

Prepared Statement of The Federal Trade Commission

Before the

**Subcommittee on
Competition, Foreign Commerce, and Infrastructure
of the
Committee on Commerce, Science and Transportation
United States Senate**

Washington, D.C.

June 11, 2003

Mr. Chairman, the Federal Trade Commission ("Commission" or "FTC") is pleased to appear before the Subcommittee today to support the FTC's reauthorization request for Fiscal Years 2004 to 2006.⁽¹⁾ Since the last reauthorization hearing, the FTC has continued to take innovative and aggressive actions to protect consumers and promote competition. The Commission would like to thank the Chairman and members of the Subcommittee for their continued support of the agency's missions.

I. Introduction

The FTC acts to ensure that markets operate efficiently to benefit consumers. The FTC's twin missions of competition and consumer protection serve a common aim: to enhance consumer welfare. The FTC's competition mission promotes free and open markets, bringing consumers lower prices, innovation, and choice among products and services. The FTC's consumer protection mission fosters the exchange of accurate, non-deceptive information, allowing consumers to make informed choices in making purchasing decisions. Because accurate information in the marketplace facilitates fair and robust competition, the FTC's twin missions complement each other and maximize benefits for consumers.

Five principles guide the FTC's agenda for consumers. In exercising its competition and consumer protection authority, the FTC:

- Promotes competition and the unfettered exchange of accurate, non-deceptive information through strong enforcement and focused advocacy;
- Stops conduct that poses the greatest threat to consumer welfare, such as anticompetitive agreements among rivals and fraudulent and deceptive practices;
- Employs a systematic approach for identifying and addressing serious misconduct, with special attention to harmful behavior in key economic sectors;
- Uses the agency's distinctive institutional capabilities by applying its full range of tools - prosecuting cases, conducting studies, holding hearings and workshops, engaging in advocacy before other government bodies, and educating businesses and consumers - to address competition and consumer protection issues; and
-

against the telephone numbers in the database. This fall, consumers who have placed their telephone numbers on the registry will begin to receive fewer and fewer unwanted telemarketing calls.

- **Health Care: Prescription Drugs.** Medical therapy increasingly relies on new pharmaceuticals as alternatives to more invasive treatments, such as surgery. A number of FTC activities will likely, directly or indirectly, help consumers to afford drugs to meet their needs. The FTC published a study examining the frequency of anticompetitive abuses to block market entry of lower-cost generic drugs; provided comments to the Food and Drug Administration ("FDA") on the potential for misusing the Hatch-Waxman Act procedures governing generic entry; and brought law enforcement actions against branded drug companies alleging improper efforts to delay generic entry. Among other significant matters, the Commission reached a settlement with Bristol-Myers Squibb ("BMS") resolving charges that BMS abused the Hatch-Waxman process to obstruct the entry of generic competition for two anti-cancer drugs and an anti-anxiety agent.
- **Financial Practices: Fraudulent Lending.** In May 2003, the court finalized a settlement to resolve FTC charges that The Associates (now owned by Citigroup, Inc.) had engaged in widespread deceptive and abusive practices involving subprime home mortgage lending. The settlement is expected to provide \$215 million in redress through cash refunds and reduced loan balances to approximately 2.2 million consumers in the U.S., Puerto Rico, and the Virgin Islands. A related class action settlement is expected to yield an additional \$25 million, for total relief to consumers of \$240 million.
- **E-Commerce: A Unified Approach to Maintaining Efficient Markets.** The development of the Internet has created a host of consumer issues, requiring the FTC to draw on all its consumer protection and competition capabilities. Among other activities, the FTC has formed an Internet Task Force to analyze state regulations that may restrict the entry of new Internet competitors; hosted public workshops on both spam and potential anticompetitive barriers to e-

compliance with district court orders by bringing civil contempt proceedings when appropriate, and by assisting in criminal prosecution of FTC defendants who flagrantly violate court orders.

