

**Prepared Statement of
The Federal Trade Commission**

Before the

**Subcommittee on
Commerce, Justice, State, the Judiciary and Related Agencies**

public.

Similarly, there is widespread agreement on how the FTC best carries out its consumer protection mission. Twenty years ago, the FTC shifted its emphasis toward more aggressive enforcement of the basic laws of consumer protection. The staple of our consumer protection mission is to identify and fight fraud and deception. The FTC monitors trends and developing issues in the marketplace to determine the most effective use of its resources. The FTC has become the national leader in consumer protection and partners with other law enforcement agencies at the federal, state, local, and international levels to maximize benefits for consumers.

To accomplish our mission in FY 2003, the FTC requests \$176,599,000 and 1,074 FTE. These figures represent an increase over the current year of \$20,617,000, but no additional FTE. Almost 25 percent of the requested dollar increase would be devoted to comply with proposed legislation requiring all federal agencies to begin funding directly certain retirement and health benefits. Funding at the requested level would allow the FTC to build on a record of solid achievement on behalf of American consumers.

During FY 2003, the FTC will address significant law enforcement and policy issues throughout the economy, devoting the major portion of its resources to those areas in which the agency can provide the greatest benefits to consumers. This testimony in support of our FY 2003 appropriation highlights program priorities in the FTC's two missions. In the Consumer Protection Mission, we discuss Privacy; Internet Law Enforcement; Health, Safety, and Economic Injury; Media Violence, Gambling, and Children; Globalization; and Consumer Outreach. In the Maintaining Competition Mission, we discuss Merger Enforcement; Streamlining the Merger Review Process; Nonmerger Enforcement; Targeting Resources for Consumer Impact; and Outreach Efforts. The testimony concludes with a brief summary of the FTC's FY 2003 appropriation request.

II. Consumer Protection Mission

A. Privacy

During FY 2003, the FTC intends to devote significant resources to privacy protection. Consumers are deeply concerned about the privacy of their personal information, both online and offline. Although privacy concerns have been heightened by the rapid development of the Internet, they are by no means limited to the cyberworld. Consumers can be harmed as much by the thief who steals credit card information from a mailbox or dumpster as by the one who steals that information from a Web site. Of course, the nature of Internet technology may raise its own special set of issues.

The FTC currently enforces a number of laws that address consumers' privacy,⁽³⁾ and intends to increase substantially the resources dedicated to privacy protection. Our initiatives in this area attempt to reduce the serious consequences that can result from the misuse of personal information and fall into three major categories: vigorous enforcement of existing laws, additional rulemaking, and continued consumer and business education.

accepted a consent order with Eli Lilly & Company to resolve allegations that Lilly violated the FTC Act. According to the complaint, Lilly claimed that it employed measures appropriate under the circumstances to protect the confidentiality of personal information obtained from consumers who visited its Prozac.com Web site, when in fact it did not.⁽⁵⁾

- x Enforcing the Children's Online Privacy Protection Act (COPPA),⁽⁶⁾ which prohibits the collection of personally identifiable information from young children without their parents' consent. Since 2001, the Commission has brought a number of COPPA enforcement actions resulting in more than \$100,000 in civil penalties.⁽⁷⁾
- x Bringing actions against fraudulent or deceptive spammers. In February of this year, the Commission launched a crackdown on deceptive junk email, or "spam," and announced six settlements with seven defendants who allegedly continued to send deceptive chain email after being warned that the chain email scheme was illegal.⁽⁸⁾ The FTC maintains a special electronic mailbox, uce@ftc.gov, to which Internet customers can forward spam. This database currently receives 10,000 new pieces of spam every day. We will continue to use this mailbox to identify targets for law enforcement action.
- x Challenging "pretexting," the practice of fraudulently obtaining personal financial information, often by calling banks under the pretense of being a customer. Last month, the Commission announced settlements in three federal district court actions against information brokers who allegedly engaged in illegal pretexting.⁽⁹⁾
- x Enforcing the privacy protections of the Fair Credit Reporting Act,⁽¹⁰⁾ which ensures the integrity and accuracy of consumer credit reports and limits the disclosure of such information to entities that have "permissible purposes" to use the information.

