

**1995**

**ANNUAL REPORT**



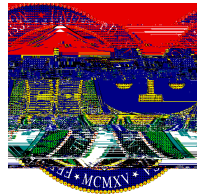
**U.S. FEDERAL TRADE COMMISSION  
WASHINGTON, D.C.**

*Annual  
Report  
of the*

**Federal  
Trade  
Commission**

For Fiscal Year Ended

September 30, 1995



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FEDERAL TRADE COMMISSION - 1995

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ROBERT PITOFSKY, *Chairman*  
MARY L. AZCUENAGA, *Commissioner*  
JANET D. STEIGER, *Commissioner*  
ROSCOE B. STAREK, III, *Commissioner*  
CHRISTINE A. VARNEY, *Commissioner*

DONALD S. CLARK, *Secretary*

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

**Pennsylvania Avenue at Sixth Street, N.W.**  
**Washington, D.C. 20580**

FEDERAL TRADE COMMISSION  
1995 ANNUAL REPORT

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## COMMISSIONERS

**ROBERT PITOFSKY** Robert Pitofsky was sworn in as 54th Chairman of the Federal  
**(4/95 - )** Trade Commission on April 11, 1995, having been nominated by  
President Clinton.

At the time of his nomination, Chairman Pitofsky as  $\text{f}$

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attorney in the Office of the General Counsel. In 1982, she received the Federal Trade Commission Chairman's Award, the highest recognition accorded a Commission employee.

Commissioner Azcuenaga is a graduate of Stanford University and the University of Chicago School of Law. She has been a member of the Administrative Conference of the United States and is a member of the Board of Trustees of the Food and Drug Law Institute and the Board of Directors of the Girl Scout Council of the Nation's Capital.

Commissioner Azcuenaga is a member of the bars of the District of Columbia and the State of California. She lives in Washington, D.C.

**JANET D. STEIGER** Janet D. Steiger was sworn in as a member of the Federal Trade  
**(8/89 -)** Commission on August 11, 1989. She was nominated by President Bush. She served as Chairman from August 11, 1989, to April 11, 1995.

Commissioner Steiger had been Chairman of the Postal Rate Commission, by appointment of President Reagan, from March 1982 to August 1989. She also chaired the Congressionally mandated three-year Commission to Assess Veterans' Education Policy (1987-1989), which reported to the 100th Congress. A Republican, she was nominated by President Carter, and confirmed by the Senate, as a Postal Rate Commissioner in 1980. In 1985, the Federally Employed Women of Washington awarded her the Outstanding Woman in Government Award for 1984.

A member of Phi Beta Kappa, Commissioner Steiger received her B.A. from Lawrence University in 1961 and did postgraduate study at the University of Reading in England and at the University of Wisconsin-Madison. She was a Fulbright Scholar, a Woodrow Wilson Scholar, and a member of the Lawrence Board of Trustees (1986-1989). Lawrence awarded her an honorary doctor of laws degree in 1992.

Before government service, Commissioner Steiger was cofounder of the WorkPlace, Inc., a Washington office-and-research facility. Born in Oshkosh, Wisconsin, Commissioner Steiger is the widow of



Legislative and Executive branches of the Federal Gover

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Committee, and General Counsel to the Democratic National Committee.

Commissioner Varney is a 1977 graduate of the State University of New York in Albany and earned a Master's in Public Administration in 1978 from the Maxwell School at Syracuse University. In 1985, she earned a Juris Doctorate from the Georgetown University Law Center, where she was a Law Fellow. She also attended Trinity College in Dublin, Ireland.

Commissioner Varney is a member of the District of Columbia Bar, the New York State Bar, the American Bar Association, and the National Lawyers' Council. She is also a committeewoman on the ABA Standing Committee on Election Law.

Commissioner Varney was born in Washington, D.C., and was raised in Syracuse, New York. She is married to Thomas J. Graham and has two children.

### OVERVIEW

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. By eliminating acts or practices that are unfair or deceptive, it seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions. The Commission's efforts are generally directed toward stopping actions that restrict competition or threaten consumers' ability to exercise informed choice. Finally, it undertakes economic analysis to support its law enforcement efforts and to contribute to the policy deliberations of various federal, state, and local government bodies.

In addition to its statutory enforcement activities, the Commission supports Congressional mandates through cost-effective non-enforcement activities, such as consumer education. This report itemizes the Commission's accomplishments in fiscal year 1995.

#### **COMPETITION MISSION**

The Competition Mission is based upon the fundamental premise of the antitrust laws that competition brings the best products and services at the lowest prices, spurs efficiency and innovation, and strengthens the U.S. economy. Unreasonable restraints on competition harm everyone, from consumers to businesses to workers, and the job of the Competition Mission is to guard against such restraints. The Mission and the antitrust laws it enforces seek to eliminate unreasonable competitive restraints to allow entities to compete and to encourage governmental reliance on market solutions.

Recent changes in the U.S. economy have increased demands upon the agency. Most prominent is a significant increase in mergers and acquisitions, which have been at near-record levels.

#### *Mission Priorities*

The Mission applies three criteria to test its success:

efforts must make a tangible difference to consumers;  
efforts must provide benefit to consumers with the minimum feasible burden on business; and  
through a continuing process of reviewing and questioning enforcement policies, it must take into account the dynamic changes in the economy such as increasingly rapid technological

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change, the internationalization of many markets, and advances in the economic analysis of competition.

During fiscal year 1995, the Mission's enforcement actions protected consumers from anticompetitive consequences in 35 different mergers and acquisitions. The relief obtained from the consent agreements in just two proposed mergers resulted in estimated savings to consumers of \$45 million or more, roughly equal to the entire amount of the Mission's annual resources for the year.

The Commission also changed policies and procedures to improve the Mission's enforcement efficiency and eliminate unnecessary burdens on business developments:

The Commission joined with the Antitrust Division of the Department of Justice (DOJ) to issue final versions of two sets of guidelines stating the agencies' antitrust enforcement policies, *Antitrust Enforcement Guidelines for International Operations* and *Antitrust Guidelines for the Licensing and Acquisition of Intellectual Property*. Such guidelines play an essential role in helping businesses comply with the law. They also avoid both the cost of litigation to challenge anticompetitive conduct after the fact and the risk that businesses will shun procompetitive, efficient transactions that they wrongly fear might be challenged. The Commission issued a new *Policy Statement Regarding Duration of Competition and Consumer Protection Orders*, which provided that it will ordinarily "sunset" future orders automatically after 20 years, and a *Notice of Proposed Rulemaking Regarding the Duration of Existing Competition and Consumer Protection Orders*, which provided that it would ordinarily "sunset" existing orders after 20 years. In all cases, the automatic "sunset" is subject to exceptions where a court complaint alleging an order violation has been filed.

The Commission issued a statement that adopted a less restrictive "prior approval" policy for merger orders providing that the Commission will no longer routinely use prior approval or prior notice provisions, except where there is a credible risk of renewal of the acquisition attempt or of a non-Hart-Scott-Rodino (HSR) reportable anticompetitive transaction. The Commission also invited parties subject to existing orders to seek modification of their orders, where appropriate under the new policy.

The Commission issued a statement clarifying its policy on the use of administrative litigation after denial of a preliminary injunction, indicating that it would affirmatively reconsider the desirability of proceeding in such cases. The Commission also adopted new Rule 3.26 to facilitate such consideration in those cases where administrative litigation has already commenced.

The Commission proposed new HSR rules to reduce burden and cost by providing five specific exemptions to the existing reporting rules. Because these exemptions cover classes of transactions that are unlikely to raise antitrust concerns, they decrease the number of transactions that require filings. These proposals could save the public several million dollars in the preparation of filings and filing fees and save both Commission and DOJ resources in the review of filings.

Working with the Department of Justice, the Commission made the HSR review process quicker and less burdensome. Average clearance times have been shortened from 17 to 10 days, and parties have produced over 40 percent fewer documents under a new model document request.

The Commission held extensive hearings to gather information on changes brought about by the globalization of the economy and advances in economic thinking. The purpose of the hearings was to receive the views of a large number of witnesses, including leading economic and legal scholars, business executives, foreign enforcement authorities, and practitioners.

Commission staff issued advisory opinions to assist businesses in complying with the antitrust laws and to facilitate transactions that are unlikely to raise antitrust concerns.

Commission staff continued to assist foreign governments in their transitions from command-and-control to market economies and in the development of antitrust mechanisms to complement this transition.

The Competition Mission also leveraged its resources and expertise through cooperation with state governments. In particular, the Mission sought to further strengthen the already strong working relationships developed in recent years with state governments. In June 1995, the Commission adopted an expanded policy for sharing information concerning its merger investigations with state law enforcement officials. This policy led to several joint investigations with state authorities, while

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other investigations were conducted in parallel and benefited from substantial information-sharing.

To protect consumers against mergers that may substantially lessen competition, the most effective and cost-efficient strategy is to prevent such mergers before they occur. The Commission implements this strategy primarily through its authority to seek injunctive relief under Section 13(b) of the Federal Trade Commission Act, although it is often possible to resolve the competitive problem through consent proceedings without having to seek such an injunction. Where injunctive relief is inappropriate or unavailable, the Commission may rely on its administrative remedial powers to seek to restore competition lost as the result of a merger that could not be prevented. Whether achieved by consent or in an administrative proceeding, the principal remedy is divestiture of assets sufficient to preserve or restore competition, although the Commission also has employed conduct remedies where appropriate.

### *Enforcement Activities*

During fiscal year 1995, staff filed motions in federal district court to prevent the consummation of five proposed mergers. The Commission also accepted 31 consent agreements for public comment and entered into a hold-separate agreement with stipulated relief pending the completion of the Commission's investigation in one matter.

The two most prominent areas of merger enforcement in fiscal year 1995 were the defense industry and health care services, such as acute care hospital services, specialized medical facilities, medical devices, pharmaceuticals, and retail pharmacies. During fiscal year 1995, the Commission also sought two preliminary injunctions and accepted seventeen consent agreements in a variety of other industries, including supermarkets, chemicals, cable television systems, wire fund transfers, and funeral homes.