The FTC's actions against fraud and deception directly affect consumers. For example, in November 2002, the FTC finalized a consent order against Access Resource Services, Inc. and Psychic Readers Network, the promoters of "Miss Cleo" psychic services, who allegedly engaged in deceptive advertising, billing, and collection practices. The defendants stipulated to a court order requiring them to stop all collection efforts on accounts against consumers who purchased or purportedly purchased defendants' pay-per-call or audiotext services, to pay \$5 million in equitable relief, and to forgive an estimated \$500 million in outstanding consumer charges.⁽⁵⁾

In January 2003, the FTC obtained a permanent injunction against SkyBiz.com, Inc., an alleged massive international pyramid scheme. The final settlement includes \$20 million in consumer redress to be distributed to both domestic and foreign victims. The settlement also bans the principal individual defendants from multi-level marketing for a period of years.⁽⁶⁾

In March 2003, the FTC announced settlements with five individual defendants who allegedly engaged in deceptive charitable telemarketing by misrepresenting both the charities that donations would benefit and the percentage of donations that the charities would receive.⁽⁷⁾ Between 1995 and early 1999, the defendants raised more than \$27 million. Among other terms of the settlements, defendant Mitchell Gold is subject to a \$10 million judgment. Following an FTC criminal referral, Gold was indicted for mail and wire fraud in connection with the fundraising business and another fraudulent telemarketing scheme. Gold pled guilty and was sentenced to 96 months in prison.

B. Consumer Privacy

The FTC will continue to devote significant resources to protecting consumer privacy. Consumers are deeply concerned about the security of their personal information, both online and offline. Although these 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 from a discarded billing statement in the trash as by one who steals that information over the Internet. Of course, the nature of Internet technology raises its own special set of issues.

1. Do-Not-Call. As highlighted above, the FTC has initiated a national Do-Not-Call registry, a centralized database of telephone numbers of consumers who have asked to be placed on the list. The Do-Not-Call registry - part of the FTC's 2002 amendments to the TSR - will help consumers reduce the number of unwanted telemarketing phone calls.

2. Identity Theft. The FTC's toll-free number 1-877-ID-THEFT is the nation's central clearinghouse for identity theft complaints. Calls regarding identity theft have increased from more than 36,000 calls in FY 2000 to more than 185,000 calls in FY 2002. These complaints are available to the FTC's law enforcement partners through an online database, and now more than 620 law enforcement agencies can access this data. In addition, FTC investigators, working with the Secret Service, develop preliminary investigative reports that are referred to regional Financial Crimes Task Forces for possible prosecution.

Continuing a program begun in March 2002, the FTC, the Secret Service, and the Department of Justice ("DOJ") conduct training seminars to provide hundreds of local and state law enforcement officers with practical tools to combat identity theft. To date, the FTC and its partners have conducted six regional training sessions for 620 law enforcement officers.

The FTC also engages in extensive education of both businesses and consumers about preventing and responding

In December 2002, the FTC settled charges against Microsoft Corporation that, among other things, the company misrepresented the measures it used to maintain and protect the privacy and confidentiality of consumers' personal information collected through its Passport web services.⁽¹⁰⁾ Microsoft has agreed to implement a comprehensive information security program for Passport and similar services. The FTC will continue to bring actions involving claims deceptively touting the privacy and security features of products and services, as well as failures to maintain adequate security for personal information.

In May 2002, the Commission finalized its Safeguards Rule to implement the security provisions of the Gramm-Leach-Bliley Act ("GLB").⁽¹¹⁾ The Rule establishes standards for financial institutions to maintain the security of customers' financial information, and became effective in May 2003. To help businesses comply with the Rule, the agency issued a new business education publication, and will conduct other initiatives to inform businesses of the Rule and provide compliance guidance.⁽¹²⁾

Commissioner Orson Swindle, in particular, has focused on issues involving information security. During the past year, he has served as head of the U.S. delegation to the Organization for Economic Cooperation and Development ("OECD") Experts Group for Review of the 1992 OECD Guidelines for the Security of Information Systems. The group released revised guidelines in August 2002 that consist of nine principles promoting a "culture of security." The FTC has promoted the dissemination of these principles among industry and consumer groups. The FTC's consumer security web site, <

including deceptive e-mail header information. The settlement also requires the defendants to prevent third parties that promote their videotext services, through e-mail or other means, from making deceptive statements.⁽²⁰⁾

In April, the FTC filed an action against an allegedly illegal spam operation for using false return addresses, empty "reply-to" links, and deceptive subject lines to expose unsuspecting consumers, including children, to sexually explicit material.⁽²¹⁾ The FTC alleged that the defendant used the spam in an attempt to drive business to an adult web site, "Married But Lonely." The FTC obtained a stipulated preliminary injunction to halt false or misleading spam.

