more accurately assess the assessment of the FTC's performance in this very important area.

### **Objective 2.3: Prevent Consumer Injury Through Education**

In addition to its law enforcement activity, the FTC provides substantial information to the business community and consumers about the role of the antitrust laws and businesses' obligations under those laws.

#### ***Strategies***

The FTC uses education and outreach to help prevent consumer injury, increase business compliance, and augment its law enforcement efforts. The agency pursues this strategy through guidance to the business community; outreach efforts to federal, state, and local agencies, business groups, and consumers; development and publication of antitrust guidelines, policy statements, and reports; and speeches and testimony. By using these mechanisms to signal its enforcement policies and priorities, the FTC deters would-be violators of the antitrust laws.



FTC law enforcement efforts also are made more effective by public awareness of what types of conduct are likely to be challenged as law violations. The FTC seeks to make its law enforcement presence visible and its enforcement policies transparent in order to serve its objectives through deterrence. Each successful enforcement action not only promotes competition in one or more relevant markets, but also serves to communicate to the business and legal communities that the FTC can and will move successfully to challenge similar transactions or conduct in the future. The agency explains the relevant facts and issues of cases in which it obtains a consent agreement in press releases and in published “Analyses To Aid Public Comment” so the nature of the problem is clear. Through press releases about FTC actions and publication of related materials on the agency Web site, [www.ftc.gov](http://www.ftc.gov), the public facts underlying FTC actions provide bases for companies to evaluate the likelihood that other transactions likely would face challenge.



**HELPING TO CONTAIN HEALTH CARE COSTS**

Competition in health care markets benefits consumers because it helps contain costs, improve quality, and encourage innovation. The FTC’s job as a law enforcer is to stop firms from engaging in anticompetitive conduct that harms consumers. FTC also provides guidance to market participants—including physicians and other health professionals, hospitals and other institutional providers, pharmaceutical companies and other sellers of health care products, and insurers—to help them comply with the nation’s antitrust laws. For more information, visit [www.ftc.gov/bc/healthcare/index.htm](http://www.ftc.gov/bc/healthcare/index.htm).

In FY 2006, the FTC jointly issued with the DOJ a Commentary on the Horizontal Merger Guidelines. The Guidelines set forth the analytical framework and standards that the antitrust agencies use to assess whether an anticompetitive outcome is likely. The Commentary explains how the agencies have applied particular Guidelines provisions and provides short summaries of matters that the agencies have investigated.

At the close of FY 2006, seven administrative proceedings were continuing in various phases of adjudication or appeal, signifying continuation of heavy litigation demands on the agency. Each of these cases may provide (or has provided) an opportunity for the FTC to set out in detail its analysis of important legal issues, and to have that analyses tested in the federal courts. Understanding fully the types of transactions or conduct the FTC is likely to challenge, and the reasons for the agency’s actions, greatly facilitates antitrust lawyers’ counseling of their clients and prevents many anticompetitive mergers from being proposed or anticompetitive practices from being implemented.

In addition, the FTC educates the public through guidelines; congressional or other type of testimony (such as testimony to the Antitrust Modernization Commission); conferences, hearings, and workshops (such as the hearings on Section 2 of the Sherman Act); advisory opinions (addressing issues such as a prescription drug benefit program); and reports (such as the report on the post-Hurricane Katrina gasoline price increases and the report on ethanol market concentration).

As a complement to FTC enforcement activity, the agency also advises, when asked, other federal and state government officials about the possible effect that various regulatory proposals may have on competition. By providing economic analysis and other informed guidance, the FTC can help policymakers better understand the impact of their decisions

in creating, maintaining, or forestalling competitive markets. The FTC has a long and distinguished history in this area. The FTC advocates market-based solutions through the publication of studies and reports, as well as participation in state and federal legislative and regulatory fora. The agency also participates as an amicus curiae (friend of the court) in judicial proceedings when substantial questions of antitrust law or competition policy are involved, especially when the FTC may add a different perspective to the deliberations because of its specialized knowledge or experience.

Performance Measure 2.3.2	
Measure and establish appropriate target for the number of hits on the FTC antitrust Web site. (numbers in millions)	
YEAR	ACTUAL
2004	11.0
2005	9.8
2006	10.6 Target: 10.0

### *Performance Measures and Results*

The FTC uses the number of times (hits) that members of the public visit antitrust-related content on the FTC’s Web site ([www.ftc.gov](http://www.ftc.gov)) as a good indicator of the quantity of information provided to the public, as well as its quality (because visitors will stay longer and return more often if the information is helpful). Based on a five month period in FY 2006, the FTC’s Web site recorded more than 10.6 million hits on antitrust-related content, exceeding its target of 10 million hits.

The result of this measure indicates a significant continued public interest in the FTC and its Maintaining Competition Mission. In addition, the broad and increasing distribution of educational and policy materials through electronic channels represents important leveraging of the agency’s resources. This measure also helps ensure that the agency engages in consumer, business, and international education that advances the culture of competition, which enhances consumer welfare.

### *Performance Assessment and Future Trends*

Use of the Internet to disseminate information about antitrust and other competition-related matters plays an integral role in the FTC’s education and deterrence efforts, permitting the agency to convey a wealth of information quickly, simply, and inexpensively to the business, legal, and regulatory communities, and to consumers. The performance measure is an indicator of the FTC’s effectiveness because it measures outcome based on the agency’s constituencies’ assessment of the usefulness of the agency’s published materials. That is, the level of activity on the FTC’s antitrust Web site depends to a large degree on the scope, utility, and reliability of the information made available there. People will revisit the site to the extent that what they find there is of value. Matters that are of great importance to the public—as determined by the public—will draw a large number of visitors. But if the material presented is irrelevant, difficult to understand, or misleading, then interest in the site inevitably will diminish. Educating the legal and business communities about the applicable legal standards and enforcement policies helps to facilitate their compliance with the law, while educating the public in general, including policymakers, about the benefits of competition helps to ensure continued support for the agency’s efforts.



The FTC possesses a broad array of policy instruments that complement its enforcement authority and help to educate the public. Through the use of hearings, workshops, research projects, reports, studies, advocacy filings, and amicus briefs—all in coordination with its enforcement initiatives—the agency provides intellectual leadership on competition issues and offers valuable education to the public. From the beginning, the FTC was conceived to be more than just an enforcement agency. President Woodrow Wilson saw the FTC as “... an indispensable instrument of information and content publicity, as a clearing house for the facts by which both the public mind and the managers of great business undertakings shall be guided.”

Today’s FTC has fully integrated all of the agency’s various capabilities and applies them in a strategic and sensible way to accomplish its goals directly, and indirectly, by facilitating public understanding of policy and the agency’s objectives. The FTC remains strongly committed to the importance of education and outreach and will continue to place emphasis on these efforts and expand its activities in this area in the future.

With the growing importance of the Internet as a vital source of information in today’s society, the volume of traffic on the FTC’s Web site will continue to be a meaningful indicator of FTC success in educating the public at large, policy-makers, and the business and legal communities, and in stimulating public interest in the agency’s work. The agency will continue to seek ways to refine this important information to gain better understanding of the agency’s success in fulfilling this objective and to help assess how it might do so more effectively.

## Key Outcomes for Goal 2: Maintain Competition

In FY 2006, the FTC took action on a wide variety of significant maintaining competition matters to ensure that businesses and consumers alike would reap the full benefits of competition and innovation in the marketplace. The key outcomes of the Maintain Competition goal, objectives, and strategies are described below.

**Merger Guidelines Commentary.** The FTC, together with the DOJ, published a Commentary on the Horizontal Merger Guidelines aimed at providing transparency and guidance to the antitrust bar and business community on how the government actually has applied particular provisions of the Guidelines. Using short summaries of past investigations and numerous examples, the Commentary highlights the integrated approach using the Merger Guidelines analysis that the agencies apply in each case.

**Merger Process Improvements.** The FTC adopted and implemented significant merger process improvements to facilitate rapid identification of relevant issues, preparation of focused second requests, and the use of consistent investigation timetables that will lower the costs of merger investigations for the FTC and outside parties by reducing the volume of materials that parties must submit to respond to a “second request.” The reforms also permit the staff and the parties to identify more rapidly the relevant substantive issues and focus more quickly and effectively on the relevant documents and data. The FTC continues to seek and implement solutions for electronic production issues.

**Electronic Filing System.** The FTC, in cooperation with the DOJ, implemented an electronic filing system that allows merging parties to submit via the Internet premerger notification filings required by the Hart-Scott-Rodino (HSR) Act. This electronic filing system eases the burden of duplication and delivery for filing parties and enhances agency data entry of filing information.

**Administrative Litigation.** During FY 2006, the FTC has continued to pursue seven cases in administrative litigation that have reached various stages of adjudication and appeal. The administrative law judge issued an Initial Decision in *Evanston Northwestern Healthcare Corp.*, and the Commission heard oral arguments on this matter. In *Rambus Inc.*, the Commission issued a unanimous opinion holding that Rambus unlawfully monopolized certain markets for computer memory technology, and requesting further briefings on potential remedies. The Commission issued its decision affirming the administrative law judge’s ruling in *North Texas Specialty Physicians*, and the matter is on appeal before the Fifth Circuit Court of Appeals. A merger matter also is currently on appeal before the Fifth Circuit Court of Appeals: *Chicago Bridge and Iron Co. N.V.* The Sixth Circuit Court of Appeals recently affirmed the opinion of the Commission in *Kentucky Household Goods Carriers Association, Inc.*, finding that the Association’s ratemaking activities constituted unlawful price fixing and were not exempt from the antitrust laws under the state action doctrine. The Fourth Circuit Court of Appeals recently ruled on a motion from respondents in *South Carolina State Board of Dentistry*, adopting the FTC’s position that a denial of state action immunity is not immediately appealable. Finally, FTC staff submitted a petition for certiorari in *Schering-Plough Corp.*, which the Supreme Court denied.

**Merger Enforcement Actions.** During the 2006 fiscal year, the FTC brought sixteen merger enforcement challenges (nine consent agreements and seven withdrawn transactions after the second request was issued). This is approximately a 20 percent increase over the number of merger enforcement actions during the same period last year. These include the recent action taken against the consummated *Hologic/Fischer* merger and settlement agreement restoring competition in the market

for stereotactic prone breast biopsy systems; the challenge of *Linde AG's* proposed acquisition of *The BOC Group* and settlement agreement preserving competition in certain industrial gases; the consent order in the *Boston Scientific/Guidant* merger preserving competition for lifesaving vascular products; two consent orders restoring competition in the market for dialysis services—*Fresenius/Renal Care* and *DaVita/Gambro*; and the abandonment of a proposed acquisition of a refined petroleum products pipeline in the southwest.

**Merger Filings.** The number of reported transactions has continued to increase. Through the FY 2006, there was a ten percent increase in HSR filings over the same period last year. In addition, the FTC has issued 28 “second requests” in FY 2006.