### *Premerger Notification Program*

The Premerger Notification Program is an essential component of the enforcement program protecting consumers against anti-competitive mergers and acquisitions by enforcing the Hart-Scott-Rodino Act (HSR Act). Prior to enactment of the HSR Act, parties often consummated their acquisitions and combined their operations before the antitrust agencies even learned of the transactions. It was difficult, if not impossible, to “unscramble the eggs” and restore the

## **Federal Trade Commission**

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benefits of competition to consumers. The HSR Act requires entities who meet certain size requirements and are planning significant acquisitions to file notification with the Commission and the Antitrust Division of the Department of Justice and to delay consummation for a prescribed period of time. The HSR Act allows antitrust enforcement agencies to take action against potentially anticompetitive mergers before they occur.

The Program also strives to minimize the burden on filing parties to the extent possible, given the agencies' enforcement responsibilities.



Staff provided oral and written interpretations, informal advice, and general information to the public in approximately 16,000 instances and on a variety of subjects including the Premerger Rules, the written interpretations of the Rules, the Premerger Notification Source Book, and the three Premerger Guides designed to assist the public's understanding and compliance under the HSR Act.

The Commission and the Antitrust Division of the Department of Justice jointly developed and published eight initiatives to improve the agencies' review and screening of mergers reported under the HSR Act prior to their consummation. These measures were adopted to eliminate any undue burden on parties that attempt to comply with the reporting requirements of the HSR Act, to expedite the HSR clearance and second request processes, and to explore alternatives that could exempt some transactions from HSR review.

Building on these initiatives, the Commission developed two proposals designed to reduce the burden and cost of filing the "Premerger Notification and Report Form" and to increase staff efficiency for both the Commission and the Department of Justice in the processing and analysis of information submitted under the HSR Act. First, the Commission published proposed changes to the form which would eliminate parties' submission of information non-essential to the antitrust review of a reportable transaction. Second, Commission staff developed five specific exemptions to the existing interpretation of the "General Ordinary Course of Business Rule" in an effort to end the reporting obligation for transactions not likely to raise enforcement concerns. This proposal would save the public several million dollars in the preparation of those filings, would avoid unnecessary delay in completion of the transactions, and would ease the burden on both agencies from reviewing information received with such filings.

### *Horizontal Restraints Program*

The Horizontal Restraints Program is directed toward investigations of collusive or other collaborative activities involving direct competitors that may harm consumers. Some horizontal restraints, such other

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remedy anticompetitive collusion or facilitation of collusion. While some agreements among competitors, such as standard-setting and the promulgation of legitimate ethical codes, can serve functions that are procompetitive and even essential, such agreements can also be abused to exclude entry by new competitors or expansion by existing competitors.

During fiscal year 1995, the Horizontal Restraints Program opened 43 new investigations. The Commission initiated 11 new enforcement actions, 10 of which resulted in consent agreements.

The Commission and DOJ jointly issued antitrust guidelines for the licensing of intellectual property that is protected by patent, copyr

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DOJ jointly issued antitrust guidelines for the licensing of intellectual property that is protected by patent, copyr  
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orders were modified or clarified to permit the parties to engage in conduct that appeared unlikely to violate the antitrust laws.

### *Single Firm Violations Program*

A single firm with market power can use various anticompetitive practices

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develop new and creative strategies to ensure the free flow of current and understandable information to consumers.

Evolving technologies are radically changing the way consumers learn about, buy, and pay for goods and services. An array of new media has supplemented television and print advertising, once the standard media for reaching consumers. The Internet, pay-per-call telephone services, and infomercials are among the new methods sellers are using to reach consumers. In addition, consumers have become more sophisticated. Not too long ago, they were interested in only price and quality. Today they are increasingly concerned with the health implications of the food they buy, the environmental implications of packaging and other product nmlers are mT arday Tey, the 20 (The f



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significant consumer protection cases and are important contact points for state Attorneys General and other state and local consumer protection officials.

### *Advertising Practices Program*

The mission of the Advertising Practices Program is to prevent marketers from making deceptive, unsubstantiated, or unfair advertising claims. It also administers federal laws requiring health warnings on tobacco products. With respect to environmental marketing claims and food advertising, the Program published enforcement policy statements to provide guidance to business on how to comply with Commission advertising standards.

The Program focuses on nutritional or health claims in food advertising. Consumer interest in and concern about nutrition and health messages in food advertising is at an all-time high. One poll showed that 84 percent of consumers are concerned that what they eat may affect their health. Thirty-four percent of consumers have stopped buying particular foods, especially those high in fat, after reading about the foods' nutritional content. This interest has sparked the development of new food products, such as low- and reduced-fat foods.

Marketers of dietary supplements advertise and promote their products heavily as new scientific evidence becomes available regarding the potential health benefits of various nutrients. Because of mounting consumer interest in dietary supplements and concerns about deceptive claims, the Program is closely monitoring this product category, focusing on unsubstantiated health and efficacy claims for supplements purporting, for example, to hasten weight loss and build muscle, lower serum cholesterol, and provide other nutritional benefits.

The FDA has granted over-the-counter status to many drugs that had been available to consumers only by prescription. An active Commission program of monitoring advertising claims for these "switched" products is an important consideration to FDA in its review of proposals to sell a drug over-the-counter. Because average consumers cannot judge most product claims for efficacy, safety, and freedom from side effects, the Program also examines advertising claims for these products.

The Program also focuses on "green" claims. During the late 1980's and early 1990's, consumers were particularly interested in the

environment and associated

## Federal Trade Commission

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major credit bureaus based on alleged violations of the Fair Credit Reporting Act through its sale of target marketing lists.

Before entering into credit and lease transactions, consumers must know the applicable terms and conditions. In the Truth in Lending and Consumer Leasing Acts, Congress mandated that certain information must be placed in advertisements and must be given to consumers before transactions are consummated. The Acts created a uniform term, annual percentage rate (APR), to allow for credit comparison shopping and fair competition among creditors. The credit market breaks down when creditors fail to provide information or, worse, provide incorrect information. In its jurisdiction over millions of creditors, the Commission's role is to ensure that creditors provide accurate information, thereby allowing the marketplace to operate properly.

An inevitable consequence of granting credit is default by a certain percentage of consumers. In addition to creditor collection activities, many of these debts are assigned to debt collectors for collection activity. While there is no reason legitimate debts should not be collected, certain activities by debt collectors violate the Fair Debt Collection Practices Act. The Commission plays a critical role in clarifying proper collection tactics and prosecuting those who cross the line under this Act. The Program also makes it clear that creditors bear some responsibility for collectors' actions, when the creditors are aware of the actions.

Finally, credit and other markets fail when merchants engage in unfair or deceptive trade practices. Given the importance of credit in individuals' lives, many of these illegal practices focus on credit issues. They include advance fee loan fraud, piog9r414.2 Tc 0 Tw w08 -1



## **Overview**

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Program is committed to working cooperatively and non-punitively with companies that, acting in good faith, commit technical or inadvertent violations.

In addition, in fiscal year 1995, the Program completed the last of its rulemaking activities

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The Marketing Practices Program investigates, and attempts to stop, fraud that consumers cannot readily detect and economic harm caused by merchants who fail to provide consumers with needed information. The Program reflects the variety, prevalence, and severity of consumer problems in the areas of telemarketing, business opportunity, and franchise fraud.

Economic fraud directed at consumers and small businesses is one of the most common consumer protection problems. Through federal court cases and rule enforcement, the Commission targeted fraud that could not be readily detected by reasonably diligent consumers or that was aimed at vulnerable populations of consumers, such as older people. Many perpetrators of this type of fraud used new technologies not yet understood by consumers or applied familiar technologies in new ways to confuse consumers.

The Program also focused on the fraudulent use of payment systems, such as “900” or pay-per-call information services, bank drafts, and credit cards; fraudulent sale of franchises and of business and employment opportunities, often with the aid of telecommunications technology and electronic fund transfers; fraudulent sale of goods and services to small businesses; fraudulent solicitation of charitable contributions; and fraud on the Internet.

Fraudulent sale of franchises and of business and employment opportunities, often with the aid of telecommunications technology and electronic fund transfers, has become an area of concern. These cases sometimes involve people who have invested severance pay, retirement savings, or all their assets, in business opportunities that seem likely to pay off and provide economic security. Recent estimates suggest

Effective December 31, 1995, the rule makes illegal virtually everything that fraudulent telemarketers do to separate consumers from their money. It also gives the 50 state Attorneys General the ability to go into federal district court and get injunctive orders that apply nationwide against fraudulent telemarketers.

The Marketing Practices Program also stemmed consumer injury that occurs when sellers fail to provide important information to consumers. By enforcing the Funeral Rule, the Commission imposed sanctions on funeral providers who failed to give consumers information about choices and prices for all goods and services sold. The Commission enforced the Franchise Rule, imposing sanctions on franchisees who failed to provide presale disclosure documents to prospective investors, and the Pay-Per-Call Rule, imposing sanctions on information providers who sold information by telephone without providing cost and other material information to consumers.

### *Service Industry Practices Program*

The Service Industry Practices Program focuses on fraud in the sale of goods or services as investments, and other fraud perpetrated by telemarketers. Investment fraud cases challenge the deceptive sale of phony art, services related to government lotteries for FCC licenses or oil and gas rights to federal lands, jewelry-grade gemstones sold as investment-grade stones, overgraded coins, precious or strategic metals, and stamps.

Telemarketing fraud results in billions of dollars of losses to consumers every year. Estimates of consumer losses range from \$3 billion to \$40 billion each year, in addition to the probable loss by financial institutions of hundreds of millions of dollars. Over eight billion telemarketing calls are made each year. Although the great majority of these calls are legitimate, the potential for fraud is enormous.

The Program also seeks to increase law enforcement and consumer awareness in the burgeoning area of international fraud. U.S. consumers are increasingly being subjected to telemarketing fraud emanating from outside the country. The Commission has worked with both U.S. and foreign criminal and other law enforcement agencies to successfully prosecute individuals perpetrating cross-border fraud.

As part of its effort to combat telemarketing fraud, the Commission maintains a Telemarketing Database with NAAG. A



economic analysis into the proceeding, to provide expert testimony, and to devise remedies that would improve market competition.

In the consumer protection area, economists assessed the benefits and costs of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer-run effects on price, product variety, and overall consumer welfare.

Although the FTC is primarily an enforcement agency, it is also charged with analyzing data and publishing information about the nation's industries, markets, and business firms. Much of this work is undertaken by the Bureau of Economics. In 1995, economists conducted studies on a broad array of topics in antitrust and consumer protection.