The FTC recently hosted a three-day public forum to analyze the impact spam has on consumers' use of e-mail, e-mail marketing, and the Internet industry and to explore solutions in addition to law enforcement.⁽²²⁾ A major concern expressed at the forum was the dramatic rate at which spam is proliferating. For example, one ISP reported that in 2002, it experienced a 150 percent increase in spam traffic. America Online reported that it recently blocked 2.37 billion pieces of spam in a single day. Indeed, spam appears to be the marketing vehicle of choice for many fraudulent and deceptive marketers. In addition, and of particular concern, panelists noted that spam is increasingly used to disseminate malicious code such as viruses and "Trojan horses."

Solutions to the problems posed by spam will not be quick or easy; nor is one single approach likely to provide a cure. Instead, a balanced blend of technological fixes, business and consumer education, legislation, and enforcement will be required.

guidance on how to decrease the chances of having an e-mail address harvested and used for spam, and suggest several other steps to decrease the amount of spam an address may receive. The FTC's educational materials on spam are available on the FTC website.⁽²⁵⁾

Finally, several initiatives for reducing the overwhelming volume of spam were discussed at the FTC's Spam Forum. At this point, questions remain about the feasibility and likely effectiveness of these initiatives. The FTC intends to continue its active role as catalyst and monitor of technological innovation and business approaches to addressing spam.

6. *Pretexting.* Through its Section 5 authority as well as its jurisdiction under the GLB Act, the FTC is also combating "pretexting," the use of false pretenses to obtain customer financial information. The agency has obtained stipulated court orders to halt these practices⁽²⁶⁾ and has sent warning letters to neibs remain abo(em)00uss t3(c)-3TJ -611(pa)i

underage consumers of the significant expansion of ads for new alcoholic beverages, and (2) the industry's response to recommendations for improved self-regulation contained in the FTC's 1999 report to Congress.⁽⁴⁴⁾

2. Spanish-Speaking Consumers. In FY 2002, the FTC instituted a Hispanic Outreach Program, which resulted in hiring a Hispanic Outreach Coordinator. This effort includes the creation of a dedicated page on the FTC site, *Protection Para el Consumidor* ("Consumer Protection"), which mirrors the English version of the consumer protection page and provides Spanish translations of several popular consumer education publications. The FTC also has created an online Spanish-language consumer complaint form and has undertaken outreach efforts to Hispanic media.

In addition, the FTC has taken action against alleged law violations affecting Spanish-speaking consumers. The agency settled a civil penalty action against a Houston-based debt collection company for alleged violations of the rights of Spanish- and English-speaking consumers under the Fair Debt Collection Practices Act.⁽⁴⁵⁾ The settlement requires, among other things, that the company make disclosures in Spanish where applicable.

3. Military Sentinel. In September 2002, the FTC and the Department of Defense ("D

Tiazac (under current law, the listing of the patent and the subsequent lawsuit brought by Biovail against a potential generic entrant triggered an automatic 30-month stay of FDA approval of the generic competitor);⁽⁴⁹⁾ and

- **Biovail/Elan.** An August 2002 settlement with Biovail and Elan Corporation, plc resolving charges that the companies entered into an agreement that provided substantial incentives for the two companies not to compete in the markets for 30 milligram and 60 milligram dosage strengths of the generic drug Adalat CC (an anti-hypertension drug).⁽⁵⁰⁾

2. Health Care Providers. For decades, the FTC has worked to facilitate innovative and efficient arrangements for the delivery and financing of health care services by challenging artificial barriers to competition among health care providers. These efforts continue. In the last year, the FTC settled with seven groups of physicians for allegedly colluding to raise consumers' costs.⁽⁵¹⁾ These settlements involved significant numbers of doctors -- more than 1,200 in a case in the Dallas-Fort Worth area and more than three-quarters of all doctors in the Carlsbad, New Mexico area. The Commission's orders put a stop to allegedly collusive conduct that harms employers, individual patients, and health plans by depriving them of the benefits of competition in the purchase of physician services.

3. Health Care Mergers. The FTC has taken action regarding a number of proposed mergers in the health care sector to ensure that consumers continue to receive the benefits of competitive markets. In April, the Commission reached a settlement with Pfizer Inc., the largest pharmaceutical company in the United States, and Pharmacia Corporation to resolve concerns that their \$60 billion merger would harm competition in nine separate and wide-ranging product markets, including drugs to treat overactive bladder, symptoms of menopause, skin conditions, coughs, motion sickness, erectile dysfunction, and three different veterinary conditions.⁽⁵²⁾ Annual sales in the nine product markets currently total more than \$3 billion. The settlement will require divestitures to protect consumers' interests in those markets while allowing the remainder of the transaction to go forward.