**Nonmerger Actions and Litigation.** In FY 2006, the FTC brought six nonmerger enforcement actions. First, the FTC is actively litigating a complaint in federal district court seeking a permanent injunction to end an agreement between *Warner Chilcott* and *Barr Laboratories*. The FTC alleges the agreement eliminated generic competition for *Warner Chilcott's* oral contraceptive, *Ovcon*. Second, in March, the FTC alleged that *Valassis Communications* violated the antitrust laws by inviting its competitor for newspaper advertising and coupon inserts (in a public call with security analysts) to collude with *Valassis* and fix prices, thus raising prices for inserts. To settle these charges, *Valassis* entered into a consent order with the FTC that prohibits *Valassis* from inviting collusion from, or actually colluding with, its competitors. Third, in July, the FTC charged the *Austin Board of Realtors* with violating the antitrust laws by preventing discount brokers or agents from posting certain types of listings on public Internet Web sites used by consumers while shopping for homes. The prohibited Internet postings were for listings where the sellers had contracted with the agent for potentially lower-cost unbundled brokerage services. The FTC alleged that this rule would discourage agents from entering into these types of listing agreements and potentially increase prices to home sellers. The *Austin Board* settled these charges by agreeing not to adopt or enforce rules that treat one type of real estate listing agreement more advantageously than any other listing type. Finally, the FTC continued in FY 2006 to bring enforcement actions against competing physicians or dental service providers who agree with their competitors to fix the prices they charge for their medical services. This year, the FTC had three such cases, which were all settled with consent orders: *Health Care Alliance of Laredo*, *New Century Health Quality Alliance/Prime Care of Northeast Kansas*, and *Puerto Rico Endodontists*.

**Petroleum Reports and Advocacy.** In May 2006, the FTC issued a report, “*Investigation of Gasoline Price Manipulation and Post-Katrina Gasoline Price Increases.*” The Congressionally mandated investigation examined whether gasoline prices nationwide were “artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices” and further examined gasoline pricing by refiners, large wholesalers, and retailers in the aftermath of Hurricane Katrina. The FTC staff prepared the U.S. submission to the Organization for Economic Cooperation and Development on resale below-cost laws and regulations, which included discussions of laws covering below cost sales of gasoline. In addition, the FTC, along with the Departments of Justice and Energy, is currently conducting an inquiry requested by the President into current gasoline prices. Finally, the FTC continues to update and enhance its Oil and Gas Industry Initiatives Web site which provides consumers with important information on the petroleum industry ([www.ftc.gov/ftc/oilgas](http://www.ftc.gov/ftc/oilgas)).

**Ethanol Market Concentration Report.** As mandated by the Energy Policy Act of 2005, the FTC issued the “*Report on Ethanol Market Concentration.*” The report examined the current state of ethanol production in the United States and measured market concentration using capacity and production data. The study also considered the possible effect on market concentration of marketing agreements between ethanol producers and ethanol marketers.

**Hearings on Section 2 of the Sherman Antitrust Act.** The FTC and the DOJ initiated a series of hearings on how best to identify anti-competitive exclusionary conduct for purposes of antitrust enforcement under Section 2 of the Sherman Antitrust Act. The hearings will continue over the next several months.

**Real Estate Industry.** FTC staff is writing and coordinating with the DOJ on a report, “*Competition Policy and the Real Estate Industry,*” to be released in Fall 2006. The FTC and DOJ also sent a joint letter to Michigan officials urging them not to support minimum-service legislation, which would have required real estate brokers to provide certain services—including negotiation, assistance in closing, and advice on pricing—to consumers, regardless of whether they actually wanted such services. If enacted, the bill would have caused some home buyers and sellers to pay higher prices for real estate brokerage services. The bill was not enacted. In June 2006, the FTC and DOJ jointly filed comments opposing proposed legislation in New York that would, by definition, exclude non-attorneys from nearly all aspects of real estate transactions. Without a clear showing that non-attorney provision of such services has caused consumer harm, the agencies concluded, the proposed legislation is not in the best interest of consumers. The legislative session ended without any action taken on the bill. In July 2006, the FTC debuted its real estate competition Web page

([www.ftc.gov/bc/realestate](http://www.ftc.gov/bc/realestate)) that provides important consumer educational materials on competition in the industry.

**Amicus Briefs.** The Commission has achieved significant advances in antitrust law through the filing of *amicus curiae* briefs in conjunction with the Solicitor General, often in cooperation with the DOJ. In the past year, the Supreme Court has adopted the Commission's position in three major cases, clarifying important areas of antitrust laws, to the benefit of consumers and the American economy. In *Texaco, Inc. v. Dagher*, the FTC and DOJ urged the Court to reverse a ruling of the Ninth Circuit that had found decisions by two companies, about the pricing of products sold by a joint venture that they had established following FTC review, could amount to per se antitrust violations. The Supreme Court unanimously agreed, accepting the Commission's argument that such pricing decisions did not eliminate any competition that otherwise would have existed. In *Illinois Tool Works v. Independent Ink*, the U.S. Court of Appeals for the Federal Circuit had erroneously read older Supreme Court precedent as establishing that a patent-holder presumptively has market power by virtue of the patent. The FTC and DOJ filed an amicus brief urging the Supreme Court to reverse, arguing that there is no economic basis for inferring any amount of market power from the mere fact that the defendant holds a valid patent, copyright, trademark, or other intellectual property right. Again, the Court unanimously agreed. Finally, in *Volvo Trucks North America v. Reeder-Simco GMC, Inc.*, the Eighth Circuit Court of Appeals had held that a plaintiff dealer can establish price discrimination in violation of Section 2(a) of the Robinson-Patman Act even if it cannot show that the manufacturer discriminated between dealers competing to resell its product to the same retail customer. At the urging of the FTC and DOJ, the Supreme Court reversed. In each of these cases, the FTC argued against a rigid doctrinal rule that could actually chill efficient business conduct and thereby harm consumers, and urged the Supreme Court instead to adopt an approach that accounts for marketplace realities.

**Competition Advocacy.** Throughout fiscal year 2006, the FTC filed comments on a broad array of competition-related subjects to various federal and state bodies. The variety of competition issues that FTC advocacy addresses is demonstrated by the following examples.

- In May 2006, the FTC responded to a request for comments on a Louisiana bill, which would make clear that Louisiana law does not require individuals and firms that assist consumers in selling goods through online auction houses (e.g., eBay) to hold auctioneer or auction business licenses.

- In April 2006, the FTC staff sent a letter to a Florida State Senator in response to her request for staff's views on a bill that would allow the direct shipment of wine to Florida consumers from wineries either inside or outside the state, provided certain requirements are met.
- In March 2006, FTC staff submitted a comment to the Federal Communications Commission supporting modifications proposed by FCC staff to prevent tacit collusion during the bidding process for advanced wireless services licenses.





## FINANCIAL SECTION AND NOTES

### Message from the Chief Financial Officer



**Steven A. Fisher**  
Chief Financial Officer

I am pleased to present the financial section of the FTC's Performance and Accountability Report for FY 2006. As guardians of fair trade, accountability is part of our culture, as evidenced by the Office of Inspector General's (OIG) unqualified opinion on the FTC's consolidated financial statements for the tenth consecutive year. Additionally, both the OIG audit and management's assessment of internal controls (required by the Federal Manager's Financial Integrity Act) revealed there were no material weaknesses or reportable conditions. The accompanying financial statements and related notes fairly present the FTC's financial position and were prepared in conformity with accounting principles generally accepted in the United States of America, and the Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements.

From a financial management perspective, FY 2006 was a rewarding year for FTC. Some of our noteworthy accomplishments included the following:

- Implemented an agency-wide "end-to-end" travel management system, in support of the government-wide e-Gov Travel Services (eTS) initiative. The GSA-approved system enables travelers to obtain requisite authorizations, research and book travel plans, submit travel claims, and receive reimbursement electronically, all in a single integrated system.
- Paid 98 percent of vendor payments in a timely manner (as defined by the Prompt Payment Act).
- Rated "green" by the Department of Treasury Financial Management Service on the accuracy and timeliness of our financial reporting practices involving Fund Balance with Treasury transactions.
- Strengthened our internal control program by formally establishing a senior assessment team (as recommended by OMB Circular A-123) and developing internal guidance for use by agency managers in assessing risk and reviewing and enhancing management controls.

- Partnered with senior program managers in updating the agency's strategic plan for FY 2006-2011, incorporating new objectives and related performance measures.
- Substantially exceeded the goal (set by P.L. 108-183) to allocate a minimum of three percent of total contract dollars to companies owned and controlled by service-disabled veterans.
- Embarked on modernizing our business systems.

Our current core financial management system is hosted by the Department of Interior's National Business Center (NBC). In partnership with NBC, the FTC also maintains interfaces with legacy feeder systems including acquisition and other modules. Although our current financial management system (FMS) is substantially compliant with the FFMA of 1996, there are opportunities to leverage advancements in technology for improving the integration, accessibility, and real-time nature of financial information required by program managers. To this extent, FTC is working towards improving the integration and data sharing among the various components of our FMS.

The Federal Trade Commission recognizes the importance of public disclosure and accountability. This report demonstrates our commitment to fulfill the FTC's fiduciary responsibilities to American taxpayers.



Steven A. Fisher  
Chief Financial Officer



Office of Inspector General

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

Chairman Majoras:

The Office of Inspector General has audited the Federal Trade Commission's (the Commission) Balance Sheets as of September 30, 2005 and 2006, and the related Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources, Statements of Financing, and Statements of Custodial Activity for the years then ended, and has considered internal control over financial reporting and the FTC's compliance with laws and regulations.

***Responsibilities and Methodology***

Management has the responsibility to:

- prepare the financial statements in conformity with generally accepted accounting principles described in Note 1 to the financial statements;
- establish and maintain an effective internal control over financial reporting; and
- comply with applicable laws and regulations.

Our responsibility is to express an opinion on these financial statements based on our audit. Generally accepted auditing standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misrepresentation and presented fairly in accordance with the generally accepted accounting principles. We performed tests of controls in order to determine our auditing procedures for expressing our opinion on these financial statements and not to provide an opinion on the internal control over financial reporting. We are also responsible for testing compliance with selected provisions of applicable laws and regulations that may materially affect the financial statements.

In order to fulfill these responsibilities, we

- obtained an understanding of the design of relevant internal controls and determined whether they had been placed in operation;
- assessed control risk;

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the financial statements;
- tested compliance with selected provisions of the laws and regulations that may materially affect the financial statements; and
- performed other procedures that we considered necessary in the circumstances.

#### *Opinion on Financial Statements*

In our opinion, the financial statements referred to above, including the notes thereto, present fairly, in all material respects, the Commission's assets, liabilities and net position as of September 30, 2006 and 2005, and the net costs and changes in net position, its budgetary resources, financing and custodial activities for the years then ended, in conformity with accounting principles generally accepted in the United States.