The Bureau of Economics also coordinates the Commission's Consumer and Competition Advocacy Program, which the Commission uses to provide advice to federal, state, and other regulatory entities concerning the actual or potential economic impact of existing and proposed trade regulations.

### *Antitrust*

In the antitrust area, economists participated in all investigations of alleged antitrust violations and in the presentation of cases in support of complaints. Economists also advised the Commission on all proposed antitrust actions and provided economic expertise for matters in litigation. These activities consumed the bulk of the Bureau's resources assigned to the Commission's antitrust mission.

The Bureau also maintains a small research program in support of the Commission's antitrust activities. During the year, one major study was released assessing the competitiveness of the long-distance telephone market. Ongoing studies included a historical examination of a market in which the FTC brought a price discrimination case, the aftermath of divestitures obtained in FTC merger cases, and a review of the effects of mergers or asset transfers in the soft drink bottling industry.

### *Consumer Protection*

In the consumer protection area, economists evaluated proposals for full-phase investigations, consent negotiations, consent settlements, and complaints. Economists routinely provided day-to-day

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guidance on individual matters, provided litigation support services, and made policy recommendations directly to the Commission.

In addition to the Bureau's direct support for individual consumer protection case matters, staff economists worked on consumer protection topics of interest to the Commission. Such ongoing study work included an examination of the effects of food advertising policy on the consumption of fats and cholesterol in the American diet and a review of the interactions of food advertising, regulation, and science from 1950 to 1989.

### *Consumer and Competition Advocacy*

The interests of consumers are not always well represented in some legislative and regulatory forums. Consequently, laws or regulations are sometimes promulgated that harm consumers by restricting entry, limiting competition, chilling innovation, raising prices, or reducing the quality of goods and services. The goal of the Commission's advocacy activities is to reduce such harm to consumers by informing appropriate governmental and self-regulatory bodies about the potential effects on consumers, both positive and negative, of proposed legislation, rules, industry guides, or codes. The Advocacy program in the Bureau of Economics is the central source of planning, coordination, review, and information for the staff's work in this area. During fiscal 1995, the Commission staff submitted 14 comments to federal and state agencies. Comment submissions have covered subject areas such as competition in health care markets, telemarketing fraud, occupational licensing, intellectual property, public utilities, communications, and product labeling, among others.

### **MANAGEMENT AND ADMINISTRATION** *Budget and Finance*

During fiscal year 1995, the Division of Budget and Finance completed negotiations and executed a cross-servicing agreement with the Department of the Interior for all Commission voucher payments processing to be done by the Department of the Interior's Administrative Service Center (ASC) in Denver. The Division worked with the Office of Management and Budget to allow the Commission to extend a buy-out program, allowing the Commission to further streamline its organization and staff structures.

## **Overview**

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The Division of Budget and Finance managed the Commission's financial services, such as maintaining a general ledger accounting system; issuing accurate and

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consumer redress account administration;  
Agency for International Development program evaluation  
services for Eastern Europe; and  
warehouse and janitorial services.

The Division implemented an automated procurement system acquired through an interagency agreement with the Department of the Interior and completed a rewrite of the procurement section in the FTC administrative manual.

Procurement and General Services also completed several facility projects. These included constructing a new document storage area, installing a new fire alarm and sprinkler system, renovating the elevators, and installing a new keycard entrance system.

### *Planning and Information*

The Planning and Information (P&I) program continued to make progress towards its goal of increasing





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staff in headquarters and in the 10 regions as they were upgraded to the new environment. By the end of fiscal year 1995, over 70 percent of the desktop installations in headquarters and the regions had been completed, along with user support and training; all Commission network servers were upgraded to the Windows NT Operating System; and additional hardware to meet Commission needs for network server and central computing platforms was acquired. The project remained on target for its projected completion in December 1995.

Other communications upgrades included implementation of a remote E-Mail package to provide upgraded remote communications capabilities for Commission staff working from home or on travel and deployment to users of upgraded LAN-based out-faxing capabilities.

### Improve Regional Office Communications

The upgrade of Regional Office LAN/WAN servers, including installation of improved fax, dial-out, CD-ROM, and data communications capabilities, was completed for the majority of regional offices. New telephone and voice mail systems were procured and the upgrade was completed for the Los Angeles and Seattle regional offices. In addition, networking features were installed that allowed Commission staff to exchange voice mail between the Seattle, Denver, and Los Angeles regions and with headquarters. GSA approval was obtained to proceed with plans to add voice mail and upgrade telephone systems in all Regional Offices.

### Establish a Systems Development Platform for the Future

Facing major legacy

P&I's accomplishments supported the following objectives:

### Expand Training and Technical Support

In fiscal year 1995, P&I initiated a major project to reengineer technical support and Help Desk processes and to identify and procure new state-of-the-art Help Desk and property management software to support the technical support process.

To support expanded training requirements, P&I procured and put in place a portable training facility using laptop computers and large-screen display projectors. Supporting services and media to provide training for Commission staff in conjunction with the upgrade to a new Commission Windows Desktop environment were acquired and successfully delivered. Assistance was also provided to Commission offices and external agency staff in conjunction with conversion of Procurement and Personnel/Payroll systems. A number of user-oriented tip sheets and other documentation to assist Commission staff in using Commission computer systems were developed and distributed.

### Enhance Litigation Support and Workgroup Consulting

Support for data acquisition efforts in law enforcement investigations continued to increase. Guidelines were developed and Commission staff were briefed on developing and executing electronic data acquisition strategies. A geographic information system (GIS), MAPINFO, was acquired and installed, and training was conducted for agency staff. Using GIS mapping, statistical and case specific information was provided to Commission staff in conjunction with a number of Commission merger investigations and other matters. Interviews with Bureau and Regional Office staff were completed to support an initiative to identify opportunities for improving litigation support services and to determine requirements for litigation document management capabilities and systems. An integrated text/document imaging and text retrieval system was successfully implemented to support the Telemarketing Rulemaking matter. As a result, materials were distributed to all Telemarketing workshop participants on multi-session CD-ROMs, as well as being made available to the public on the Internet, in lieu of paper copies. This was the first pilot project to use new imaging technology and new software tools for managing documents acquired by the







initiated to migrate a number of Commission central applications systems to the new open systems environment which offers substantially-improved access by Commission staff.

### Improve Access by Commission Staff to External Information Source

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propellant division, which receives certain classified information from other ammunition and munitions suppliers necessary to provide them with propellant and explosives, from sharing information with Alliant's ammunition and munitions division.

*American Home Products Corporation*

American Home agreed to settle concerns relating to its \$9.7 billion acquisition of American Cyanamid Company. The complaint issued with the consent order alleged that the acquisition could reduce competition for two vaccines, for certain biotechnology drugs used in treating cancer, and for research for a vaccine to treat rotavirus, a diarrheal disease that causes thousands of children's deaths each year. Under terms of the consent order, American Home will divest its tetanus and diphtheria vaccines business to a Commission-approved acquirer. The order also requires American Home to manufacture the vaccines for the acquirer until it obtains manufacturing approval from the Food and Drug Administration. In addition, the consent order prohibits American Home from acquiring any entity engaged in the manufacture of certain drugs for a period of 10 years.

*Baby Furniture Plus Association, Inc.*

Baby Furniture and its members agreed to settle allegations that they threatened to boycott manufacturers that sold their products at a discount through a catalog published by the New Hampshire Buyer's Service. According to the complaint, the association and its members conspired to discontinue business affiliations with those manufacturers that continued to make their products available to the NHBS catalog. The consent order prohibits Baby Furniture, a buying cooperative and trade association of juvenile specialty retailers based in Birmingham, Alabama, its members, and its officers from entering into agreements to boycott manufacturers of juvenile products that sell their products through discount catalogs.

*Boston Scientific Corporation;  
Cardiovascular Imaging Systems, Inc.; SCIMED Life Systems, Inc.*

Boston Scientific agreed to license patents and technology in the intravascular ultrasound catheter market to Hewlett-Packard Corporation or another Commission-approved licensee within six

## Federal Trade Commission

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months to settle antitrust concerns arising from Boston Scientific's acquisitions of Cardiovascular Imaging and SCIMED. The consent order is structured to ensure the creation of a full-line competitor in the production and development of current-generation IVUS catheters and next-generation imaging guidewires. The order, which permitted the consummation of the acquisitions during the comment period, also settled litigation of the Commission's motion for a preliminary injunction to block the proposed acquisition of Cardiovascular Imaging.

*Boulder Ridge Cable TV; Dean Hazen; Rodney Hansen; Weststar Communications, Inc.*

Boulder Ridge and Weststar, two California-based cable companies, and their principals, Dean Hazen and Rodney Hansen, agreed to settle allegations that they entered into an anticompetitive agreement not to compete in certain areas in California and Hawaii as part of Boulder Ridge's acquisition of Three Palms, Ltd., a competing cable television operator in the Indian Wells Valley area of California. According to the complaint issued with the consent order, Boulder Ridge and Three Palms signed a non-competition agreement in which each agreed not to own, control, manage, or operate a cable TV system or any similar multi-channel video distribution system or service, within 15 miles of the legal boundaries of any community in which the other company owned or operated a cable television system, or in which the other company would own or operate a cable television system in the future. The consent order prohibits the respondents from enforcing any rights they may have under certain paragraphs of the agreement not to compete.

*Charter Medical Corporation*

Charter agreed to settle allegations that its planned purchase of National Medical Enterprise's psychiatric facilities would substantially lessen competition in four geographic markets: Atlanta, Memphis, f

quality, and service. The consent order requires Charter to modify its March 29, 1994, acquisition agreement to delete its acquisitions of the National Medical psychiatric facilities in the four localities.

*Columbia/HCA Healthcare Corporation*

Columbia/HCA agreed to settle allegations that its \$692 million acquisition of Medical Care America, Inc., would violate federal antitrust laws. According to the complaint accompanying the consent order, the acquisition would combine two competing health facilities that offer outpatient surgery services in Anchorage, Alaska,

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services to third-party payers and others it will acquire as a result of the acquisition.

### *Glaxo plc*

Glaxo agreed to settle antitrust concerns stemming from its \$14.3 billion acquisition of Wellcome plc. The consent order requires, within nine months, the divestiture of Wellcome's worldwide research and development assets for non-injectable 5HT<sub>1D</sub> agonists, non-injectable drugs used to treat migraine headaches. The consent order also requires Glaxo to provide technical assistance to the buyer to aid it in continuing the research and development currently being conducted by Wellcome for its 5HT<sub>1D</sub> agonist.

