newly-published books on subjects of interest, online catalogues for products or se under Section 5 of the FTC Act to bring tough law enforcement actions to halt specific deceptive or unfair practices, and establish principles for non-deceptive marketing.[5] In some instances, most notably national advertising, industry took an aggressive and strong self-regulatory stance that resulted in dramatic improvements in advertising and marketing practices.[6] In other instances, at the direction of Congress or on its own initiative, the Commission has issued trade regulation rules to establish a bright line between legitimate and deceptive conduct.[7]

B. Monitoring and Studying Industry Practices

The Federal Trade Commission closely monitors the development of commerce on the Internet. Through a series of hearings and public workshops, the Commission has heard the views of a wide range of stakeholders and issued reports on the broad challenges posed by the rapid growth of the Internet and electronic commerce. In the fall of 1995, the Commission held four days of hearings to explore the effect of new technologies on consumers in the global marketplace. Those hearings produced a staff report, *Anticipating the 21st Century: Consumer Protection Policy in the New High-Tech, Global Marketplace*.[8] The report warned of the potential for the Internet to become the newest haven for deception and fraud.

Another recent case, this time targeting an alleged pyramid scheme that centered on spam, is *FTC v. Martinelli.*[13] The defendants in that case ran DP Marketing, a Connecticut-based alleged pyramid scheme, elaborately disguised as a work-at-home opportunity. The scheme solicited new recruits through "spam" and through newspaper classified ads across the country. The spam contained messages such as: "National Marketing Company seeks individuals to handle office duties from home. This is a full or part-time position with a salary of $13.50/hr. The position consists of processing applications for credit, loans or employment, as well as online consumer service."

Consumers responded by visiting DP Marketing's Web site or by calling the company. In either case, the defendants informed the consumers that the $13.50 per hour jobs were for processing orders for DP Marketing from the comfort of their own homes. The defendants further told consumers that no experience was necessary, and that for a "registration fee" ranging from $9.95 to $28.72 they would be sent everything they would need to get started, including telephone scripts, product sheets, time sheets and an ID number. What the consumers actually got was a kit instructing them first to place advertisements identical to the ones they had responded to, and then to read the same script to people who responded to their ads. Instead of $13.50 per hour, the money consumers could earn was based on the number of new victims they recruited.

The FTC charged that the defendants misrepresented to consumers that DP Marketing offers jobs at a specified salary; failed to disclose the material fact that they were offering a pyramid work-at-home scheme; and provided the "means and instrumentalities" to others to commit unlawful and deceptive acts. On September 23, 1999, the court granted the Commission's motion to approve a stipulated preliminary injunction prohibiting the defendants from continuing this scheme.

The Commission has also brought a number of cases against credit repair scams that used spam as an integral aspect of their deception.[14] In a particularly pernicious variation on this scheme, consumers are urged to create a new credit identity in order to fix their credit. Using spam messages such as "BRAND NEW CREDIT FILE IN 30 DAYS," these scammers induce consumers to purchase instructions about how consumers can obtain federally-issued, nine-digit employee identification numbers or taxpayer identification numbers, substitute them for social suggestions for assessing whether an opportunity is legitimate or fraudulent, and steers consumers to additional resource materials that can help them determine the validity of a promotion or money making venture. To date, nearly 62,000 copies of the brochure have been distributed, and it has been accessed on the FTC's web site nearly 19,000 times.

How to Be Web Ready is a reader's bookmark that offers consumers tips for safe Internet browsing. It provides guidance for consumers on how to safeguard personal information, question unsolicited product or performance claims, exercise caution when giving their email address, guard the security of financial transactions, and protect themselves from programs and files that could destroy their hard drives. A number of corporations and organizations have provided a link from their web site to the tips on the FTC's web site, including Circuit City, Borders Group Inc., Netcom, Micron, and Compaq. More than 52,000 copies of the bookmark have been distributed, and it has been accessed more than 15,000 times on the FTC's web site.

In July 1998, the FTC launched a public education campaign called "***Spam's Dirty Dozen: 12 Scams Most Likely to Arrive Via Bulk Email"*** to publicize the most prevalent UCE scams. The list of scams was culled from a sampling of more than 250,000 spam messages that consumers had forwarded to the FTC's mailbox at uce@ftc.gov. The consumer alert identified the following twelve types of deceptive solicitations and described how each operate: business opportunities schemes; bulk email programs; chain letters; work-at-home schemes; health and diet scams; effortless income; free goods; investment opportunities; cable descrambler kits; guaranteed loans or credit, on easy terms; credit repair; and vacation prize promotions. Nearly 10,000 copies of this consumer alert have been distributed, and it has been accessed more than 35,000 times on the FTC's web site.

D. Considering the Future In Light of Past Experience

In the past year, Commission staff has investigated spamming and the extent to which consumers fall victim to misleading offers. Where staff's investigations revealed significant economic harm to recipients who responded to deceptive UCE, the Commission has taken enforcement action. While neither the Commission's UCE database nor staff's interviews with consumers constitute a representative sample of all UCE and UCE recipients, it is notable that, in the Commission's experience to date, a small percentage of consumers have actually lost money responding to deceptive UCE. However, a deceptive spammer can still make a profit even though very few recipients respond because the cost of sending bulk volume UCE is so low -- far lower than traditional mail delivery. Whether consumers respond to deceptive UCE by either becoming victims or "flaming" senders (*i.e.*, sending angry return emails), forwarding their UCE to the FTC, or automatically deleting all of their UCE, the Commission is concerned that the proliferation of deceptive UCE poses a threat to consumers' confidence in the Internet as a medium for personal electronic commerce.

As government, industry, and consumer interests examine legislative, self-regulatory, and law enforcement options at this important turning point, it is useful to be mindful of lessons learned in the past. Earlier in this decade, the advent of the first and still the most universal interactive technology, 900 number, telephone-based "pay-per-call" technology, held great promise. Unfortunately, unscrupulous marketers quickly became the technology's most notorious users.

Tens of thousands of consumers wound up with charges on their telephone bills for calls to 900 numbers that they thought were free. Others were billed for expensive calls made by their children without parental knowledge or consent.

The FTC and state attorneys general brought dozens of enforcement actions to halt these equitable relief. Section 18 of the FTC Act, 15 U.S.C.§ 57a, authorizes the Commission to promulgate trade regulation rules to prohibit deceptive or unfair practices that are prevalent in specific industries.

6. For example, the National Advertising Division of the Council of Better Business Bureaus, Inc., operates the advertising industry's self-regulatory mechanism.

7. For example, the Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (the "Cooling-Off Rule"), 16 C.F.R. Part 429; the Mail or Telephone Order Merchandise Rule, 16 C.F.R. Part 435; the Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 ("The 900-Number Rule"), 16 C.F.R. Part 308; and the Telemarketing Sales Rule Pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act, 16 C.F.R. Part 310.

8. May 1996.

9. The Ad-Hoc Report is available at www.cdt.org/spam .

10. "Header" information, at minimum, includes the names, addresses, or descriptions found in the "TO:", "FROM:", and "SUBJECT:" linesNitf' l:"8 [- EMC527("8t)7(i) <</MCI(1)-4(6)-4(C)t96.8(r)-202009-1.2(S Tw113(4(t)113(e)4(