#### *Other Accompanying Information*

Our audits were conducted for the purpose of forming an opinion on the FY 2006 and 2005 principal financial statements of the Commission taken as a whole. The information discussed below is presented for purposes of additional analysis and is not a required part of the principal financial statements.

- The information in the Required Supplementary Information section has been subjected to the auditing procedures applied in the audit of the Commission's principal financial statements and, in our opinion, is fairly stated in all material respects in relation to the principal financial statements taken as a whole.
- The information in the Management Discussion and Analysis and Program Performance sections of the Commission's annual financial statements is supplementary information required by the Federal Accounting Standards Advisory Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it. This information is addressed in our assessment of internal control discussed below.



### ***Opinion on Internal Control***

In planning and performing our audits, we considered the Federal Trade Commission's internal control over financial reporting by obtaining an understanding of the Commission's internal control. We then determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 06-03, "*Audit Requirements for Federal Financial Statements*". We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. Because the objective of our audit was not to provide assurance on internal control, we do not provide an opinion on internal control.

With respect to internal control related to performance measures reported in the Management Discussion and Analysis and Program Performance sections, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 06-03. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

### ***Reportable Conditions***

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Commission's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the specific internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered material weaknesses as defined above.

We noted certain other matters involving the internal control over financial reporting that we have reported to the Commission's management in a separate letter (Management Letter AR 07-001A).

### *Compliance with Laws and Regulations*

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatements, we performed tests of the Commission's compliance with certain provisions of law and regulation, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. We also tested compliance with certain other laws and regulations specified in OMB Bulletin No. 06-03, including the requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the Commission. However, the objective of our audit of these financial statements, including our tests of compliance with selected provisions of applicable law and regulation, was not to provide an opinion on overall compliance with such laws and regulations. Accordingly, we do not express such an opinion.

Material instances of noncompliance are failures to follow requirements, or violations of prohibitions contained in statutes and regulations, that cause us to conclude that the aggregation of the misstatements resulting from those failures or violations is material to the statement of financial position referred to above.

The results of our test of compliance disclosed no instances of noncompliance with laws and regulations that are required to be reported under Government Auditing Standards or OMB Bulletin No. 06-03.

Under FFMIA, we are required to report whether the agency's financial management systems substantially comply with the Federal financial management systems requirements, Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA Section 803(a) requirements.

The results of our tests disclosed no instances in which the agency's financial management systems did not substantially comply with the three requirements discussed in the preceding paragraph.

With respect to items not tested, nothing came to our attention to cause us to believe the Commission had not complied, in all respects, with those provisions.

Our audits were conducted in accordance with auditing standards generally accepted in the United States; *Government Auditing Standards*, as issued by the Comptroller General of the United States; and OMB Bulletin No. 06-03. We believe that our audits provide a reasonable basis for our opinion.

While this report is intended solely for the information and use of the Federal Trade Commission, the Office of Management and Budget and the Congress, it is also a matter of public record, and its distribution is, therefore, not restricted.

Washington, D.C.  
November 13, 2006



Inspector General  
Federal Trade Commission






Office of Inspector General

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

October 25, 2006

**MEMORANDUM**

TO: Deborah Majoras  
Chairman

FROM:   
Howard L. Sribnick  
Inspector General

SUBJECT: FY2006 FTC Management Challenges

The Federal Trade Commission is required to submit a Performance and Accountability Report (PAR) to the Office of Management and Budget in November 2006. The PAR contains a number of sections that address issues ranging from performance to financial management. The financial management section requires that the Inspector General provide the Agency head with a summary of the management and performance challenges facing the Agency and a brief assessment of the agency's progress in addressing those challenges. This summary is included in the FTC's submission of the PAR.

OIG comments on management challenges are limited to those areas where the office has performed audit work. Consequently, this summary does not address all possible vulnerabilities and/or management challenges.

After careful analysis, it is my assessment that the areas of information technology security, redress administration, and the protection of personally identifiable information represent important management and performance challenges for the FTC. The rationale for this assessment is outlined in the attached document.

The Office of Inspector General has enjoyed strong support from Agency management and looks forward to working with you as we address matters of mutual concern. We also welcome any comments or reactions to our assessment.

Attachment

**Office of Inspector General  
Top Management Challenges at the Federal Trade Commission**

**Management Challenge: Safeguarding personally identifiable information**

Agency Progress in Addressing the Challenge: Safety and security of personally identifiable information (PII) is an important component the Federal Trade Commission's (FTC) responsibility. Computer technology has made it possible for detailed personal information to be easily compiled and shared. Over the past year, FTC has taken significant action to assure that PII collected and stored electronically is protected, including measures to protect PII stored on portable equipment. As the amount of PII collected, used and shared by the agency inevitably increases, the FTC must continue to take precautions to protect PII.

The Challenge Ahead: All FTC managers must focus on the challenge of safeguarding the private, sensitive information in their care. The FTC managers must continue to take aggressive measures to control the collection, use and transmission of PII.

**Management Challenge: Securing the agency's critical systems and networks from destruction, data loss, or compromise**

Agency Progress in Addressing the Challenge: Information security has been an ongoing challenge at most Federal agencies, including the FTC. Some weaknesses identified in past security reviews included untested or inadequate system security plans, systems placed into production before accreditation by FTC's Office of Information and Technology Management (ITM), and failure to adhere to NIST standards in the certification and accreditation of major applications.

ITM continues to make progress in developing a mature information security program and has implemented or addressed OIG- identified security vulnerabilities discussed in previous security reviews. For example ITM:

- Certified and accredited CommentWorks<sup>SM</sup>
- Conducted risk assessments, security plans, and security control reviews for an Internet Lab and the Litigation Support Lab
- Added 64 new weaknesses to the plan of action and milestones (POA&M) from a variety of information technology security reviews, while successfully taking corrective action on 45 existing weaknesses
- Made additional progress in developing an effective disaster recovery plan by developing a Continuity of Government kit that contains all the software and documentation ITM needs to reconstruct information technology operations
- Took steps to secure FTC's Private Automatic Branch Exchange (PBX) Voice Over Internet Protocol (VOIP) system
- Implemented controls that restrict access to FTC's share drives



The Challenge Ahead: While taking steps to safeguard systems and information, it is sometimes easy to overlook basic security controls, such as changing default passwords, limiting employees' access to systems and data needed to perform their job responsibilities and ensuring that background checks for employees with access to the agency's most sensitive systems are performed and updated regularly. The challenge for FTC managers is to remain focused on basic security controls as they strive to stay one step ahead of new, highly sophisticated security threats.

**Management Challenge: Assure effective control and administration of the IT Security Program as "ownership" of IT systems is vested in management components.**

Agency Progress in Addressing the Challenge: OIG has been advised that the agency intends to vest "ownership" of IT systems in its management components. As the ownership of IT systems is vested in various Offices and Bureaus in the FTC, protecting the IT infrastructure from being misused or compromised must be assured. This will involve a coordinated effort involving the Office of Information and Technology Management (ITM), senior FTC information security officer, authorizing officials, information system owners/program managers, and information system security officers.

The Challenge Ahead: The senior information security officer, acting on behalf of the Office of Information and Technology Management, should coordinate with organizational officials responsible for the development and implementation of the designated common security controls to ensure that the required controls are put into place, the controls are assessed, and the assessment results are shared with the appropriate information system owners. ITM should continue to set and enforce IT security policy for the FTC.

**Management Challenge: Increased oversight of redress distribution by contractors**

Agency Progress in Addressing the Challenge: As a deterrent to fraud by contractor employees, the RAO performs tests of select distributions to tie cancelled checks back to original claimant lists. Since contractor staff does not know which distributions will be selected, or the number of checks selected for audit, this practice serves as a deterrent to fraud.

The current testing procedure works as follows. RAO obtains all cancelled checks from redress contractors on selected distributions. RAO then pulls 10 checks from the universe of all checks issued to tie back to the claimant list. By increasing the sample size, and using computer assisted audit techniques, RAO could significantly improve the likelihood of uncovering fraud.

The Challenge Ahead: RAO should increase the sample size of tests of redress distributions. RAO should start using automated audit tools in its oversight of redress contractors. Data extraction and analysis software could be used to compare original claimant lists to positive pay records submitted to banks. Some tools, such as IDEA software by CaseWare International, Inc., can examine 1.4 million records in four seconds, once the data is imported into the software. Records can be compared to identify checks issued to people not on approved claimant lists maintained by RAO. Bank disbursements records could also be imported as an additional crosscheck.

**Management Challenge: Improve oversight of receiver activities and due diligence in the recommendation of receiver candidates.**

Agency Progress in Addressing the Challenge: Court appointed receivers are legally obligated to report to the court regarding their performance of their fiduciary obligations. Past experience demonstrates that the FTC cannot rely on most courts to oversee the activities of receivers and detect wrongdoing. In addition, staff attorneys are not fully aware of the past performance of receiver candidates. Thus, in one instance, FTC attorneys continued to recommend an individual to serve as a receiver because they were unaware that the receiver had failed to provide required reports in other cases. In another case, a receiver was recommended who had been found by a court to have violated his fiduciary duties in the past. FTC staff maintains some contact with receivers regarding the progress of receiverships, especially as it pertains to consumer redress. However, the FTC's authority to oversee receiver performance after appointment by the court is limited. Despite the agency's limited authority to police receiver's activities, there may be practical measures to assist the agency in ensuring receiver integrity and accountability. These measures derive from the fact that the FTC is called upon to recommend potential receiver candidates to the court, and the agency's authority to recommend that the court not authorize fees based on receiver performance.

The Challenge Ahead: When applying to be considered for recommendation to be a receiver the applicant should be required to identify any instance in which they were found to have failed to perform the fiduciary obligations required of a receiver.

RAO should serve as a central repository for information on the qualifications and past performance of receiver candidates. This information should be readily available to staff attorneys who are selecting potential receiver candidates to recommend to the court. RAO should also assist staff in reviewing receiver qualifications and past performance.

FTC attorneys should communicate to receiver candidates that the FTC takes seriously the integrity of the receiver's performance and will review all receiver reports filed with the court. The FTC should also ask that the court include a requirement for periodic reporting as part of the order appointing a receiver. Such requirements will make receiver candidates aware that the FTC will monitor their activities and will act to protect consumers' interests.