Other recent health care mergers investigated by the FTC include:

- **Cytoc/Digene.** In June 2002, the Commission authorized the staff to seek a preliminary injunction blocking Cytoc Corporation's proposed acquisition of Digene Corporation,⁽⁵³⁾ involving the merger of two manufacturers of complementary cervical cancer screening tests. The complaint alleged that the combined firm would have an incentive to use its market power in one product to stifle increased competition in the complementary product's market. Thus, if the merger had been consummated, rivals would have been substantially impeded from competing. Following the Commission's decision, the parties abandoned the transaction.
- **Baxter/Wyeth.** The FTC alleged that Baxter International's \$316 million acquisition of Wyeth Corporation raised competitive concerns in markets for a variety of drugs. Of particular concern were the \$400 million market for propofol, a general anesthetic commonly used for the induction and maintenance of anesthesia during surgery, and the \$225 million market for new injectable iron replacement therapies used to treat iron deficiency in patients undergoing hemodialysis.⁽⁵⁴⁾ To settle this matter, the parties agreed to divestitures that are expected to maintain competition in those markets.
- **Amgen/Immunex.** The FTC obtained an agreement settling allegations that Amgen Inc.'s \$16 billion acquisition of Immunex Corporation would reduce competition for three important biopharmaceutical products: (1) neutrophil regeneration factors used to treat a dangerously low white blood cell count that often results from chemotherapy; (2) tumor necrosis factors used to treat rheumatoid arthritis, Crohn's disease, and psoriatic arthritis; and (3) interleukin-1 inhibitors used in the treatment of rheumatoid arthritis.⁽⁵⁵⁾ The settlement required that the companies divest certain assets and license certain intellectual property rights in these markets. these ec

5. *Hearings on Health Care and Competition Law and Policy.*

As a complement to the analysis based on OPIS data, the FTC staff also regularly reviews reports from the Department of Energy's Consumer Gasoline Price Hotline, searching for prices significantly above the levels indicated by the FTC's econometric model or other indications of potential problems. Throughout most of the past two years, gasoline prices in U.S. markets have been within their predicted normal bounds. Of course, the major factor affecting U.S. gasoline prices is the substantial fluctuation in crude oil prices. Prices outside the normal bounds trigger further staff inquiry to determine what factors might be causing price anomalies in a given area. These factors could include supply disruptions such as refinery or pipeline outages, changes in taxes or fuel specifications, unusual changes in demand due to weather conditions and the like, and possible anticompetitive activity.

To enhance the Gasoline Price Monitoring Project, the FTC has recently asked each state Attorney General to forward to the FTC's attention consumer complaints they receive about gasoline prices. The staff will incorporate these complaints into its ongoing analysis of gasoline prices around the country, using the complaints to help locate price anomalies outside of the 360 cities for which the staff already receives daily pricing data.

The goal of the Monitoring Project is to alert the FTC to unusual changes in gasoline prices so that further inquiry can be undertaken expeditiously. When price increases do not appear to have market-driven causes, the FTC staff will consult with the Energy Information Agency of the Department of Energy. The FTC staff also will contact the offices of the appropriate state Attorneys General to discuss the anomaly and the appropriate course for any further inquiry, including the possible opening of a law enforcement investigation.

C. High Technology

With its history of keeping pace with marketplace developments, the FTC is well-positioned to take a leading role in assessing the impact of technology on domestic and world markets. In addition to bringing enforcement actions in high tech areas, the FTC is studying the impact of the Internet and intellectual property on competition law and policy.

1. Standard-Setting Cases. As technology advances, efforts will increase to establish industry standards for the development and manufacture of new products. Standard setting is often procompetitive, but anticompetitive abuses can take place during the standard-setting process. When the standard-setting process appears to have been subverted, the FTC will take action. In addition to *Unocal*, discussed previously, the agency is currently conducting an administrative adjudication regarding Rambus, Inc. A June 2002 complaint alleges that Rambus, a participant in an electronics standard-setting organization, failed to disclose - in violation of the organization's rules - that it had a patent and several pending patent applications on technologies that eventually were adopted as part of the industry standard.⁽⁶⁵⁾ The standard at issue involved a common form of computer memory used in a wide variety of popular consumer electronic products, such as personal computers, fax machines, video games, and personal digital assistants. The Commission's complaint alleges that, once the standard was adopted, Rambus was in a position to reap millions in royalty fees each year, and potentially more than a billion dollars over the life of the patents.⁽⁶⁶⁾ Because standard-setting abuses can harm robust and efficiency-enhancing competition in high tech markets, the FTC will continue to pursue investigations in this area.⁽⁶⁷⁾