### *HEALTHSOUTH Rehabilitation Corporation*

HEALTHSOUTH agreed to settle antitrust concerns stemming from its \$180 million merger with ReLife, Inc. According to the complaint issued with the consent order, the acquisition could raise prices and reduce services at rehabilitation hospital facilities in Birmingham, Alabama; Charleston, South Carolina; and Nashville, Tennessee. The consent order requires the divestiture of Nashville Rehabilitation Hospital, owned by a ReLife-controlled partnership, and is the Commission's first challenge of an acquisition among rehabilitative hospitals.

### *Healthtrust, Inc. - The Hospital Company*

Healthtrust agreed to settle allegations that its proposed acquisition of certain assets of Holy Cross Health Services of Utah would significantly lessen competition for inpatient acute-care hospital services in a three-county area in the Salt Lake City-Ogden, Utah, metropolitan area. The consent order permits the acquisition of Holy Cross but requires the divestiture of Holy Cross Hospital in downtown Salt Lake City and certain other assets within six months. In April 1995, the Commission approved the sale of the Holy Cross Hospital to Champion Healthcare Corporation.

*IVAX Corporation*

IVAX agreed to settle allegations that its \$593 million acquisition of Zenith Laboratories, Inc., could create a monopoly in the U.S. market for verapamil, a generic drug used to treat patients with chronic cardiac conditions. The consent order permits the acquisition of Zenith, but prohibits the acquisition of Zenith's rights to market or sell verapamil under an exclusive distribution agreement with G.D. Searle & Co. In addition, the order requires IVAX to obtain Commission approval for 10 years before acquiring any manufacturer or distributor of verapamil.

*Korean Video Stores Association of Maryland; Bong Soo Ha;  
Chae Sul Song; Chang Hyun Cho; Chang Jin Park; Dae Yong Kang;  
Ju Young Lee; Ki Sik Kim; Kyeong Hae Lee; Mi Hwa Park;  
Mi La Kim; Seung Man Yun; Suk C. Kim; Tae Eung Yu;*

*m*

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**Federal Trade Commission**

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*Lockheed Corporation; Lockheed Martin Corporation;  
Martin Marietta Corporation*

Lockheed



*New England Juvenile Retailers Association;  
Allan Broverman; Baby Place, Inc., The; Baby Specialties, Inc.;  
Baby Specialties of Natick, Inc.; Baby's Room, Inc.;  
Boston Baby, Inc.; Boston Baby of Avon, Inc.;  
Boston Baby of Hingham, Inc.; Chapin Specialties Company, Inc.;  
Crib-n-Cradle Juvenile Furniture, Inc.; Cribs and Cradles, Inc.;  
Elliot Young; George Koury; Henry Ritchotte; Jack Resnick;  
Juveniles, Inc.; Louis Avarista, Sr.; Michael Slobodkin;  
Normand Poirier d/b/a Norm's Discount;  
Robert Newhouse; Rudolph Mosesso;  
Small Wonders Limited, Inc. d/b/a Rooms to Grow;  
Stephen Brass; Susan Young; Timothy Precourt; Tiny Totland, Inc.;  
Waltham Slumber Shop, Inc.*

New England Juvenile and 26 other respondents agreed to settle allegations that they threatened to boycott manufacturers that sold their products at discount through a catalog published by the New Hampshire Buyer's Service. According to the complaint, the association and its members conspired to discontinue business affiliations with those manufacturers that continued to make their products available to the NHBS catalog. The order prohibits the association and its members from engaging in similar activities in the future, and requires the dissolution of New England Juvenile. In addition, prior to its dissolution, the association is required to send a letter to the manufacturers it allegedly threatened, in which it acknowledges the consent order with the Commission and outlines its terms.

*Oerlikon-Buhrle Holding AG*

Oerlikon-Buhrle agreed to settle allegations that its proposed acquisition of Leybold AG could raise prices and reduce innovation in markets for manufacturing semiconductors, other scientific applications, and compact discs. The consent order permits the acquisition, but requires the divestiture of Oerlikon's turbo molecular pump business (used in the manufacture of semiconductors) and Leybold's compact disc metallizer businesses to a Commission-approved acquirer that will operate the assets as a viable business.



products. According to the complaint accompanying the consent order, Reebok agreed with certain retailers to maintain the level of pricing at which retailers sold their athletic and casual footwear products. The consent order prohibits Reebok and Rockport from fixing or controlling the resale prices at which any dealer advertises, promotes, or sells their products.

*Revco D. S., Inc.*

Revco agreed to settle allegations that its acquisition of Hook-SupeRx, Inc., could raise prices and reduce service for prescription drugs sold in retail stores in Covington, Marion, and Radford, Virginia. The consent order requires Revco to divest, within one year, either the pharmacy f

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### *Schnuck Markets, Inc.*

Schnuck agreed to settle allegations that its acquisition of supermarkets currently owned by National Holdings, Inc., in five states would result in anticompetitive pricing and other consumer injury. The consent order requires Schnuck to divest 23 supermarkets in Missouri and Illinois within one year to settle antitrust concerns stemming from its acquisition of supermarkets owned by National Holdings in the St. Louis area. The divestitures, according to the terms of the order, must be made to entities that will operate the stores as supermarkets in competition with the Schnuck markets. In addition, the order requires Schnuck to obtain prior approval before acquiring any supermarkets in the geographical areas of concern.

### *Schwegmann Giant Super Markets, Inc.*

Schwegmann agreed to settle allegations that its acquisition of 28 supermarkets in Louisiana, Mississippi, and Alabama from National Holdings, Inc., would combine direct competitors in some areas and lessen competition. The consent order requires the divestiture within one year of seven That Stanley! and Canal Villere supermarkets in the New Orleans, Louisiana, area to Commission-approved purchasers who would maintain the stores as competitive supermarkets. In addition, the order requires Schwegmann to obtain prior approval for 10 years before acquiring any supermarkets in the geographic markets of concern.

### *Scotts Company, The*

Scotts agreed to settle allegations relating to its \$200 million acquisition of Stern Miracle-Gro Products, Inc. The consent order requires Scotts to divest its Peters Consumer Water-Soluble Fertilizer Business and related assets to Alljack & Company or to another Commission-approved buyer no later than December 31,

disposable antishoplifting labels. The consent order permits Sensormatic to acquire Knogo, but prohibits it from acquiring patents and other exclusive rights for Knogo's "SuperStrip" manufacturer-installed disposable antishoplifting labels. In addition, Sensormatic is required to obtain prior Commission approval for 10 years before acquiring significant assets used in the research, development, and manufacture of disposable labels for source labeling.

*Service Corporation International*

Service Corporation, the largest owner and operator of funeral homes and cemeteries in North America, agreed to settle allegations that its proposed acquisition of Uniservice Corporation would substantially lessen competition for funerals and perpetual care cemetery services in and around Medford, Oregon. The consent order permits Service Corporation to acquire Uniservice, but requires the divestiture of two funeral homes, a cemetery, and a crematory owned by Uniservice in Medford, Oregon, to a Commission-approved acquirer. The agreement requires Service Corporation to operate the Uniservice assets independently of its own funeral homes and cemeteries and to keep the assets and

## **Federal Trade Commission**

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### *Tele-Communications, Inc.*

Tele-Communications agreed to settle allegations that its acquisition of TeleCable Corporation would eliminate competition for cable television service in


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Title	Number	Action Date	Type of Matter	Product
American Tobacco Company, The	C-3547	01/03/95	Tar and Nicotine Advertising Claims	Cigarettes
Arizona Institute of Reproductive Medicine, Ltd.	C-3616	09/25/95	Deceptive Claims of Program Success	<i>In Vitro</i> Fertilization Programs
Bee-Sweet, Inc.	C-3550	01/17/95	Deceptively Advertised Claims of Medical Effectiveness	Bee-Pollen Products
Body Wise International, Inc.	C-3617	09/25/95	Unsubstantiated Health Benefit Claims	Nutritional Supplements
BPI Environmental, Inc.	C-3535	10/17/94	Unsubstantiated Degradability Claims	Plastic Grocery Bags
Chemopharm Laboratory, Inc. d/b/a CP Industries	C-3545	12/06/94	Environmental Benefit Claims	Superior Sno-N-Ice Melter
Choice Diet Products	C-3587	06/16/95	Unsubstantiated Advertising Claims	Diet Pills and Stop Smoking Patch
Creative Aerosol Corporation	C-3548	01/13/95	Unsubstantiated Environmental Claims	Bath Soap
David Green, M.D.	C-3589	06/23/95	Unsubstantiated Claims of Health and Safety of Services	Treatment of Varicose and Spider Veins
Equifax Credit Information Services, Inc.	C-3611	08/14/95	Accuracy and Privacy of Consumer Credit Reports	Credit Bureau
Eskimo Pie Corporation, The	C-3597	08/11/95	Deceptive Food Claims	"Sugar Freedom" Frozen Dessert Products
European Body Concepts, Inc.	C-3590	06/23/95	Unsubstantiated Health and Safety Claims	Body Wraps
Felson Builders, Inc.	C-3578	05/15/95	Deceptive Advertising Claims	Homebuilder and Credit Companies/Home Financing
Formu-3 International, Inc.	C-3568	04/11/95	Unsubstantiated Weight-Loss and Maintenance Claims	Diet Programs
Gateway Educational Products, Ltd.	C-3581	06/01/95	Unsubstantiated Advertising Claims	"Hooked on Phonics" Reading Program



**Part II Consent Orders Issued****Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>
Gorayeb Seminars, Inc.	C-3561	03/03/95	Unsubstantiated Advertising Claims	Weight Loss and Smoking Cessation Hypnosis Seminars