## FEDERAL TRADE COMMISSION

**BALANCE SHEETS**

As of September 30, 2006 and 2005

(Dollars in thousands)

	<u>2006</u>	<u>2005</u>
Assets (Note 2)		
Intragovernmental:		
Fund balance with Treasury (Note 3)	\$ 70,139	\$ 78,213
Accounts receivable (Note 5)	55	87
Total intragovernmental	<u>70,194</u>	<u>78,300</u>
Cash and other monetary assets (Note 4)	100,548	81,468
Accounts receivable (Note 5)	136,968	84,355
General property, plant and equipment, net (Note 6)	<u>14,400</u>	<u>15,096</u>
Total assets	<u>\$ 322,110</u>	<u>\$ 259,219</u>
Liabilities:		
Intragovernmental:		
Accounts payable	\$ 2,213	\$ 2,468
Other (Note 8)	20,096	12,825
Total intragovernmental	<u>22,309</u>	<u>15,293</u>
Accounts payable	5,769	7,731
Other (Note 8)	244,897	185,245
Total liabilities (Note 7)	<u>272,975</u>	<u>208,269</u>
Net position:		
Unexpended appropriations - other funds	14	14
Cumulative results of operations - other funds	49,121	50,936
Total net position	<u>\$ 49,135</u>	<u>\$ 50,950</u>
Total liabilities and net position	<u>\$ 322,110</u>	<u>\$ 259,219</u>

*The accompanying notes are an integral part of these statements.*

FEDERAL TRADE COMMISSION  
**STATEMENTS OF NET COST**

For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

	<u>2006</u>	<u>2005</u>
Program costs		
<u>Maintaining Competition Mission:</u>		
Gross costs	\$ 88,275	\$ 84,486
Less: earned revenue	(111,668)	(100,375)
Net program (revenue) costs (Note 11)	<u>(23,393)</u>	<u>(15,889)</u>
 <u>Consumer Protection Mission:</u>		
Gross costs	119,430	111,992
Less: earned revenue	(21,776)	(18,169)
Net program (revenue) costs (Note 11)	<u>97,654</u>	<u>93,823</u>
Net cost of operations	<u>\$ 74,261</u>	<u>\$ 77,934</u>

*The accompanying notes are an integral part of these statements.*



FEDERAL TRADE COMMISSION  
**STATEMENTS OF CHANGES IN NET POSITION**

For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

	<u>2006</u>	<u>2005</u>
<b>Cumulative Results of Operations:</b>		
Beginning balance, adjusted	\$ 50,936	\$ 35,496
<b>Budgetary Financing Sources:</b>		
Appropriations used	77,470	86,754
Less: Other - Recission	(12,000)	-
<b>Other Financing Sources (Non-Exchange):</b>		
Imputed financing	6,976	6,620
Total Financing Sources	72,446	93,374
Less: Net Cost of Operations	(74,261)	(77,934)
Net Change	(1,815)	15,440
<b>Cumulative Results of Operations</b>	<b>49,121</b>	<b>50,936</b>
<b>Unexpended Appropriations:</b>		
Beginning balance, adjusted	14	36
<b>Budgetary Financing Sources:</b>		
Appropriations received	78,390	87,838
Less: Other adjustments (Recission)	(920)	(1,106)
Less: Appropriations used	(77,470)	(86,754)
Total Budgetary Financing Sources	-	(22)
Total Unexpended Appropriations	14	14
Net Position	<u>\$ 49,135</u>	<u>\$ 50,950</u>

*The accompanying notes are an integral part of these statements.*

FEDERAL TRADE COMMISSION  
**STATEMENTS OF BUDGETARY RESOURCES**

For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

	<u>2006</u>	<u>2005</u>
<b>Budgetary Resources:</b>		
Unobligated balance, brought forward, October 1:	\$ 13,926	\$ 8,427
Recoveries of prior year unpaid obligations	1,043	773
Budget authority		
Appropriation	78,390	87,838
Spending authority from offsetting collections		
Earned		
Collected	133,475	118,579
Change in receivables from Federal sources	(32)	(34)
Change in unfilled customer orders		
Without advance from Federal sources	<u>(167)</u>	<u>258</u>
Subtotal	211,666	206,641
Permanently not available	<u>(12,920)</u>	<u>(1,106)</u>
Total Budgetary Resources	<u>\$ 213,715</u>	<u>\$ 214,735</u>
<b>Status of Budgetary Resources:</b>		
Obligations incurred (Note 13)		
Direct	69,653	82,007
Reimbursable	<u>133,187</u>	<u>118,802</u>
Subtotal	202,840	200,809
Unobligated balance		
Available	8,187	5,287
Not available	<u>2,688</u>	<u>8,639</u>
Total status of budgetary resources	<u>\$ 213,715</u>	<u>\$ 214,735</u>
<b>Change in Obligated Balance:</b>		
Obligated balance, net		
Unpaid obligations, brought forward, October 1	\$ 47,045	\$ 36,376
Less: Uncollected customer payments from		
Federal sources, brought forward, October 1	<u>(400)</u>	<u>(176)</u>
Total unpaid obligated balance, net	46,645	36,200
Obligations incurred net	202,840	200,809
Less: Gross outlays	(201,592)	(189,367)
Less: Recoveries of prior year unpaid		
obligations, actual	(1,043)	(773)
Change in uncollected customer payments		
from Federal sources (+/-)	199	(224)
Obligated balance, net, end of period		
Unpaid obligations	47,250	47,045
Uncollected customer payments from Federal sources	(201)	(400)
<b>Net Outlays</b>		
Net Outlays:		
Gross outlays	201,592	189,367
Less: Offsetting collections	(133,475)	(118,579)
Less: Distributed offsetting receipts	<u>(10,021)</u>	<u>(23,035)</u>
Net Outlays	<u>\$ 58,096</u>	<u>\$ 47,753</u>

The accompanying notes are an integral part of these statements.

## FEDERAL TRADE COMMISSION STATEMENTS OF FINANCING

**For the Years Ended September 30, 2006 and 2005**  
**(Dollars in thousands)**

	2006	2005
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations incurred	\$ 202,840	\$ 200,809
Less: Spending authority from offsetting collections and recoveries	(134,319)	(119,576)
Obligations net of offsetting collections and recoveries	68,521	81,233
Other Resources		
Imputed financing from costs absorbed by others	6,976	6,620
Net other resources used to finance activities	6,976	6,620
<i>Total resources used to finance activities</i>	75,497	87,853
Resources Used to Finance Items not Part of the Net Cost of Operations:		
Change in budgetary resources obligated for goods, services and benefits ordered but not yet provided	(2,058)	(9,225)
Resources that finance the acquisition of assets	(3,208)	(4,127)
<i>Total resources used to finance items not part of the net cost of operations</i>	(5,266)	(13,352)
<i>Total resources used to finance the net cost of operations</i>	70,231	74,501
Components of the Net Cost of Operations that will not Require or Generate Resources in the Current Period:		
Components Requiring or Generating Resources in Future Periods:		
Increase in annual leave liability	113	87
Other	12	45
Total components of Net Cost of Operations that will require or generate resources in future periods	125	132
Components not Requiring or Generating Resources:		
Depreciation and amortization	3,905	3,301
Total Components of Net Cost of Operations that will not require or generate resources	3,905	3,301
Total components of net cost of operations that will not require or generate resources in the current period	4,030	3,433
Net Cost of Operations	\$ 74,261	\$ 77,934

*The accompanying notes are an integral part of these statements.*

FEDERAL TRADE COMMISSION  
**STATEMENTS OF CUSTODIAL ACTIVITY**

For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

(Refer to Note 16)

	<u>MC Mission</u>	<u>CP Mission</u>	<u>2006</u>	<u>2005</u>
Revenue Activity:				
Sources of Collections:				
Premerger Filing Fees (Net of Refunds) (a)	\$ 110,913	\$ -	\$ 110,913	\$ 99,511
Civil Penalties and Fines (b)	-	20,458	20,458	6,479
Redress (c)	-	37,283	37,283	62,181
Divestiture Fund (d)	970	-	970	708
Funeral Rule Violations	-	170	170	7
Total Cash Collections	<u>111,883</u>	<u>57,911</u>	<u>169,794</u>	<u>168,886</u>
Accrual Adjustments (e)	-	52,613	52,613	21,476
Total Custodial Revenue	<u>\$ 111,883</u>	<u>\$ 110,524</u>	<u>\$ 222,407</u>	<u>\$ 190,362</u>
Disposition of Collections:				
Transferred to Others:				
Treasury General Fund	-	29,402	29,402	20,095
Department of Justice	109,861	-	109,861	96,652
Receivers (f)	-	7	7	182
Redress to Claimants (g)	-	14,367	14,367	66,109
Contrator Fees Net of Interest Earned (h)	-	905	905	6,291
Attorney Fees	-	-	-	8,712
Court Registry	-	1,600	1,600	2,755
Increase/ (Decrease) in Amounts Yet to be Transferred	<u>2,022</u>	<u>64,243</u>	<u>66,265</u>	<u>(10,434)</u>
Net Custodial Activity	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes are an integral part of these statements



## NOTES TO THE FINANCIAL STATEMENTS

### For the Years Ended September 30, 2006 and 2005

#### NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### *(a) Reporting Entity*

The Federal Trade Commission (FTC) is an independent United States (U.S.) Government agency, established by the Federal Trade Commission Act of 1914. The FTC enforces a variety of federal antitrust and consumer protection laws. The Commission is headed by five Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. The President chooses one Commissioner to act as Chairman. No more than three Commissioners can be of the same political party.

The FTC has two primary mission areas; maintaining competition and consumer protection that are supported by the Bureau of Competition (BC), the Bureau of Consumer Protection (BCP) and the Bureau of Economics (BE). Additionally, the following Offices provide mission support as described. The Office of the Executive Director is the FTC's chief operating officer and manager, responsible for such matters as administrative services, financial management, procurement, human resources management, information and technology management, as well as overall FTC program and policy execution. The Office of Congressional Relations works closely with members of Congress and their staffs. The Office of General Counsel is the FTC's chief legal officer and adviser. The Office of Public Affairs provides information to the public through the media. The Secretary is the Commission's "court clerk," responsible for implementing the Commission's voting procedures, creating official records of its decisions, receiving and serving Commission orders and other official documents, and coordinating the preparation of responses to congressional constituent inquiries. The Office of Inspector General is responsible for the detection and prevention of waste, fraud and abuse in agency programs.

The majority of FTC staff is located in Washington D.C., however the FTC's Regional Offices cover seven geographic areas. The regional offices work with the Bureaus of Competition and Consumer Protection to conduct investigations and litigation; provide advice to state and local officials on the competitive implications of proposed actions; recommend cases; provide local outreach services to consumers and business persons; and coordinate activities with local, state, and regional authorities. FTC regional offices frequently sponsor conferences for small businesses, local authorities, and consumer groups.



The FTC seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions. The FTC also works to enhance the smooth operation of the marketplace by eliminating acts or practices that are unfair or deceptive.

### ***(b) Fund Accounting Structure***

The FTC's financial activities are accounted for by federal account symbol (i.e., fund oversight groups). They include the accounts for appropriated funds and other fund groups described below for which the FTC maintains financial records and consumer redress accounts for which the agency has management.