2. Privacy Rulemaking

The Commission is engaged in the following rulemaking activities:

- x Considering proposed amendments to the Telemarketing Sale Rule,⁽¹¹⁾ which were announced in January 2002.⁽¹²⁾ Among other things, the proposed amendments would create a national do-not-call list to allow consumers to make one call to remove their names from telemarketing lists. The proposed amendments also would address the misuse of "pre-acquired account information," lists of names and credit card account numbers of potential customers. Misuses include billing consumers who believed they were simply accepting a free trial, or billing consumers for products or services that they did not purchase.
- x Completing the current rulemaking on safeguarding consumers' financial information pursuant to the Gramm-Leach-Bliley Act.⁽¹³⁾

3. Privacy- and Security -Related Consumer and Business Education and Outreach

The agency will continue to conduct workshops and other educational activities:

- x Training law enforcement officials about identity theft. On March 14, 2002, the FTC, the U.S. Secret Service, and the Department of Justice kicked off a series of training seminars to provide local and state law enforcement officers with practical tools to enhance their efforts to combat identity theft.⁽¹⁴⁾
- x Collecting information about identity theft with the FTC's new ID Theft Affidavit. In February 2002, the FTC joined with several companies and privacy organizations to make

available a universal identity theft affidavit that victims of identity theft can submit to

database.⁽¹⁹⁾

C. Health, Safety, and Economic Injury

The Commission also will continue to bring law enforcement actions in cases involving consumers' health and safety, and in cases re

conducting research on appropriate consumer education messages for parents.

The Commission also is working to respond to the language in last year's appropriations bill

Congressional district offices.

III. Maintaining Competition Mission

A. Merger Enforcement

Merger enforcement will continue as a major focus of the competition agenda for FY 2003. Stopping mergers that lessen competition ensures that consumers will have the benefit of lower prices and greater choice in their selections of goods and services. The recently revised Hart-Scott-Rodino Act ("HSR")⁽²⁹⁾ filing threshold, coupled with economic conditions during the last fiscal year, reduced the number of reportable filings by approximately two-thirds from their peak. Reported mergers, however, continue to increase in scope, complexity, and size. In FY 2001 alone, the total value of all reported mergers was over \$1 trillion. Large, multifaceted transactions - the ones still subject to HSR - are the ones most likely to raise antitrust issues, and typically involve a number of separate product and geographic markets, each requiring analysis.⁽³⁰⁾ Further, mergers in high tech markets require careful analysis, because new technical issues continue to emerge.

We will devote resources to searching for mergers that are no longer subject to premerger

review the request and rule promptly on any remaining unresolved issues.⁽³⁷⁾ Measures

agency has opened 15 nonmerger investigations. The major focus of our nonmerger work will concern activities among competitors, reflecting the broad consensus in antitrust policy that horizontal arrangements that fix prices or restrict output are the ones most likely to harm consumers.

Efforts in this area are producing benefits for consumers. In February 2002, the FTC settled litigation against American Home Products (AHP) to resolve charges that Schering-Plough Corporation (Schering) illegally agreed to pay AHP millions of dollars in exchange for AHP's agreement to delay introduction of a generic potassium chloride supplement, which would have competed with Schering's branded K-Dur 20, used to treat patients with low potassium, which can lead to cardiac problems.⁽⁴⁵⁾

hospitals and suppliers of health care products.

Another critical sector is energy. Representing a significant portion of the total U.S. economic output, energy is a vital input to virtually all parts of the economy. The FTC has garnered considerable experience with energy issues over the past two decades, investigating numerous oil mergers and bringing cases in appropriate instances. Recently, the FTC obtained two significant settlements to prevent loss of competition resulting from the Chevron/Texaco⁽⁵⁰⁾ and Valero/Ultramar Diamond⁽⁵¹⁾ mergers.oo und

Apr. 23, 2001) (consent decree);

Muris; it was also simply the most effective way to get the job done. Historically, the agencies employed a procedure for dealing with clearance issues that was based on a case-by-case approach, with the Chairman and the Assistant Attorney General making the ultimate decision when necessary (with little or no involvement by other Commissioners). This long course of interagency discussion and negotiation then established "precedent" for allocating antitrust review responsibilities between the agencies -- a kind of "private law" for the kinds of matters that the Agreement was designed to describe publicly. It is proper that the agency heads were the ones to devise a new arrangement that would have injected greater efficiency and clarity into the allocating system

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