**Part II Consent Orders Issued**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>
Häagen-Dazs Company, Inc.	C-3582	06/02/95	Deceptive Food Advertising Claims	Low-Fat and Fat-Free Frozen Yogurt
Hayes Microcomputer Products, Inc.	C-3543	11/28/94	Deceptive Advertising Claims	Computer Modems
IHI Clinics, Inc.	C-3595	08/01/95	Unsubstantiated Advertising Claims	Weight Loss and Smoking Cessation Hypnosis Seminars
Jerry's Ford Sales, Inc.	C-3612	08/29/95	Misrepresentation/ Nondisclosure - Credit Advertising	Financing Plans for Automobiles
L & S Research Corporation	C-3534	10/06/94	Unsubstantiated Advertising Claims	Body Building and Weight Loss Products
Mattel, Inc.	C-3591	06/23/95	Deceptive Environmental Claims Advertising	Bath Foam Soap
Nature's Bounty, Inc.	C-3593	07/21/95	Unsubstantiated Health Benefit Claims	Nutrient Supplements
Ninzu, Inc.	C-3566	04/07/95	Unsubstantiated Advertising Claims	Acupressure Weight Loss Devices
Notations, Inc.	C-3551	01/18/95	Textile Fiber Products Identification Act	Women's Blouses
Olsen Laboratories, Inc.	C-3556	02/06/95	Infomercials	Arthritis Pain Treatment Products
Orchid Technology	C-3574	05/01/95	Unsubstantiated Advertising and Performance Claims	Computer Peripheral Equipment
Original Marketing, Inc.	C-3596	08/09/95	Unsubstantiated Weight Reduction Claims	Acu-2000 Ear Mold Acupressure Device
Quantum Electronics Corporation	C-3615	9/22/95	Unsubstantiated Advertising Claims	Ozone Generators/Air Cleaners
RN Nutrition	C-3549	01/13/95	Unsubstantiated Advertising Claims	Calcium Supplement Products

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**CONSUMER** *Abovo, Inc.; Louis Bass, Inc. d/b/a Crestwood Company;*  
**PROTECTION MISSION** *Susan Lakso*  
**(DETAIL)**

Louis Bass, Abovo, and its president, Susan Lakso, agreed to settle allegations that they used advertisements that contained false and unsubstantiated representations concerning the efficacy of their communication devices in enabling individuals with disabilities to communicate through facilitated communication. The consent order prohibits the respondents from misrepresenting that any communication aid will assist autistic and/or mentally retarded individuals to communicate through facilitated communication.

*Alpine Industries, Inc.; Living Air Corporation; William J. Converse*

These marketers of ozone generators for use in homes and offices agreed to settle allegations that they made unsubstantiated claims about the ability of their products to clean air of various indoor air pollutants and to prevent or relieve allergies, asthma, and other conditions. The consent order requires the respondents to have competent and reliable scientific evidence to support claims for any air cleaning product. This is one of the first two cases the Commission has brought involving air cleaners that generate ozone.

*American Body Armor & Equipment, Inc.*

American Body Armor agreed to settle allegations that the company falsely claimed its body armor was certified under a voluntary federal government standard.

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*American Institute of Smoking Cessation, Inc.;*  
*Jane A. Grossman; Kenneth C. Grossman*

American Institute and its president and vice president, Kenneth and Jane Grossman, agreed to settle allegations that they made unsubstantiated claims in their seminars about the success of participants in stopping smoking permanently and losing weight. The consent order prohibits the respondents from representing that participants in their seminars are cured of smoking addiction without experiencing irritability, anxiety, weight gain, or other side effects, unless they have competent and reliable scientific evidence to substantiate the representations.

*American Tobacco Company, The*

American Tobacco agreed to settle allegations regarding tar and nicotine advertising for the company's Carlton brand cigarettes. The Commission alleged that American Tobacco represented in an advertising campaign that consumers will get less tar by smoking 10 packs of Carlton than by smoking a single pack of the other brands shown in the ads, each of which was rated as having more than 10 milligrams of tar. However, consumers will not necessarily get less tar because the ratings shown in the ads are obtained by smoking machines that do not reflect actual smoking. The consent order prohibits the respondent from misrepresenting that consumers will get less tar by smoking any number of American Tobacco brand cigarettes than by smoking one or more cigarettes of any other brand. American Tobacco also must have competent and reliable scientific evidence to back up any future representations.

*Arizona Institute of Reproductive Medicine, Ltd.;*  
*Robert H. Tamis, M.D.*

Arizona Institute and its president, Robert Tamis, agreed to settle

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also stipulates that any comparison with other success rates be based upon the same calculating methodology.

### *Bee-Sweet, Inc.; Benny G. Morgan*

Bee-Sweet agreed to settle allegations that it deceptively advertised that its bee-pollen products could treat several physical ailments, such as allergies, arthritis, anorexia, and obesity. The consent order prohibits the respondents from representing that bee-pollen products are effective as a cure for, or in mitigating, various conditions and physical ailments.

### *Body Wise International, Inc.*

Body Wise agreed to settle allegations that it made deceptive weight-loss and cholesterol-reduction claims for its nutritional supplements. The consent order prohibits the company from falsely representing that any nutritional supplement, food, or drug can, or contains any ingredient that can, cause or contribute to achieving or maintaining weight loss without diet or exercise.

### *BPI Environmental, Inc.*

BPI, successor to Beresford Packaging, Inc., agreed to settle allegations that it made unsubstantiated claims that its BIO-SAC plastic grocery bags will decompose and return to nature within three to six years when buried in landfills; that its PHOTO-SAC plastic grocery bags will decompose and return to nature in a reasonably short period after consumers dispose of them as trash; and that, when disposed of as trash, these plastic grocery bags offer a significant environmental benefit compared to other plastic grocery bags. The final order prohibits BPI from making unsubstantiated degradability claims for any of its plastic products in the future.

### *Chemopharm Laboratory, Inc. d/b/a CP Industries*

Chemopharm agreed to settle allegations that it made false and unsubstantiated environmental-benefit claims to market its ice melting product, Superior Sno-N-Ice Melter. The consent order prohibits the company from making claims about the environmental benefits of any product unless the representations are true and it

possesses and relies upon competent and reliable evidence to substantiate the claims.

*Choice Diet Products; Taleigh Corporation; William J. Santamaria*

The marketers of the FormulaTrim 3000, MegaLoss 1000, and MiracleTrim diet pills and the Nicotain Stop Smoking Patch agreed to settle false advertising and unfair trade practices allegations. The consent order requires William Santamaria, owner of the companies, to post a \$300,000 performance bond to be used for consumer redress should he engage in deceptive practices when marketing weight-loss or stop-smoking products in the future. The consent order also prohibits false claims for the same or similar products and requires the respondents to have competent and reliable scientific evidence to back up claims.

*Creative Aerosol Corporation*

Creative Aerosol, the manufacturer of Funny Color Foam children's bath soap, agreed to settle allegations that it made false and unsubstantiated environmental claims for its product. The consent order addresses claims made by the company that its product is safe for the environment, that it will not damage the ozone layer or otherwise harm the atmosphere, and that its packaging is recyclable. The consent order prohibits the company from representing that any product it sells offers any environmental benefit unless it can substantiate the claim.

*David Green, M.D.; Varicose Vein Center, The*

David Green agreed to settle allegations that he deceptively advertised as pain-free and permanent his varicose vein and spider vein treatments. The consent order requires Green to have competent and reliable scientific evidence to substantiate any claim he makes in the future.

*Equifax Credit Information Services, Inc.*

Equifax, a subsidiary of Equifax Inc., one of the largest consumer credit reporting agencies in the country, agreed to settle allegations that it violated the Fair Credit Reporting Act (FCRA) by failing to

## **Federal Trade Commission**

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assure the maximum possible accuracy of the consumer credit information it compiles and sells nationwide to credit grantors, employers, and others. The company also allegedly failed to properly reinvestigate information contained in consumer reports when it was disputed by consumers and gave consumer reports to recipients who did not have a permissible purpose under the FCRA. The final order requires Equifax to maintain reasonable procedures to ensure maximum possible accuracy of the information contained in its consumer reports. The company is also required to reinvestigate, within 30 days, information disputed by a consumer in his or her credit report. In addition, Equifax is required to limit the furnishing of consumer reports to those with a permissible purpose under the FCRA.

### *Eskimo Pie Corporation, The*

Eskimo Pie agreed to settle allegations that it made false and misleading claims in advertising that its Sugar Freedom line of frozen dessert products is low or significantly reduced in calories and that it is approved or endorsed by the American Diabetes Association. The consent order prohibits Eskimo Pie from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product.

### *European Body Concepts, Inc.; James Marino*

European Body Concepts and James Marino, its president, agreed to settle allegations that weight-loss and inch-loss claims for their body wrap system were false and unsubstantiated and that claims that the body wrap procedure is safe for everyone were deceptive. The consent order prohibits certain claims that any body wrapping treatment causes consumers to lose inches from their body measurements, unless the claim is both true and substantiated by scientific evidence. In addition, any inch-loss claims must be accompanied by disclosures that the reductions will be temporary and that the treatment does not cause weight loss, unless the respondents have competent and reliable scientific evidence to the contrary.



*Felson Builders, Inc.;*  
*Diamond Crossing Associates, Inc. d/b/a D.C. Funding;*  
*Elmhurst Partners, L.P. d/b/a Elmhurst Funding; Joseph L. Felson*

Felson Builders, Diamond Crossing, Elmhurst, and Joseph Felson agreed to settle allegations that they made unfair and deceptive advertising claims in violation of the Federal Trade Commission Act and violated the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z, in home financing promotions. The respondents also settled allegations that they failed to provide consumers with written disclosures of credit costs and terms in violation of the TILA. The consent order requires Joseph Felson and the three firms to comply with the full disclosure requirements of Regulation Z in advertising credit terms.

*Formu-3 International, Inc.; Formu-3 of Northern Ohio, Inc.;*  
*Formu-3 of Southern Ohio, Inc.*

Formu-3 International, the franchisor of Form-You-3 or Formu-3 weight-loss centers, and two related companies have agreed to settle allegations that they engaged in deceptive advertising by making unsubstantiated weight-loss and weight-loss maintenance claims. Commission allegations also address deceptive pricing and rate of weight-loss, safety-related, and other claims. The consent order prohibits the respondents from misrepresenting the performance, efficacy, or safety of any weight-loss program they offer or the competence or training of their personnel, in the future. The order also requires them to have scientific data to back up future claims they make about weight loss success, rates, or time frames, and weight maintenance.

*Gateway Educational Products, Ltd.; John Herlihy;*  
*John Shanahan*

Gateway and two officers agreed to settle allegations that the company made misleading claims about the ability of its Hooked on Phonics program to teach users, including those with learning disabilities, to read. The consent order prohibits Gateway from making any of the alleged false claims or any other educational benefit claims for Hooked on Phonics or for any other educational

## **Federal Trade Commission**

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program or product, unless it can back up the claims with substantiation, including scientific evidence where appropriate.