**General Funds** Treasury Account Symbol (TAS) 29X0100 consists of salaries and expense appropriation accounts used to fund agency operations and capital expenditures.

**Deposit Funds** TAS 29X6013 consists of monies held temporarily by the FTC as an agent for others (e.g. redress funds).

**Suspense Funds** TAS 29F3875 represent receipts awaiting proper classification, or held in escrow, until ownership is established and proper distributions can be made.

**Miscellaneous Receipt Accounts** TAS 29 1040 and 29 3220 reflects civil penalties and other miscellaneous receipts that by law are not retained by the FTC. Cash balances are automatically transferred to the general fund of the Treasury at the end of each fiscal year.

### ***(c) Basis of Accounting and Presentation***

The financial statements present the financial position, net cost of operations, changes in net position, budgetary resources, financing, and custodial activities of the FTC, in accordance with U.S. Generally Accepted Accounting Principles (GAAP) and the Financial Reporting Requirements of the Office of Management and Budget (OMB) prescribed in OMB Circular A-136 (as revised July 2006). They have been prepared from the books and records of the FTC and include the accounts of all funds under the control of the FTC. Accounting principles generally accepted in the U.S. of America encompass both accrual and budgetary transactions. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds. The accompanying financial statements are prepared on the accrual basis of accounting.

In addition, the accompanying statements include information on the activities of the agency's consumer redress program. Independent agents are contracted to administer the program under the oversight of FTC program offices, which maintain the financial records for consumer redress activity.

***(d) Budget Authority***

Congress annually passes appropriations that provide the FTC with authority to obligate funds for necessary expenses to carry out mandated program activities. These funds are available until expended, subject to OMB apportionment and to Congressional restrictions on the expenditure of funds. Also, the FTC places internal restrictions on fund expenditures to ensure the efficient and proper use of all funds. Appropriated funding is derived from various revenues and financing sources.

***(e) Fund Balance with the U.S. Treasury***

Fund balance with Treasury consist of appropriated funds that are available to pay current liabilities and to finance authorized purchase commitments, and restricted funds, which include deposit and suspense funds. The FTC's fund balance with Treasury is carried forward until such time as goods or services are received and payment is made or until the funds are returned to the U.S. Treasury. Cash receipts and disbursements are processed by the U.S. Treasury, with the exception of (redress) funds received and subsequently distributed (in accordance with court orders) by FTC agents to claimants.

***(f) Accounts Receivable***

Accounts receivable consist of amounts due from other federal entities and from current and former employees and vendors. Non-entity accounts receivable include uncollected civil monetary penalties imposed as a result of the FTC's enforcement activities and uncollected redress judgments. Since the FTC does not retain these receipts, a corresponding liability is also recorded for non-entity accounts receivable. Gross receivables are reduced to Net Realizable value by an allowance for uncollectible accounts (see Note 5 Accounts Receivable).

***(g) Property, Plant, and Equipment***

The basis for recording purchased general Property, Plant and Equipment (PP&E) is full cost, including all costs incurred to bring the PP&E to and from a location suitable for its intended use. The FTC's PP&E consists of equipment, leasehold improvements, and software. Leasehold Improvements include all costs incurred during the design and construction phase of the improvement. These costs are amortized over the remaining life of the lease, or the useful life of the improvements, whichever is shorter. The land and buildings in which the FTC utilizes are owned by commercial vendors and the U.S. General Services

Administration (GSA). Owners of Commercial buildings charge rent based on rates negotiated by GSA (on FTC's behalf). For GSA owned property, GSA charges the FTC a Standard Level Users Charge (SLUC) that approximates the commercial rental rates for similar properties. FTC policy is to capitalize all PP&E with an initial cost greater than \$100,000 and a useful life over two years

#### ***(h) Cash and Other Monetary Assets***

With the exception of cash held in consumer redress custodial accounts by FTC's contracted agents, the FTC does not maintain cash in commercial bank accounts. (See accompanying Statements of Custodial Activity.)

#### ***(i) Accrued Liabilities and Accounts Payable***

Accrued Liabilities and Accounts Payable represents a probable future outflow or other sacrifices of resources as a result of past transactions or events. Liabilities are recognized when they are incurred, regardless of whether they are covered by budgetary resources. Liabilities can not be liquidated without legislation that provides the resources to do so. Also, the Government, acting in its sovereign capacity, can abrogate FTC liabilities (other than contracts). See Note 7 for information on "Liabilities not covered by budgetary resources" and Note 8 for information on "Other Liabilities."

#### ***(j) Employee Health Benefits and Life Insurance***

FTC employees are eligible to participate in the contributory Federal Employees Health Benefit Program (FEHBP) and the Federal Employees Group Life Insurance Program (FEGGLIP). The FTC contributes a percentage to each program to pay for current benefits.

#### ***(k) Post-Retirement Health Benefits and Life Insurance***

FTC employees eligible to participate in the FEHBP and the FEGGLIP may continue to participate in these programs after their retirement. The Office of Personnel Management (OPM) has provided the FTC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The FTC recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by the FTC through the recognition of an imputed financing source on the Statement of Financing. During fiscal years 2006 and 2005, the cost factors relating to FEHBP were \$5,229 and \$4,903, respectively, per employee enrolled. During fiscal years 2006 and 2005, the cost factor relating to FEGGLIP was 0.02 percent of basic pay per employee enrolled.

***(1) Employee Retirement Benefits***

FTC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). Employees hired after December 31, 1983, are covered by FERS and Social Security, while employees hired prior to January 1, 1984, may elect to either join FERS or remain in CSRS. Approximately 24 percent of FTC employees participate in CSRS. For employees participating in CSRS, the FTC contributes seven percent of the employee's gross earnings to the CSRS Retirement and Disability Fund. For employees participating in FERS, the FTC contributes 11.2 percent to the Federal Employees' Retirement Fund. Employees participating in FERS are covered under the Federal Insurance Contributions Act (FICA) for which the FTC contributes a matching amount to the Social Security Administration. FTC contributions are recognized as current operating expenses. The Thrift Savings Plan (TSP) is a defined contribution retirement savings and investment plan for employees covered by either CSRS or FERS. CSRS and FERS participating employees may contribute any dollar amount or percentage of basic salary to TSP, not to exceed an annual dollar amount of \$15,000, for 2006. CSRS participating employees do not receive a matching contribution from the FTC. For FERS employees, the FTC contributes one percent of the employee's gross pay to the TSP. The FTC also matches 100 percent of the first three percent contributed and 50 percent of the next 2 percent contributed. FTC contributions are recognized as current operating expenses. Although the FTC contributes a portion for pension benefits and makes the necessary payroll withholdings, it is not responsible for contribution refunds, employee's retirement benefits, or the retirement plan assets. Therefore, the FTC financial statements do not report CSRS and FERS assets, accumulated plan benefits, or unfunded liabilities, if any, which may be applicable to employees. Such reporting is the responsibility of the OPM.

However, the FTC recognizes the full cost of providing future pension benefits to covered employees at the time the employees' services are rendered. OPM has provided the FTC with certain cost factors that estimate the true service cost of providing the pension benefits to covered employees. The cost factors used to arrive at the service cost are 25 percent of basic pay for CSRS covered employees and 12 percent of basic pay for FERS covered employees during fiscal years 2006 and 2005. The pension expense recognized in the financial statements equals this service cost to covered employees less amounts contributed by these employees. If the pension expense exceeds the amount contributed by the FTC as employer, the excess is recognized as an imputed financing cost. The excess total pension expense over the amount contributed by the agency must be financed by OPM and is recognized as an imputed financing source, non-exchange revenue.

Pension expenses in 2006 and 2005 consisted of the following:

<b>(Dollars in thousands)</b>	2006	2005
	Total Pension Expense	Total Pension Expense
Civil Service Retirement System	\$ 4,029	\$ 4,255
Federal Employees Retirement System	8,548	7,616
Thrift Savings Plan	3,374	3,164
<b>Total</b>	<b>\$ 15,951</b>	<b>\$ 15,035</b>

***(m) Net Position***

The FTC’s net position is composed of the following:

Unexpended appropriations include the amount of unobligated balances and undelivered orders. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation.

Cumulative results of operations represent the net results of operations since inception, the cumulative amount of prior period adjustments, the remaining book value of capitalized assets, and future funding requirements.

***(n) Revenues and Other Financing Sources***

The FTC’s revenues are derived from spending authority from offsetting collections and from direct appropriation. Spending authority from offsetting collections, is comprised of (1) amounts received for services performed under reimbursable agreements and (2) amounts received from collection of fees under the HSR Act and the National DNC Registry. For amounts collected under reimbursable work performed, revenue is recognized (accrued) when services are performed. Relative to fees, revenues are recognized when fees are earned. (See note 12)

In addition to exchange revenue, the FTC receives financing sources through direct appropriation from the general fund of the Treasury to support its operations. A financing source, appropriations used, is recognized to the extent these appropriated funds have been consumed. In fiscal years 2006 and 2005, the FTC received a financing source in the form of a direct appropriation that represented approximately 36 percent of total revenues and financing sources realized.

***(o) Methodology for Assigning Cost***

Total costs were allocated to each mission based on two components: a) direct costs to each mission and b) indirect costs based on the percentage of direct FTE used by each mission.

***(p) Use of Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

***(q) Reclassifications***

Certain reclassifications to prior-year balances have been made in the accompanying financial statements to make disclosures consistent with those of the current year.

**NOTE 2—NON-ENTITY ASSETS**

The following summarizes Non-entity Assets as of September 30, 2006 and 2005:

<b>(Dollars in thousands)</b>	<u>2006</u>	<u>2005</u>
Intragovernmental:		
Fund balance with Treasury	\$ 12,214	\$ 17,642
Cash and other monetary assets (Note 4)	100,548	81,468
Accounts receivable	<u>136,968</u>	<u>84,355</u>
Total non-entity assets	249,730	183,465
Total entity assets	<u>72,380</u>	<u>75,754</u>
Total Assets	<u>\$ 322,110</u>	<u>\$ 259,219</u>

Non-entity Fund Balance with Treasury primarily represents undisbursed premerger filing fees and deposits held for the consumer redress program. Cash and other Monetary Assets consist of amounts on deposit with FTC distribution agents and divestiture fund deposits.



## NOTE 3—FUND BALANCES WITH TREASURY

Fund balance with Treasury consisted of the following at September 30, 2006 and 2005:

<b>(Dollars in thousands)</b>	<u>2006</u>	<u>2005</u>
Fund Balance:		
Appropriated funds	\$ 57,925	\$ 60,571
Suspense fund - undisbursed HSR filing fees	10,441	9,389
Deposit funds - redress	1,773	8,253
Total	<u>\$ 70,139</u>	<u>\$ 78,213</u>
Status of Fund Balance with Treasury		
Unobligated balance		
Available	\$ 8,187	\$ 5,287
Unavailable	2,688	8,639
Obligated balance not yet disbursed	47,050	46,645
Non-Budgetary fund balance with Treasury		
Suspense fund - undisbursed HSR filing fees	10,441	9,389
Deposit funds - redress	1,773	8,253
Total	<u>\$ 70,139</u>	<u>\$ 78,213</u>

The Obligated Balance Not Yet Disbursed includes accounts payable and undelivered orders that have reduced unexpended appropriations but have not yet decreased the cash balance on hand.