2. Intellectual Property Hearings. In 2002, the FTC and DOJ commenced a series of ground-breaking hearings on "Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy."⁽⁶⁸⁾ These hearings, which took place throughout 2002 and were held in Washington and Silicon Valley, heard testimony from academics, industry leaders, technologists and others about the increasing need to manage the issues at the intersection of competition and intellectual property law and policy. The FTC anticipates releasing a report on its findings later this year.

3. Internet Task Force. In 2001, the FTC's Internet Task Force began to evaluate potentially anticompetitive regulations and business practices that could impede e-commerce. The Task Force has discovered that some state regulations may have the effect of protecting existing bricks-and-mortar businesses from new Internet competitors. The Task Force also is considering whether private companies may be hindering e-commerce through the use of potentially anticompetitive tactics. In October 2002, the Task Force held a public workshop to: (1) enhance the FTC's understanding of these issues; (2) educate policymakers about the potential anticompetitive effects of state regulations; and (3) educate private entities about the types of business practices that may be viewed as problematic.⁽⁶⁹⁾

D. International Competition

The FTC's experience is that when fraud targets are given notice of FTC investigations they often destroy documents or secrete assets. Currently RFPA and ECPA provide a mechanism for delaying notice, but the FTC's ability to investigate would be improved by tailoring the bases for a court-ordered delay more specifically to the types of difficulties the FTC encounters, such as transfers of assets offshore. In addition, it is unclear whether FTC attorneys

behalf of the FTC, violators would be liable to pay civil penalties of up to \$11,000 per violation (the amount of civil penalties is governed by statutory factors, such as ability to pay, previous history of such conduct, egregiousness of the conduct, etc.).

Like the existing statute, the amended TCFAPA would authorize states to enforce the FTC Rule in federal court to obtain injunctions and redress for their citizens, but not civil penalties.

The TCFAPA authorizes a private right of action for any person adversely affected by a violation of the FTC's Telemarketing Sales Rule if the amount in controversy exceeds \$50,000 in actual damages for each person adversely affected by such action. The FTC, however, will need to assess whether the inclusion of an analogous provision in an amended TCFAPA that addresses spam would be appropriate, effective, and feasible.

Finally, the rulemaking authority granted through this amendment could be adapted to new changes in technology without hindering technological innovation.

An amended TCFAPA should seek to assure consistency between state and federal laws. The scope of the Internet and of e-mail communication is global, transcending national boundaries. Congress should seek to minimize artificial barriers that would break up this market.

In addition to the TCFAPA amendments, the possible criminalization of false header and routing information should be explored. There is some debate over whether the wire fraud statute covers fraud in the sending of e-mail communications. The FTC staff is discussing this issue with criminal authorities to determine whether a specific statute that criminalized this conduct would clear up any statutory confusion or encourage spam prosecutions. At this time, the FTC has no recommendations on whether changes in the criminal code are necessary or appropriate.⁽⁷⁸⁾ Admittedly, we recognize that these legal steps will not solve the growing spam problem. Nor is it clear what impact these steps will have on some of the other problems associated with spam (e.g., volume and security). These issues may need to be addressed separately. Nevertheless, the FTC believes that the proposed legislation would provide more effective investigative and enforcement tools and would enhance the FTC's continuing law enforcement efforts.

D. Technical Changes

Endnotes:

1. This written statement represents the views of the Federal Trade Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any other Commissioner.
2. In 2003, Consumer Sentinel was named one of the top 25 E-Government programs by the Industry Advisory Council and the Federal Chief Information Officer Council.
3. The FTC works with various federal and state law enforcement agencies, as well as Canadian, Mexican, and other international authorities. See, e.g., FTC Press Release, *State, Federal Law Enforcers Launch Sting on Business Opportunity, Work-at-Home Scams* (June 20, 2002), available at <<http://www.ftc.gov/opa.2002/06/bizopswe.htm>>. See also FTC Press Release, *FTC, States Give "No Credit" to Finance Related Scams in Latest Joint Law Enforcement Sweep* (Sept. 5, 2002), available at <<http://www.ftc.gov/opa/2002/09/opnocredit.htm>>.
4. This figure represents the amount of redress that has been ordered by the courts in more than 65 orders from April 2002 to May 2003. The figure does not represent the actual amount of money that has been or will be collected pursuant to those orders.
5. *FTC v. Access Resource Services, Inc.*, Civ. Action No. 02-60226-CIV Gold/Simonton (S.D. Fla. Nov. 4, 2002).