*Gorayeb Seminars, Inc.; Gorayeb Learning Systems, Inc.;*  
*Ronald Gorayeb*

Gorayeb Seminars, Gorayeb Learning, and their president, Ronald Gorayeb, agreed to settle allegations that they made unsubstantiated claims in advertisements about the success of participants in their seminars in stopping smoking permanently and in losing weight. The consent order prohibits the respondents from making claims about the performance or efficacy of any smoking cessation or weight-loss program in the future without having competent and reliable scientific evidence to support the representations. The order also prohibits the respondents from making unsubstantiated claims that seminar participants are cured of smoking addiction without experiencing withdrawal, anxiety, weight gain, or other side effects.

challenged practices. The total refunds are expected to exceed \$200,000.

*Häagen-Dazs Company, Inc.*

Häagen-Dazs, an ice cream and frozen yogurt maker, agreed to settle allegations that the company made false and misleading low-fat claims for its line of frozen yogurt products. The Commission alleged that Häagen-Dazs represented that its entire line of frozen yogurt is 98 percent fat-free and low in fat and that its entire line of frozen yogurt bars contains 100 calories and one gram of fat per serving. The consent order prohibits Häagen-Dazs from misrepresenting the existence or amount of fat, saturated fat, cholesterol, or calories in any of its frozen food products. The order also requires Häagen-Dazs to meet the Food and Drug Administration qualifying amount for any nutrient content claim.

*Hayes Microcomputer Products, Inc.*

Hayes agreed to settle allegations that it made false and misleading claims in an advertising campaign touting the escape sequence feature of its ~~advertising~~ ~~allegation~~ ( ) Tj substan.1622 TD 0.018 T TcF

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consent order prohibits IHI and the two officers from making the alleged false claims and from misrepresenting the performance or efficacy of any IHI smoking cessation or weight-loss programs.

foam product, Barbie Bath Blast Fashion Foam Soap. Mattel's labels allegedly claimed that the ingredients in the aerosol product will not deplete the earth's ozone layer or otherwise harm or damage the atmosphere. The order prohibits Mattel from representing that any aerosol product it sells offers any environmental benefit unless it can



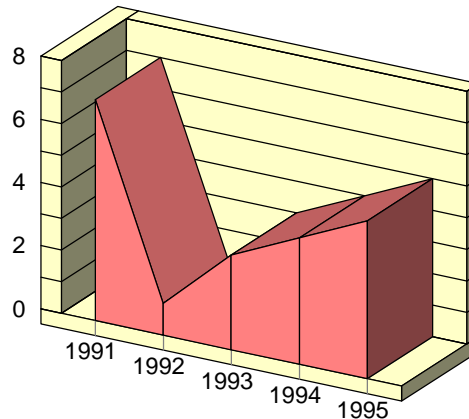
*Quantum Electronics Corporation; Albert D. Coates;  
Ion & Light Company; Jacqueline J. Maynard; Maurice Lepenven*

These marketers of ozone generators for use in homes and offices agreed to settle allegations that they made unsubstantiated claims about the ability of their products to clean air of various indoor air pollutants and to prevent or relieve allergies, asthma, and other conditions. The consent order requires the respondents to have competent and reliable scientific evidence to support claims for any air cleaning product. This is one of the first two cases the Commission has brought involving air cleaners that generate ozone.

*RN Nutrition; George Page Rank; James W. Nugent*

RN Nutrition and its principals, George Rank and James Nugent, agreed to settle allegations that they made unsubstantiated and misleading claims to market their calcium supplement product, BoneRestore. The consent order prohibits RN and the principals from making unsubstantiated claims that any RN food, drug, or supplement product will treat or cure any disease or condition, and from using the name BoneRestore in a misleading way. They are also restricted from using testimonial endorsements that do not represent typical results.

**PRELIMINARY/PERMANENT INJUNCTIONS  
COMPETITION MISSION**



**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product
B.A.T. Industries P.L.C.	9410080	10/27/94	Horizontal Merger	Cigarettes
Boston Scientific Corporation	9510002	01/19/95	Horizontal Merger	Surgical and Medical Instruments
Ferro Corporation	9510032	07/19/95	Horizontal Merger	Chemical Preparations
Freeman Hospital	9410115	02/21/95	Horizontal Merger	General Medical and Surgical Hospitals
Local Health System, Inc.	9410076	11/09/94	Horizontal Merger	General Medical and Surgical Hospitals

**COMPETITION MISSION** *B.A.T. Industries P.L.C.; American Brands, Inc.;*  
**(DETAIL)** *American Tobacco Company, The;*  
*Brown & Williamson Tobacco Corporation*

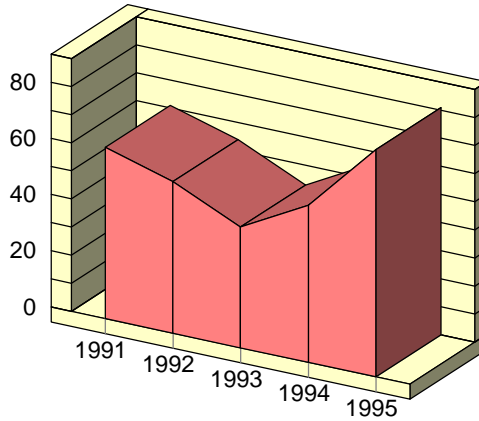
(See page 126.)





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**PRELIMINARY AND PERMANENT INJUNCTIONS  
CONSUMER PROTECTION MISSION**



**CONSUMER PROTECTION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product
AAA Quality Electric, Inc.	X940040	04/06/95	False Advertising Claims	Home Electric Repair
Acme Vending Company, The	X950095	07/10/95	Franchise Rule	Snack and Drink Vending Machines
Allstate Business Consultants Group	X950061	07/10/95	Franchise Rule	Snack Vending Machines
American Architectural Manufacturing Association	X950007	11/23/94	Misrepresented Testing Standards	Fenestration Products
American Vending Group	X950083	07/10/95	Franchise Rule	Coffee Display Racks
America's Radio Transmitter, Inc.	X950084	07/10/95	Franchise Rule	Radio Transmitters for Drive-By Advertisements
<i>Andrisani Family</i> Carmella Andrisani Christopher Andrisani David Andrisani	X930055	05/10/95	Franchise Rule	Display Rack Distributorships
Baylis Company, Inc., The	X940022	11/03/94	Telemarketing Fraud and False Advertising Claims	Alcohol Abuse Prevention Program

**Preliminary/Permanent Injunctions**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>
Business Opportunity Center, Inc.	X950048	07/10/95	Franchise Rule	Sobriety Pill Vending Machines
Chase McNulty Group, Inc.	X950035	04/05/95	Fraudulent Marketing of Investments	Investments in Wireless Communications
Dahlonga Mint, Inc. d/b/a Chattanooga Coin Company	X940037	01/05/95	False Advertising Claims	Collectable Coins
Del Dotto Enterprises	X950021	02/07/95	Infomercials	Books & Tapes for Cash Flow System to Purchase Real Estate & Obtain Credit
Delta Distributors Company, Inc.	X950102	07/10/95	Franchise Rule	Pay Telephones
Digital Communications, Inc.	X940017	11/09/94	Telemarketing Fraud	Mobile Radio Systems
Lawson Kerster a/k/a Don Kerster		12/02/94		
Digital Interactive Associates, Inc.	X950039	04/07/95	Fraudulent Marketing of Investments	Investments in Wireless Communications
Firstlight Entertainment, Inc.	X950096	07/11/95	Franchise Rule	Comic Book Display Racks
Fitness Express, Inc. Frank Lopinto Gino Lopinto Vincent S. Andrich	X930049	06/07/95	Telemarketing Fraud	Vitamins
Freedom Medical, Inc.	X950041	05/22/95	Telemarketing Fraud	Medical Equipment
Global Gumballs, Inc.	X950085	07/10/95	Franchise Rule	Giant Gumball Vending Machines
Hang-Ups Art Enterprises, Inc.	X950014	01/04/95	Fraudulent Marketing of Investments	Art Prints
Health Wave, Inc.	X950097	07/11/95	Franchise Rule	Healthy Food Vending Machines
Independence Medical, Inc.	X950043	05/22/95	Telemarketing Fraud	Medical Equipment
Independent Travel Agencies of America Association	X950028	03/27/95	Franchise Rule	Independent Travel Agencies
Infinity Corporation Makiko Kato	X950069	07/21/95	Franchise Rule	Medical Claims Billing

## **Federal Trade Commission**

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Title	Number			
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**Preliminary/Permanent Injunctions**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>
Motion Medical, Inc.	X950042	05/22/95	Telemarketing Fraud	Medical Equipment
National Marketing, Inc.	X950089	07/10/95	Franchise Rule	Candy Display Racks
National Tech Systems, Inc.	X950090	07/10/95	Franchise Rule	Crime Prevention Products Display Racks
Nibblers, Inc.	X950091	07/10/95	Franchise Rule	Candy Vending Machines
Nishika, Ltd.	X950016	11/07/94	Telemarketing Fraud	Prize Promotion Schemes
North American Supply, Inc.	X950055	06/27/95	Telemarketing Fraud	Office Supplies
Nu-Ideas Technologies, Inc.	X950079	07/10/95	Franchise Rule	Film and Snack Vending Machines
PAL Financial Services, Inc.	X950034	05/30/95	Telemarketing Fraud	Direct Broadcast Services via Satellite
Panoramic Multimedia, Inc.	X950046	07/10/95	Franchise Rule	Compact Disk Display Racks
PFR, Inc.	X950015	08/09/95	Telefunding Fraud	Recover Room and Prize Promotions
Pro-Plastic Design & Marketing, Inc.	X950092	07/10/95	Franchise Rule	Chocolate Peppermint Patty Vending Machines
Protocol, Inc.	X950093	07/10/95	Franchise Rule	Personal Hygiene Products Vending Machines
Public Teleco Corporation	X950064	07/10/95	Franchise Rule	Pay Telephones
<i>Publishing Clearing House, Inc.</i> Roy L. Shifrin	X940063	01/26/95	Telefunding Fraud	Solicit Donations for a "Charitable" Organization
Quarter Call Communications, Inc.	X950094	07/10/95	Franchise Rule	Pay Telephones
Richard Canicatti d/b/a Refund Information Services	X950002	06/16/95	Telemarketing Fraud	Recovery Room
<i>Safety Plus, Inc.</i> William Bailey	X910081	04/27/95	Deceptive Sales Promotions	Fire Safety Products
Sage Seminars, Inc.	X950068	08/09/95	Franchise Rule	Motivational/Personal Growth Seminars