**Other Information** Deposit and suspense funds stated above are not available to finance FTC activities and are classified as non-entity assets, and a corresponding liability is recorded.

## NOTE 4—CASH AND OTHER MONETARY ASSETS

Cash and other monetary assets held as non-entity assets consist of redress judgment amounts on deposit with FTC's distribution agents and divestiture fund deposits. A corresponding liability is recorded for these assets.

Cash and other monetary assets consisted of the following as of September 30, 2006 and 2005:

<b>(Dollars in thousands)</b>	<u>2006</u>	<u>2005</u>
Other monetary assets		
Redress contractors	\$ 57,494	\$ 39,384
Divestiture fund	43,054	42,084
Total other monetary assets	<u>\$ 100,548</u>	<u>\$ 81,468</u>

**NOTE 5—ACCOUNTS RECEIVABLE**

Opening judgments receivable (consumer redress and civil penalties) balances reflect the Federal Accounting Standards Advisory Board (FASAB) standard for the recognition of losses using the collection criterion of “more likely than not.” This criterion results in receivable balances that are more conservatively stated than those valued by the private sector under generally accepted accounting principles. The Board states that it is appropriate to recognize the nature of federal receivables, which, unlike trade accounts of private firms or loans made by banks, are not created through credit screening procedures. Rather, these receivables arise because of the assessment of fines from regulatory violations. In these circumstances, historical experience and economic realities indicate that these types of claims are frequently not fully collectible.

Accounts receivable consisted of the following as of September 30, 2006 and 2005:

<b>(Dollars in thousands)</b>	<u>Currently Due</u>	<u>Allowance</u>	<u>2006 Net</u>	<u>2005 Net</u>
Entity assets:				
Intragovernmental-				
<b>Accounts Receivable</b>	\$ 55	\$ -	\$ 55	\$ 87
Non-entity assets:				
Consumer Redress	\$ 1,546,439	\$ 1,415,926	\$ 130,513	\$ 84,023
Civil Penalties	7,242	787	6,455	332
<b>Total Non-entity assets</b>	<u>\$ 1,553,681</u>	<u>\$ 1,416,713</u>	<u>\$ 136,968</u>	<u>\$ 84,355</u>

**NOTE 6—PROPERTY, PLANT, AND EQUIPMENT, NET**

FTC policy is to capitalize all PP&E with an initial cost greater than \$100,000 and a useful life over two years. Such assets are depreciated using the straight-line method of depreciation with service lives range from three to twenty years. Additionally, internal use software development and acquisition costs of \$100,000 or greater are capitalized as software development in progress until the development stage has been completed and the software successfully tested. Upon completion and testing, software development-in-progress costs are reclassified as internal use software costs and amortized using the straight-line method over the estimated useful life of three years. Purchased commercial software that does not meet the capitalization criteria is expensed. Capitalized property and equipment, net of accumulated depreciation, consisted of the following as of September 30, 2006 and 2005:

(Dollars in thousands)				2006	2005
Asset Class	Service Life	Acquisition Value	Accumulated Depreciation	Net Book Value	Net Book Value
Equipment & Furniture	5-20 yrs	\$ 7,173	\$ 4,754	\$ 2,419	\$ 3,439
Leasehold Improvements	10-15 yrs	5,842	1,350	4,492	4,039
Software	3 yrs	9,060	6,001	3,059	5,201
Software-in-Development		4,430	-	4,430	2,417
<b>Total</b>		<u>\$ 26,505</u>	<u>\$ 12,105</u>	<u>\$ 14,400</u>	<u>\$ 15,096</u>

Depreciation expense was \$3.9 million and \$3.3 million for fiscal years ending September 30, 2006 and 2005, respectively and is contained in the accumulated depreciation.

**NOTE 7—LIABILITIES NOT COVERED BY BUDGETARY RESOURCES**

A breakout of Intragovernmental Liabilities and Liabilities With the Public not covered by budgetary resources as of September 30, 2006 and 2005 are shown below:

*(a) Intragovernmental and With the Public*

(Dollars in thousands)	2006	2005
<b>Intragovernmental:</b>		
Undisbursed premerger filing fees due to DOJ	\$ 10,441	\$ 9,389
Civil penalty collections due to Treasury	6,455	332
FECA liability	2,400	2,388
<b>Total intragovernmental</b>	<u>19,296</u>	<u>12,109</u>
<b>Unfunded leave</b>	7,696	7,583
<b>With the public :</b>		
Undisbursed redress	59,267	47,637
Divestiture fund due	43,054	42,084
Redress receivables accrued and due to claimants	130,513	84,023
<b>Total liabilities not covered by budgetary resources</b>	<u>\$ 259,826</u>	<u>\$ 193,436</u>
<b>Total liabilities covered by budgetary resources</b>	<u>13,149</u>	<u>14,833</u>
<b>Total liabilities</b>	<u>\$ 272,975</u>	<u>\$ 208,269</u>

*(b) Other Information*

**Civil Penalty Collections Due to Treasury** represents the contra account for accounts receivable due for civil monetary penalties, which will be transferred to the general fund of the Treasury upon receipt.

**FECA Liability** consists of workers compensation claims payable to the Department of Labor (DOL), which will be funded in a future period and an unfunded estimated liability for future workers' compensation

claims based on data provided from DOL. The actuarial calculation is based on benefit payments made over the last 12 quarters, and calculates the annual average of payments. For medical expenses and compensation this average is then multiplied by the liability to benefit paid ratio for the whole FECA program.

**Undisbursed Redress** includes redress in FTC's Treasury deposit account, or with FTC redress contractors.

**Divestiture Fund Due** represents the contra account for the divestiture fund held by one of FTC's contractors until distribution of the funds are ordered per terms of the agreement.

**Redress Net Collections Due** represents the contra account for accounts receivable due from judgments obtained as a result of the agency's consumer redress litigation.

**Undisbursed Premerger Filing Fees Liability** represents undisbursed filing fees collected under the HSR Act, which are due to the Department of Justice in a subsequent period.

**Accrued Leave** represents a liability for earned leave and is reduced when leave is taken. At year end, the balance in the accrued annual leave account is adjusted to reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

## NOTE 8—OTHER LIABILITIES

The following summarizes Other Liabilities as of September 30, 2006 and 2005, all are considered current:

<b>(Dollars in thousands)</b>	2006	2005
<b>Intragovernmental:</b>		
Undisbursed premerger liability	\$ 10,441	\$ 9,389
Civil penalty collection due to Treasury	6,455	332
FECA liability	2,400	2,388
Accrued benefits	800	716
<b>Total Intragovernmental</b>	<b>\$ 20,096</b>	<b>\$ 12,825</b>
<b>With the Public</b>		
Redress receivables accrued and due to claimants	\$ 130,513	\$ 84,023
Undisbursed redress	59,267	47,637
Divestiture fund due	43,054	42,084
Accrued leave	7,696	7,583
Accrued salary	4,367	3,918
<b>Total Other Liabilities</b>	<b>\$ 244,897</b>	<b>\$ 185,245</b>

## NOTE 9—LEASES

Leases of commercial property are made through and managed by GSA. The Commission has leases on four government-owned properties and ten commercial properties. The FTC's current leases expire at various dates through 2013. Two leases provide for tenant improvement allowances totaling \$7.1 million and provide that these costs be amortized over the length of the leases. Under the terms of the leases, the FTC agrees to reimburse the landlord for the principal balance of the unamortized portion of the tenant improvement allowance in the event the agency vacates the space before lease expiration. The FTC rents approximately 571,734 square feet of space in both commercial and government-owned properties for use as offices, storage and parking.

Rent expenditures for the years ended September 30, 2006 and 2005, were approximately \$17.5 million and \$17.3, respectively.

Future minimum lease payments due under leases of government-owned property as of September 30, 2006, are as follows:

(Dollars in thousands)	
Fiscal Year	
2007	\$ 6,091
2008	6,045
2009	5,605
2010	17
2011	<u>4</u>
<b>Total Future Minimum Lease Payments</b>	<b><u>\$ 17,762</u></b>

Future minimum lease payments under leases of commercial property due as of September 30, 2006 are as follows:

(Dollars in thousands)	
Fiscal Year	
2007	\$ 11,492
2008	11,086
2009	11,137
2010	11,277
2011	11,423
Thereafter	<u>9,073</u>
<b>Total Future Minimum Lease Payments</b>	<b><u>\$ 65,488</u></b>

**NOTE 10—COMMITMENTS AND CONTINGENCIES**

**Commitments** The FTC is committed under obligations for goods and services that have been ordered but not yet received (undelivered orders) at fiscal year end. Undelivered orders, net of unfilled customer orders from federal sources, were \$33.9 million and \$31.9 million as of September 30, 2006 and 2005, respectively.

**Contingencies** The FTC is a party in various administrative proceedings, legal actions, and claims brought by or against it. In the opinion of FTC management and legal counsel, the ultimate resolution of these proceedings, actions, and claims, will not materially affect the financial position or the results of operation of the FTC.

**NOTE 11—INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUES**

<b>(Dollars in thousands)</b>	<b>2006</b>	<b>2005</b>
<b>Maintaining Competition Mission:</b>		
Intragovernmental gross costs	\$ 22,355	\$ 21,833
Public costs	<u>65,920</u>	<u>62,653</u>
Total Maintaining Competition costs	<u>88,275</u>	<u>84,486</u>
Intragovernmental earned revenue	(755)	(864)
Public earned revenue	<u>(110,913)</u>	<u>(99,511)</u>
Total Maintaining Competition net earned revenue	<u>(111,668)</u>	<u>(100,375)</u>
Maintaining Competition net (revenue) costs	<u>(23,393)</u>	<u>(15,889)</u>
<b>Consumer Protection Mission:</b>		
Intragovernmental gross costs	30,244	28,941
Public costs	<u>89,186</u>	<u>83,051</u>
Total Consumer Protection costs	<u>119,430</u>	<u>111,992</u>
Intragovernmental earned revenue	(79)	(117)
Public earned revenue	<u>(21,697)</u>	<u>(18,052)</u>
Total Consumer Protection net earned revenue	<u>(21,776)</u>	<u>(18,169)</u>
Consumer Protection net (revenue) costs	<u>97,654</u>	<u>93,823</u>
Net cost of operations	<u>\$ 74,261</u>	<u>\$ 77,934</u>

For ‘exchange revenue with the public,’ the buyer of the goods or services is a non-Federal entity. For ‘intragovernmental costs,’ the buyer and seller are both Federal entities. If a Federal entity purchases goods or services from another Federal entity and sells them to the public, the exchange revenue would be classified as ‘with the public,’ but the related costs would be classified as ‘intragovernmental.’ The purpose of this classification is to enable the Federal government to provide consolidated financial statements, and not to match public and intragovernmental revenue with costs that are incurred to produce public and intragovernmental revenue.