3 (av) 19 (int) 210 11 11 12 2 (T) 12 J 14 2. 6 12 1 T 12 FTC 2 1 6 12 11 12 13. 4 5 3 18 12 20 9 23 > BD hhat G/we/wi.907 o /CS0n002 G/wTJ /CS

17. FTC Staff Report, False Claims in Spam (Apr. 2003), available at <http://www.ftc.gov/reports/spam/030429spamreport.pdf>. The remaining spam messages were not necessarily truthful, but they did not contain any obvious indicia of falsity.

18. FTC Press Release, *Federal, State, and Local Law Enforcers Tackle Deceptive Spam and Internet Scams* (Nov. 13, 2002), available at <http://www.ftc.gov/opa/2002/11/netforce.htm>.

19. See FTC Consumer Alert, *E-mail Address Harvesting: How Spammers Reap What You Sow* (Nov. 13, 2002), available at <http://www.ftc.gov/bcp/online/pubs/alerts/spamalrt.htm>.

20. *FTC v. BTV Indus.*, Civ. Action No. CV-S-02-0437-EPH-5 (T.C. 07/16/02) (2/14/02) (12/12/04) (11/10/02) (-) 0302d002l Tw 48.8.]

48. The proposed order includes a provision prohibiting BMS from triggering a 30-month stay for any BMS product based on any patent BMS lists in the Orange Book after the filing of an application to market a generic drug.

49. *Biovail Corp.*, Dkt. No. C-4060 (Oct. 2, 2002).

50. *Biovail Corp. and Elan Corp.*, Dkt. No. C-4057 (Aug. 15, 2002).

51. *Grossmont Anesthesia Servs. Med. Group, Inc.*, File No. 021-0006 (May 30, 2003) (agreement accepted for public comment); *Anesthesia Serv. Med. Group, Inc.*, File No. 021-0006 (May 30, 2003) (agreement accepted for public comment); *Carlsbad Physicians*, File No. 031-0002 (May 2, 2003) (agreement accepted for public comment); *System Health Providers*, Dkt. No. C-4064 (Oct. 24, 2002); *R.T. Welter & Assoc., Inc.* (Professionals in Women's Care), Dkt. No. C-4063 (Oct. 8, 2002); *Physician Integrated Servs. of Denver, Inc.*, Dkt. No. C-4054 (July 16, 2002); *Aurora Associated Primary Care Physicians, L.L.C.*, Dkt. No. C-4055 (July 16, 2002).

52. *Pfizer Inc.*, Dkt. No. C-4075 (Apr. 14, 2003) (proposed consent agreement accepted for public comment).

53. FTC Press Release, *FTC Seeks to Block Cytoc Corp.'s Acquisition of Digene Corp.* (June 24, 2002), available at http://www.ftc.gov/opa/2002/06/cytc_digene.htm.

54. *Baxter International Inc. and Wyeth*, Dkt. No. C-4068 (Feb. 3, 2003).

55. *Amgen Inc. and Immunex Corp.*, Dkt. No. C-4056 (Sept. 3, 2002).

56. See Thomas B. Leary, *Antitrust Issues in Settlement of Pharmaceutical Patent Disputes* (Nov. 3, 2000), available at <http://www.ftc.gov/speeches/leary/learypharma.htm>; Thomas B. Leary, *Antitrust Issues in the Settlement of Pharmaceutical Patent Disputes, Part II* (May 17, 2001), available at <http://www.ftc.gov/speeches/leary/learypharmaceuticalsettlement.htm>.

57. *Generic Drug Entry Prior to Patent Expiration: An FTC Study* (July 2002), available at <http://www.ftc.gov/opa/2002/07/genericdrugstudy.htm>.

58. President Takes Action to Lower Prescription Drug Prices by Improving Access to Generic Td [Td [1Se [(>)-1(2)15(200)13 -2.72

67. In 1996, the FTC settled a similar complaint against Dell Computer, alleging that Dell had failed to disclose an existing patent on a personal computer component that was adopted as the standard for a video electronics game. *Dell Computer Co.*, 121 F.T.C. 616 (1996).

68. FTC Press Release,