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Title	Number	Action Date	Type of Matter	Product
Salsa's Franchise Development Corporation Ward H. Kerr	X940053	11/04/94	Franchise Rule	Restaurant Franchises
Michael A. Ruby Richard L. Kern		10/27/94		
Satellite Broadcasting Corporation	X950034	04/17/95	Telemarketing Fraud	Direct Broadcast Services via Satellite
Showcase Distributors, Inc.	X950054	07/10/95	Franchise Rule	Popcorn Display Racks and Vending Machines
<i>SMI/USA, Inc.</i> William Garner	X940003	07/05/95	Franchise Rule	Self-Improvement Courses, Tapes, and Other Products
Software Concepts, Inc.	X950036	04/18/95	Franchise Rule	Computer Software Display Racks
Stillman Dyslexia Center, The	X950019	02/09/95	Unsubstantiated Advertising Claims	Center for the Treatment of Reading Disabilities
Summit Communications, Inc.	X950099	07/11/95	Franchise Rule	Pay Telephones
Surface Science Corporation	X950100	07/17/95	Franchise Rule	Engine Lubricant
TCA, Inc. Effie Pappas Stephen Lawrence	X950082	05/15/95	Fair Debt Collection Practices Act	Debt Collection
David Siebert		05/17/95		
Telecommunications of America, Inc.	X950050	07/10/95	Franchise Rule	Pay Telephones
<i>Telefundors for the Gleaners</i> All American Marketing, Inc. International Charity Consultants, Inc. John Rubbico Martin Mayer Michael Plummer	X940028	06/07/95	Telefunding Fraud	Donations to Nonprofit Entities



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Title	Number	Action Date	Type of Matter	Product
<i>Wolf Group</i> Louis Abramowitz	X940029	04/28/95	Franchise Rule	Vending Machines Sold as Business Opportunities
Worldwide Marketing and Distribution Company	X950056	07/10/95	Franchise Rule	Popcorn Vending Machines
X.CLUSIVE Vending, Inc.	X950059	08/10/95	Franchise Rule	Snack and Drink Vending Machines

**CONSUMER PROTECTION MISSION (DETAIL)** *AAA Quality Electric, Inc.; A-1 All County Electric, Inc.; ABBA Electric, Inc.; All County Electric, Inc. of Georgia; All County Electric, Inc. of Illinois; All County Electric, Inc. of Texas; All County Electric of Massachusetts; Allied Electrical Contractors, Inc.; Bradley Philip Schwab; Dale Andrew Sparks; Dorothy Jean Lagman; James Edwards Willis; Performance Service Contractors, Inc.*

AAA Quality Electric, eight other companies, and four company officers settled allegations that they deceptively





## **Federal Trade Commission**

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*(Andrisani Family)*

*A&Q Enterprises, Inc.; American Beverage Corporate;  
Broscorp, Inc.; C&A Industries, Inc.; C&C Advertising, Inc.;  
Carmella Andrisani; Christopher Andrisani; David Andrisani;  
Grocery Shopping Association of America, Inc.;  
Interstate Locators, Inc.; J.C.P., Inc.; Karma's Skin Systems, Inc.;  
Rain Forest Natural Products, Inc.; Yardpro, Inc.*

The Commission

and had a receiver appointed. The Commission is also seeking consumer redress and permanent injunctive relief.

*Chase McNulty Group, Inc.; Anthony L. Rick; E. Lee Elliott;  
Jeffrey D. Trotter*

The Commission alleged that Chase McNulty and three corporate officers made a variety of deceptive claims in a scheme to market investments in a new wireless communications technology called Interactive Video and Data Service (IVDS). The defendants allegedly falsely represented the kinds of returns consumers could expect on their investments, the value of the licenses and of the systems to be developed, the level of services IVDS license-holders can offer, and the amount of risk they faced. The defendants stipulated to a preliminary injunction. The court also ordered an asset freeze and appointed a receiver over the company.

*Dahlonge Mint, Inc. d/b/a Chattanooga Coin Company;  
Lewis Revels*

Chattanooga agreed to settle allegations that it marketed coins issued by the Hutt River Province in Australia as legal tender issued by the authority of a government, when the coins were actually privately minted commemorative tokens with no legally established monetary value. The agreement requires Chattanooga to disclose that Hutt River Province is not a recognized sovereign nation and contains broad prohibitions on future misrepresentations about the nature or value of Hutt River Province products or any other collectible.

*Del Dotto Enterprises; David P. Del Dotto;  
NFN Enterprises, Inc. d/b/a National Financial Network;  
Yolanda Del Dotto*

The Commission is seeking injunctive relief and redress for consumers who purchased the books and audio tapes sold by Del Dotto, known as the Cash Flow System. This action follows a 1994 settlement with defendants involving allegedly deceptive claims for the Cash Flow System, including that it helped hundreds of thousands of consumers make substantial sums of money buying and selling real estate.

## Federal Trade Commission

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*Delta Distributors Company, Inc.; Steven Harding*

The Commission alleged that Delta violated the Franchise Rule in the sale of coin-operated pay telephone franchises by failing to provide basic disclosure and earnings claims documents. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

*Digital Communications, Inc.; Brian O'Shaughnessy;  
David Rolfe; Digital Communications of Denver; Donald A. Rabbit;  
Howard Newman; Lawson Kerster a/k/a Don Kerster;  
Leonard B. Evans; S.M.R. Digital Communications, Inc.*

David Rolfe, Digital Communications, and seven other individual and corporate defendants settled allegations over their roles in an allegedly deceptive scheme to sell Specialized Mobile Radio networks as investments. The two settlements prohibit similar misrepresentations in the future, and one requires Rolfe to post a \$100,000 performance bond before engaging in any business that offers investments.

*Digital Interactive Associates, Inc.; Carlo Anneke; David Dambro;  
business2 -0.ttlledenala*

*Firstlight Entertainment, Inc.; Michael Peters*

The Commission alleged that Firstlight, a marketer of Firstlight Comixx display rack distributorships for collectable comic books, and corporate officer Michael Peters failed to offer potential purchasers of their business opportunities the basic disclosure document and earnings claims documentation as required by the Franchise Rule. The Commission is seeking injunctive relief, consumer redress, and civil penalties. This case was originally brought as part of Project Telesweep, a nationwide crackdown by federal and state regulators on business opportunity fraud.

*Fitness Express, Inc.; Fitness Express Enterprises, Inc.; Frank Lopinto; Gino T. Lopinto; Vincent S. Andrich*

Fitness Express and four other individual and corporate defendants agreed to settle allegations that they ran a deceptive prize-promotion scheme to market vitamins, diet products, and other items to consumers. The two settlements bar the defendants from engaging in interstate telemarketing in the future. Andrich is also barred from engaging in any prize-promotion telemarketing scheme and from misrepresenting material facts about any products or services he markets in the future. In addition, in order to protect victims of the scheme from being targeted again, the settlements bar the defendants from transferring their customer lists.

*Freedom Medical, Inc.; Brian A. Patten; Freedom Medical of Wisconsin, Inc.; Robert L. Grden*

The Commission alleged that Freedom Medical, a medical equipment company, pitched one type of product to customers but then obtained physician approval and made insurance claims for other, more expensive equipment. The Commission is seeking an order to permanently bar the defendants from making misrepresentations to consumers, doctors, and insurance companies that would allow the defendants to obtain reimbursements from insurers that they otherwise would not be entitled to. Pending hearings on the Commission allegations, the courts froze the defendants' assets to preserve any funds for disgorgement and appointed receivers to oversee the corporate operations.

**Federal Trade Commission**

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*Independent Travel Agencies of America Association;  
David Eugene Mueller; Travel Industry Council, Inc.*

The Commission alleged that the Independent Travel Agencies of America Association (ITAA) promised to help investors set up their own home-based travel agencies and achieve earnings of \$25,000 in their first year. According to the Commission, investors paid about \$2,000 to \$5,000 each for “certification,” training materials, and the promise of significant assistance from the ITAA. However, purchasers found that, even after completing

## Federal Trade Commission

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### *International Champions, Inc.; Wayne Hunt*

The Commission alleged that International Champions and its officer Wayne Hunt violated the Franchise Rule by failing to provide consumers with the basic disclosure and earnings claim documents. The allegations stem from the defendants' sales of coin-operated video game franchises. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

### *(International Computer Concepts) Helen Schumaker*

Helen Schumaker, a defendant in the suit against International Computer Concepts, a franchisor of computer software display-rack businesses, agreed to settle allegations of misrepresenting the potential earnings of franchise buyers and using skills as references, among other violations of the Franchise Rule. Under the settlement, Schumaker is permanently restrained from making misrepresentations about the income, profits, or sales volume that franchise buyers could expect to earn and from future violations of the rule.

### *Island Automated Medical Services, Inc.; Diversified Data Services; John Travos; MedStar USA; Star Funding Group*

The Commission alleged that Island Automated Medical Services violated the Franchise Rule and Section 5 of the FTC Act in its sales of electronic medical claims processing. The company is alleged to have violated the Franchise Rule by failing to provide basic disclosure and earnings claims documents. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

### *John Ramos d/b/a Universal Card Company; All Pro Sports, Inc.*

John Ramos and All Pro Sports agreed to settle allegations that they deceptively marketed sports trading cards as excellent investments by overstating the value and profit potential of the cards. The settlement prohibits similar deceptive conduct in the future and requires that Ramos post a \$250,000 bond in the event that he engages in any future telemarketing.



*Life Systems Associates, Inc.; Patricia Small; Robert W. Small, Jr.*

The Commission alleged that Life Systems failed to provide required disclosure documents in the selling of refrigerated candy, snack-food, and soda vending machine packages, in violation of the Franchise Rule. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

*Li'l Snacks, Inc.; Nava Jo Hartley*

The Commission alleged that Li'l

**Federal Trade Commission**

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*Meridian*

failed to label socks made in Korea as to their country of origin. In mislabeling the items, the Commission alleged, Gezerse violated the FTC Act, the Textile Fiber Products Identification Act, and the Leather Belt Rule. The settlement prohibits Gezerse from mislabeling the material content of any product he sells and requires that he comply with “country of origin” labeling requirements in the future.