## NOTE 12—EXCHANGE REVENUES

Exchange revenues are earned through the collection of fees under the Hart-Scott-Rodino Act. This Act, in part, requires the filing of premerger notifications with the FTC and the Antitrust Division of the Department of Justice (DOJ) and establishes a waiting period before certain acquisitions may be consummated. Mergers with transaction amounts over \$53 million require the acquiring party to pay a filing fee. The filing fees are based on the transaction amount and follow a three-tiered structure: \$45,000, \$125,000, and \$280,000. The FTC retains one-half of the HSR premerger filing fees collected. Revenue is recognized when all required documentation under the HSR Act has been received by the agency. Fees not retained by the FTC are maintained in a suspense fund until transferred to the DOJ and not reported as revenue to the FTC.

Exchange revenues are also earned through the collection of fees for the national Do Not Call Registry. This registry operates under Section 5 of the FTC Act, which enforces the Telemarketing Sales Rule (TSR). The Do Not Call Implementation Act, P.L. 108-010, gives the FTC authority to establish fees for fiscal years 2003 through 2007 sufficient to offset the implementation and enforcement of the provisions relating to the Do Not Call Registry. Telemarketers are required to pay an annual subscription fee and download from the Do Not Call Registry database a list of telephone numbers of consumers who do not wish to receive calls. Fees are based on the number of area codes downloaded. The minimum charge was \$56 to download one area code. The maximum charge was \$15,400 for all area codes within the United States. Effective September 1, 2006, the new minimum charge is \$62 and the maximum charge is \$17,030. Revenue is recognized when collected and the Telemarketer is given access to download data from the Do Not Call database. Fees collected over expenses are retained for use in other FTC missions.

Exchange revenue is also earned for services provided to other Government agencies through reimbursable agreements. The FTC recovers the full cost of services, primarily salaries and related expenses. Revenue is earned at the time the expenditures are incurred against the reimbursable order. All exchange revenues are deducted from the full cost of the FTC's programs to arrive at net program cost.



Exchange revenue consisted of the following:

(Dollars in thousands)	2006	2005
HSR premerger filing fees	\$ 110,913	\$ 99,511
Do Not Call registry fees	21,697	18,052
Reimbursable agreements	834	981
Total	<u>\$ 133,444</u>	<u>\$ 118,544</u>

**NOTE 13—APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED: DIRECT VS. REIMBURSEABLE OBLIGATIONS**

***(a) Apportionment Categories of Obligations Incurred***

Obligations incurred reported on the Statement of Budgetary Resources in 2006 and 2005 consisted of the following:

(Dollars in thousands)	2006	2005
Direct Obligations:		
Category A	<u>\$ 69,653</u>	<u>\$ 82,007</u>
Reimbursable Obligations:		
Category A	132,610	117,563
Category B	577	1,239
Total Reimbursable Obligations	<u>133,187</u>	<u>118,802</u>
Total	<u>\$ 202,840</u>	<u>\$ 200,809</u>

**NOTE 14—EXPLANATION OF DIFFERENCES BETWEEN THE STATEMENT OF BUDGETARY RESOURCES AND THE BUDGET OF THE UNITED STATES GOVERNMENT**

There are no material differences between amounts reported in the Statement of Budgetary Resources and the actual amounts reported in the Budget of the United States Government.

**NOTE 15—EXPLANATION OF DIFFERENCES BETWEEN LIABILITIES NOT COVERED BY BUDGETARY RESOURCES AND COMPONENTS REQUIRING OR GENERATING RESOURCES IN FUTURE PERIODS**

**FECA Liability and Accrued Leave.** The changes in both of these balances between FY 2006 and FY2005 are reflected as part of Components Requiring or Generating Resources in Future Periods on the Statement of Financing. The increase in Accrued Leave of \$113,000 is included in the increase in Annual Leave Liability line on the Statement of Financing, and the increase in FECA Liability of

\$12,000 is included in the “Other” line as part of the resources that fund future periods.

## NOTE 16—CUSTODIAL ACTIVITIES

The FTC functions in a custodial capacity with respect to revenue transferred or transferable to recipient government entities or the public. These amounts are not reported as revenue to the FTC. The major components of the FTC’s custodial activities are discussed below.

### *(a) Premerger Filing Fees*

All Hart-Scott-Rodino (HSR) premerger filing fees are collected by the FTC pursuant to section 605 of P.L. 101-162, as amended, and are divided evenly between the FTC and the DOJ. The collected amounts are then credited to the appropriations accounts of the two agencies (FTC’s “Salaries and Expenses” and DOJ’s “Salaries and Expenses, Antitrust Division”). During fiscal years 2006 and 2005 FTC collected \$221.8 million and \$199.0 million, respectively, in HSR fees. Total collections in the amount of \$110.9 were retained for distribution, of which \$100.6 million of this collection was transferred to DOJ in 2006 and \$90.3 in 2005. As of September 30, 2006 the undistributed collections remaining in the amount of \$10.4 million represent amounts to be transferred to DOJ in a future period.

### *(b) Civil Penalties and Fines*

Civil penalties collected in connection with the settlement or litigation of the FTC’s administrative or federal court cases are collected by either the FTC or DOJ as provided for by law. DOJ assesses a fee equivalent to three percent of amounts collected before remitting them to the FTC. The FTC then deposits these collections into the U.S. Treasury. Civil penalties collected also include amounts collected for undecided civil penalty cases held in suspense until final disposition of the case.

### *(c) Redress*

The FTC obtains consumer redress in connection with the settlement or litigation of both its administrative and its federal court cases. The FTC attempts to distribute funds thus obtained to consumers whenever possible. If consumer redress is not practical, the funds are paid (disgorged) to the U. S. Treasury, or on occasion, other alternatives, such as consumer education, are explored. Major components of the program include eligibility determination, disbursing redress to claimants, and accounting for the disposition of these funds. Collections made against court-ordered judgments totaled \$37.2 million and \$62.2 million during fiscal years 2006 and 2005, respectively.

The sources of these collections are as follows:

<b>(Dollars in thousands)</b>	<u>2006</u>	<u>2005</u>
Contractors	\$ 4,892	\$ 3,076
Receivers	1,712	25,761
FTC	<u>30,679</u>	<u>33,344</u>
<b>Total</b>	<u>\$ 37,283</u>	<u>\$ 62,181</u>

***(d) Divestiture Fund***

One judgment obtained by the FTC on behalf of its maintaining competition mission stipulates the divestiture of assets by the defendants into an interest-bearing account to be monitored by the agency. The account balance represents principal and related interest held in one of the FTC’s contractor accounts as stipulated in the judgment. A corresponding liability is recorded. Net interest earned in fiscal year 2006 and 2005, was \$970,000 and \$708,000, respectively.

Divestiture Fund activity in fiscal years 2006 and 2005 consisted of the following:

***(e) Accrual Adjustments***

<b>(Dollars in thousands)</b>	<u>2006</u>	<u>2005</u>
Beginning Balance	\$ 42,084	\$ 41,376
Interest	1,838	866
Expense	<u>(868)</u>	<u>(158)</u>
Net Total	970	708
<b>Ending Balance</b>	<u>\$ 43,054</u>	<u>\$ 42,084</u>

These adjustments represent the difference between the agency’s opening and closing accounts receivable balances. Accounts receivable are the funds owed to the agency (as a custodian) and ultimately to consumers or other entities. See Exhibit A for computation of accrual adjustments to the Statements of Custodial Activity.

***(f) Receivers***

Funds forwarded to receivers for distribution to consumers was \$7,560 and \$182,000 for fiscal year 2006 and 2005, respectively.

***(g) Redress to Claimants***

Redress to claimants consists of amounts distributed to consumers by the FTC, one of its contracted agents, the court appointed receiver, or the defendant. In fiscal year 2006 a total of \$14.3 million was distributed to consumers: \$12.6 million was paid by the FTC and its contracted agents, and \$1.7 million was paid by receivers. In fiscal year 2005, a total of \$66.1 million was distributed to consumers: \$40.3 million was paid by the FTC and its contracted agents, and \$25.8 million was distributed by receivers.

***(h) Contractor Fees Net of Interest Earned***

Collections against monetary judgments are often deposited with one of the agency's two redress contractors until distributions to consumers occur. Funds are deposited in interest-bearing accounts, and the interest earnings are used to fund administrative expenses. Contractor expenses for the administration of redress activities and funds management amounted to \$2.5 million and \$6.8 million during the years ended September 30, 2006 and 2005, respectively. Interest earned was \$1.6 million and \$.5 million during fiscal years 2006 and 2005, respectively, with the difference of \$.9 million and \$6.3 million representing net expense.

***(i) Change in Liability Accounts***

Liability accounts contain funds that are in the custody of the agency or its agents, and are owed to others (consumers, receivers for fees, and/or the Department of Justice). See Exhibit B for the computation of liability account changes.

***(j) Current Year Judgments***

A judgment is a formal decision handed down by a court. Redress judgments include amounts that defendants have agreed, or are ordered to pay, for the purpose of making restitution to consumers deemed to have been harmed by the actions of the defendant(s) in the case. For purposes of presentation in Exhibit A, redress judgments include cases in which the FTC, or one of its agents, is directly involved in the collection or distribution of consumer redress. In fiscal years 2006 and 2005 the agency obtained and reported in Exhibit A monetary redress judgments against defendants totaling \$315.2 million and \$835.0 million, respectively.

The FTC does not include in the presentation of Exhibit A current redress judgment cases in which the FTC, or one of its agents, is not directly involved with the collection or distribution of consumer redress. These are cases in which the defendant, or other third party, has been ordered to pay redress directly to the consumers. In most of these cases, the judgment has ordered redress in the form of refunds or credits.

The agency also obtained civil penalty judgments of \$27.3 and \$6.6 million in fiscal years 2006 and 2005, respectively.

***(k) Treasury Referrals and Prior Year Recoveries***

Monetary judgments six months or more past due are referred to the Department of Treasury for follow-up collection efforts in keeping with the Debt Collection Improvement Act of 1996 (DCIA). Treasury's Debt Management Services (DMS) administers the program, and deducts 18 percent from amounts ultimately collected for its fee. Collections, net of fees, are returned to the FTC for distribution to either consumers, in the form of redress, or to the general fund of the Treasury as disgorged amounts. In fiscal years 2006 and 2005, \$.9 million and \$1.5 million (net of fees) were collected by DMS based on FTC referrals and are reported as collections on the Statements of Custodial Activity. The FTC refers to DMS only those cases as defined in DCIA. This excludes cases that are in receivership, or bankruptcy or foreign debt. During 2006 and 2005, \$176.7 and \$104.6 million were referred to the DMS for collection.

Prior year recoveries include amounts collected on cases that were written off in a previous year. In fiscal years 2006 and 2005, \$1.7 million and \$2.9 million were collected.

***(l) Adjustments to the Allowance***

Adjustments to the allowance for redress, totaling \$233.1 million, represent adjustments to the provision for uncollectible amounts. Adjustments to the allowance for civil penalty, totaling \$147,800, represent adjustments to the provision for uncollectible amounts.

**NOTE 17 – UNDELIVERED ORDERS AT THE END OF THE PERIOD**

The amount of budgetary resources obligated for undelivered orders at the end of September 30, 2006 and 2005 is \$33.2 and \$32.5 million, respectively.



FEDERAL TRADE COMMISSION  
**SUPPLEMENTARY INFORMATION**  
For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

**Intragovernmental Assets:**

	<u>Fund Balance with Treasury</u>		<u>Accounts Receivable</u>	<u>Total 2006</u>	<u>Total 2005</u>
	<u>Entity</u>	<u>Non-Entity</u>			
<b>Trading Partner Agency:</b>					
U.S. Department of Treasury	\$ 57,925	\$ 12,214	\$ -	\$ 70,139	\$ 78,213
Agency for International Development	-	-	46	46	33
Other Government Agencies	-	-	9	9	54
<b>Total Intragovernmental Assets</b>	<b>\$ 57,925</b>	<b>\$ 12,214</b>	<b>\$ 55</b>	<b>\$ 70,194</b>	<b>\$ 78,300</b>

**Intragovernmental Liabilities:**

	<u>Accrued Benefits</u>	<u>Accounts Payable</u>	<u>NA</u>	<u>Total 2006</u>	<u>Total 2005</u>
<b>Trading Partner Agency:</b>					
Covered by Budgetary Resources:					
General Services Administration	\$ -	\$ 694	\$ -	\$ 694	\$ 416
Government Printing Office	-	603	-	603	1,274
Homeland Security	-	401	-	401	100
Department of Justice	-	253	-	253	-
U.S. Postal Inspection Service	-	114	-	114	125
U.S. Department of Treasury	198	94	-	292	256
Office of Personnel Management	602	37	-	639	593
Department of Transportation	-	17	-	17	416
Department of Labor	-	-	-	-	4
<b>Total Covered by Budgetary Resources</b>	<b>\$ 800</b>	<b>\$ 2,213</b>	<b>\$ -</b>	<b>\$ 3,013</b>	<b>\$ 3,184</b>
Not Covered by Budgetary Resources:					
Department of Justice	\$ -	\$ 10,441	\$ -	\$ 10,441	\$ 9,389
Department of Labor	-	2,400	-	2,400	2,388
U.S. Department of Treasury	-	6,455	-	6,455	332
<b>Total Not Covered by Budgetary Resources</b>	<b>\$ -</b>	<b>\$ 19,296</b>	<b>\$ -</b>	<b>\$ 19,296</b>	<b>\$ 12,109</b>



FEDERAL TRADE COMMISSION  
**SUPPLEMENTARY INFORMATION**

For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

**Exchange Revenue from Reimbursable Agreements**

**Trading Partner:**

	<u>2006</u>	<u>2005</u>
U.S. Agency for International Development	\$ 592	\$ 332
U.S. Department of State	120	401
Federal Mine Safety & Health Review Commission	40	38
Medicare Payment Advisory Commission/GSA	20	19
U.S. Postal Inspection Service	20	17
Department of Commerce	9	4
Securities and Exchange Commission	8	21
Board of Governors of the Federal Reserve System	8	21
Federal Deposit Insurance Corp.	8	21
Office of the Comptroller of the Currency	8	21
National Credit Union Admin	1	15
Department of Justice	-	42
U.S. Trade and Development Agency	-	29
<b>Total Exchange Revenue from Reimbursable Agreements</b>	<u>\$ 834</u>	<u>\$ 981</u>

**Related Costs:**

**Budget Function Classification:**

	<u>2006</u>	<u>2005</u>
Other Advancement of Commerce	\$ 834	\$ 981
<b>Total Related Costs</b>	<u>\$ 834</u>	<u>\$ 981</u>

FEDERAL TRADE COMMISSION  
**SUPPLEMENTARY INFORMATION**  
For the Years Ended September 30, 2006 and 2005  
(Dollars in thousands)

**Intragovernmental Expenses:**

**Trading Partner:**

	<u>2006</u>	<u>2005</u>
Office of Personnel Management	\$ 22,268	\$ 21,109
General Services Administration	18,389	18,422
Social Security Administration	5,591	5,254
Government Printing Office	1,762	2,270
Department of Homeland Security	1,655	1,038
Department of the Interior	872	865
Department of Transportation	722	709
Department of Justice	646	53
Department of Labor	378	265
Department of Health and Human Services	226	229
National Archives and Records Administration	47	46
Department of State	26	64
Library of Congress	10	-
Department of Commerce	9	4
U.S. Environmental Protection Agency	2	185
United States Postal Service	1	247
U.S. Department of Treasury	(5)	14
<b>Total Intragovernmental Expenses</b>	<u>\$ 52,599</u>	<u>\$ 50,774</u>

**Mission:**

Maintaining Competition	\$ 22,355	\$ 21,833
Consumer Protection	<u>30,244</u>	<u>28,941</u>
<b>Total Intragovernmental Expenses</b>	<u>\$ 52,599</u>	<u>\$ 50,774</u>

FEDERAL TRADE COMMISSION  
**NOTES TO THE STATEMENTS OF CUSTODIAL ACTIVITY**  
**ACCURAL ADJUSTMENTS**  
 September 30, 2006 and 2005  
 (Dollars in thousands)

	Civil Penalty	CP Mission Redress	Subtotal CP	2006 Total	2005 Total
<b>Part 1</b>					
Judgments Receivable - Net Beginning	\$ 332	\$ 84,023	\$ 84,355	\$ 84,355	\$ 62,879
Add:					
Current Year Judgments (Note 16j)	27,360	315,195	342,555	342,555	841,649
Prior Year Recoveries (Note 16k)	-	1,719	1,719	1,719	2,921
Less:					
Collections by FTC/Contractors Receivers	(20,458)	(37,283)	(57,741)	(57,741)	(68,660)
Collections by DOJ for Litigation Fees/Other	(631)	-	(631)	(631)	(199)
Less:					
Adjustments to Allowance (Note 16 l)	(148)	(233,141)	(233,289)	(233,289)	(754,235)
<b>Judgments Receivable - Net, Ending</b>	<u>\$ 6,455</u>	<u>\$ 130,513</u>	<u>\$ 136,968</u>	<u>\$ 136,968</u>	<u>\$ 84,355</u>
<b>Part 2</b>					
Judgments Receivable - Net Ending	\$ 6,455	\$ 130,513	\$ 136,968	\$ 136,968	\$ 84,355
Judgments Receivable - Net Beginning	<u>332</u>	<u>84,023</u>	<u>84,355</u>	<u>84,355</u>	<u>62,879</u>
<b>Accrual Adjustment</b>	<u>\$ 6,123</u>	<u>\$ 46,490</u>	<u>\$ 52,613</u>	<u>\$ 52,613</u>	<u>\$ 21,476</u>

EXHIBIT B

FEDERAL TRADE COMMISSION  
**NOTES TO THE STATEMENTS OF CUSTODIAL ACTIVITY  
CHANGE IN LIABILITY**  
September 30, 2006 and 2005  
(Dollars in thousands)

	MC Mission			CP Mission			Total
	Pre-Merger	Divestiture	Civil Penalty	Civil Penalty	Redress	Subtotal-CP	
Liabilities @ 09/30/06	\$ 10,441	\$ 43,054	\$ -	\$ 6,455	\$ 189,780	\$ 196,235	\$ 249,730
Liabilities @ 09/30/05	9,389	42,084	-	332	131,660	131,992	183,465
<b>Change in Liability Accounts</b>	<b>\$ 1,052</b>	<b>\$ 970</b>	<b>\$ -</b>	<b>\$ 6,123</b>	<b>\$ 58,120</b>	<b>\$ 64,243</b>	<b>\$ 66,265</b>
	MC Mission			CP Mission			Total
	Pre-Merger	Divestiture	Civil Penalty	Civil Penalty	Redress	Subtotal-CP	
Liabilities @ 09/30/05	\$ 9,389	\$ 42,084	\$ -	\$ 332	\$ 131,660	\$ 131,992	\$ 183,465
Liabilities @ 09/30/04	6,530	41,376	-	985	145,008	145,993	193,899
<b>Change in Liability Accounts</b>	<b>\$ 2,859</b>	<b>\$ 708</b>	<b>\$ -</b>	<b>\$ (653)</b>	<b>\$ (13,348)</b>	<b>\$ (14,001)</b>	<b>\$ (10,434)</b>

## CONTACT INFORMATION

### Federal Trade Commission

Internet Home Page	<a href="http://www.ftc.gov">www.ftc.gov</a>
FTC Spanish Home Page	<a href="http://www.ftc.gov/ojo">www.ftc.gov/ojo</a>
PAR Internet Site	<a href="http://www.ftc.gov/par">www.ftc.gov/par</a>
Strategic Plan Internet Site	<a href="http://www.ftc.gov/strategicplan">www.ftc.gov/strategicplan</a>
PAR Email Address	<a href="mailto:gpra@ftc.gov">gpra@ftc.gov</a>
PAR Facsimile Number	202-326-2329
PAR Mailing Address	Federal Trade Commission 600 Pennsylvania Avenue, NW Mail Drop H-774 Attention PAR Washington, DC 20580
PAR Telephone Number	Darlene Cossette, Report Editor 202-326-3255

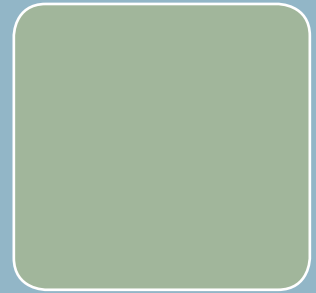
### *Consumer Response Center*

General Complaints	1-877-FTC-HELP (1-877-382-4357)
Identity Theft Complaints	1-877-ID-THEFT (1-877-438-4338)
Online General Complaints	<a href="http://www.ftc.gov/complaint">www.ftc.gov/complaint</a>
Identity Theft Education/ Complaints	<a href="http://www.ftc.gov/idtheft">www.ftc.gov/idtheft</a>
National Do Not Call Registry	<a href="http://www.donotcall.gov">www.donotcall.gov</a>

The FTC welcomes comments or suggestions for improvement of its PAR. Please contact the agency at its email address, facsimile number, or mailing address.







**FEDERAL TRADE COMMISSION**