*Monhegan Group, Inc.; Vinton Bacon*

A California telemarketer and his company agreed to settle allegations that they made numerous false and unsubstantiated advertising claims to consumers in the marketing and sale of information packages concerning government auctions of real property, automobiles, and other personal property; federal job opportunities; and credit cards and credit repair services. Under the settlement, Monhegan and Bacon would be prohibited from making similar misrepresentations when marketing the same types of information packages to consumers in the future.

*Mortgage Service Associates, Inc.; J.D. Raffone Associates, Inc.;  
Joseph D. Raffone a/k/a J. Raffone;  
MSA Nationwide Field Services, Inc.; Vita L. Raffone*

The Commission alleged that Mortgage Service Associates, a franchiser of property inspection services, violated the Franchise Rule by not providing required documentation. The Commission obtained a temporary restraining order and a preliminary injunction in order to prevent the alleged practices in the future.

*Motion Medical, Inc.; Anton Albert Wood*

The Commission alleged that Motion Medical, a medical equipment company, pitched one type of product to customers but then obtained physician approval and made insurance claims for other, more expensive equipment. The Commission is seeking an order to permanently bar the defendants from making misrepresentations to consumers, doctors, and insurance companies that would allow the defendants to obtain reimbursements from insurers that they otherwise would not be entitled to. Pending hearings on the Commission allegations, the courts froze the defendants’ assets to preserve any



Some weeks later, consumers received merchandise that was often of limited value, along with their prize, which in almost all cases, the Commission alleged, was a vacation voucher that contained a number of onerous conditions and additional costs. The Commission is seeking a permanent injunction to halt the alleged scheme and redress for consumers.

*North American Supply, Inc.; American Computer Industries, Inc.; Harold Moskowitz; Larry Ellis; Otis Brown; Ron Moskowitz*

The Commission obtained a court order temporarily halting the allegedly deceptive sales practices of two companies and four individuals selling photocopier toner and other office supplies by telephone to businesses and nonprofit organizations across the country. The Commission alleged that the defendants falsely represented to businesses that they were their usual supplier of office products and, in numerous instances, threatened to institute lawsuits against consumers who refused to pay the defendants' invoices. At the Commission's request, the court froze the defendants' assets to preserve funds for consumer redress and appointed a receiver to take charge of one of the companies.

*Nu-Ideas Technologies, Inc.; Film Centers of America, Inc.; Joseph Gilmore; Mr. Popcorn, Inc.; Ron Davis; T. Randall Bridges*

The Commission alleged that Nu-Ideas violated the Franchise Rule and Section 5 of the FTC Act in its promotion and sales of vending machine business opportunities. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

*PAL Financial Services, Inc.; Lonny Remmers; Media Management, Inc.*

The Commission alleged that PAL Financial, a telemarketing boiler room, took in more than \$315,000 of the \$2.36 million raised in an allegedly fraudulent scheme to pitch consumers investments in the chance to market and distribute Direct Broadcast Satellite television programming in certain areas of Georgia. The Commission also alleged that Media Management misspent more than \$2 million of consumer investments. The court issued a temporary restraining order prohibiting the defendants from engaging in the alleged scheme,

## Federal Trade Commission

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freezing their assets, and appointing a temporary receiver to manage the corporate defendants. The Commission is seeking a permanent injunction that would bar the defendants from engaging in similarly deceptive schemes in the future and redress for injured consumers.

*Panoramic Multimedia, Inc.; Mackie Services, Inc.; Randy Prefer; Stanley L. Katz*

The Commission alleged that Panoramic violated Section 5 of the FTC Act and the Franchise Rule by making misrepresentations in the sale of business opportunities. The Commission is seeking consumer redress and injunctive relief.

*PFR, Inc., d/b/a PFR and Awards Center; Joseph Mantashigian*

PFR and its president agreed to settle allegations over their roles in an allegedly fraudulent scheme in which the perpetrators promised, in exchange for purportedly tax-deductible charitable donations of \$1,000 or more, to deliver prizes that elderly consumers were supposed to have received from other fraudulent prize-promotion telemarketers. The settlement permanently prohibits them from engaging in future misrepresentations in connection with soliciting charitable donations or payments in return for prizes or awards and from making any other misrepresentations regarding any material aspect of a future tele-marketing or telefunding business.

*Pro-Plastic Design & Marketing, Inc.; Kirt A. Harris*

The Commission alleged that Pro-Plastic violated the Franchise Rule and Section 5 of the FTC Act in its sale of candy vending machine franchises. The company allegedly failed to provide basic disclosure and earnings claims documents. The Commission is seeking civil penalties, consumer redress, and injunctive relief.

*Protocol, Inc.; David L. Bobert*

The Commission alleged that Protocol, a marketer of personal hygiene product vending machine franchises, violated the Franchise Rule and Section 5 of the FTC Act by failing to provide basic disclosure and earnings claims documents. The Commission is seeking civil penalties, consumer redress, and injunctive relief.



## **Federal Trade Commission**

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prohibits him from making similar misrepresentations and from falsely representing any fact material to a consumer's decision to purchase recovery services he offers or any good or service he telemarkets.

*(Safety Plus, Inc.)  
William Bailey*



*Satellite Broadcasting Royalty Trust; Satellite Systems, Inc.;  
T. Michael Haws*

The Commission alleged that Satellite Broadcasting, two related companies, and two individuals falsely represented to investors nationwide the opportunity to market and distribute Direct Broadcast Satellite television programming to homes and businesses in various counties in Georgia. The company, through telemarketing, touted its investment opportunity as a low-risk, instant-income venture and falsely told some investors that it had already acquired the rights to market DIRECTV, Inc., programming. At the Commission's request, a federal district court temporarily halted the allegedly deceptive telemarketing scheme, froze the defendants' assets to preserve funds for consumer redress, and appointed a receiver to take control of the companies.

*Showcase Distributors, TD -0e32.76 0 TD -0r4 Tc (companies.ritt; VC Neeprrk)*



*(TCA, Inc.)*

*David Siebert; Effie Pappas; Stephen Lawrence;  
Trans Continental Affiliates*

David Siebert, former senior vice-president of Trans Continental Affiliates (TCA), a debt collection agency, agreed to settle allegations that he used abusive and deceptive practices when attempting to collect debts from consumers, in violation of the Fair Debt Collection Practices Act (FDCPA). The settlement prohibits him from engaging in similar practices in the future. The Commission is also seeking an order to permanently prohibit TCA, its president Stephen Lawrence, and its chief financial officer Effie Pappas from violating the FDCPA and to assess civil penalties against them.

*Telecommunications of America, Inc.; Barry Taylor; Bob Hodge;  
Jon S. Burns; Robert Diehl; Tom Williamson; William Hodge*

The Commission alleged that Telecommunications, a marketer of pay telephone business opportunities, and its corporate officers agreed to settle allegations that they failed to offer potential purchasers of their business opportunities the basic disclosure document and earnings claims documentation as required by the Franchise Rule. The Commission was granted a temporary restraining order and is seeking consumer redress and injunctive relief. This case was originally brought as part of Project Telesweep, a nationwide crackdown by federal and state regulators on business opportunity fraud.

*(Telefundors for the Gleaners)*

*All American Marketing, Inc.;*  
*International Charity Consultants, Inc.; John Rubbico;*  
*Martin Mayer; Michael Plummer; New Horizons International, Inc.;*  
*Ottavio Ronca; Planet Smart Marketing, Inc.;*  
*Preferred Marketing Services, Inc.;*  
*Premium Awards Processing Company, Inc.; Ronny Ladner;*  
*Trina Frederico*

Twelve of 24 defendants agreed to settle allegations they used a fraudulent prize-promotion pitch to induce consumers, many of them elderly, to donate money to two purported charitable organizations. The six settlements contain broad injunctions against similar misrepresentations and impose strict requirements that the defendants

## Federal Trade Commission

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monitor employees and telemarketers they assist in the future. The six individual defendants would have to post \$1 million bonds before engaging in, or assisting others engaging in, telephone prize-promotion programs in the future.

*Thadow, Inc.; Alex Norman*

The Commission alleged that Thadow and its president engaged in fraudulent prize-promotion telefunding schemes to induce consumers to make purportedly tax-deductible donations of \$1,000 or more to two charities. A federal district court ordered a temporary halt to the allegedly deceptive telemarketing scheme, which preyed on elderly consumers who had previously lost money to other prize-promotion telemarketers. In addition to imposing a temporary restraining order, the court froze the defendants' assets to preserve them for consumer redress. The Commission is also seeking permanent prohibitions against the deceptive schemes.

*Thomas Wallace; Geneva Graphics, Ltd.;*  
*International Fine Arts Gallery, Ltd.; L&D Editions, Ltd.*

Thomas Wallace and three other dealers of artwork prints purportedly by such well-known artists as Marc Chagall, Jean Miro, Salvador Dali, Pablo Picasso, and others agreed to settle allegations that they misrepresented the authenticity of the prints they sold. The Commission alleged that the dealers often falsely represented that the prints were, in fact, hand-signed by the respective artists. The settlement prohibits the defendants from making similar false representations about any artworks they market or sell in the future.

*Turcal, Inc. d/b/a Promatch Advertising Network; Admatch Network;*  
*Glenn R. Kennedy; Michael Cevatli a/k/a Mustafa Cevatli;*  
*Resort Condo Marketing*

In two settlements, Turcal and four other defendants resolved Commission allegations based on their roles in an allegedly deceptive scheme to market timeshare resale services. Under the settlements, the defendants would be permanently prohibited from making future misrepresentations in connection with the provision of any services relating to real estate. In addition, Cevatli, Turcal's founder, agreed

to post a performance bond of at least \$50,000 to protect consumers before engaging in any direct marketing activity in the future.

*(Unimet Credit Corporation)*

*E. Keith Owens; Ed Martin; Ed Meyers*

Owens, Martin, and Meyers agreed to settle allegations stemming from their roles in the allegedly deceptive telemarketing of leveraged investments in precious metals to consumers. The settlement requires the defendants to abide by broad restrictions and extensive disclosure requirements in connection with any future marketing of commodities as investments to consumers.

*United States Business Bureau; Paul Kalomeris;*

*Reuben Sierra Borja; William O'Rourke*

United States Business Bureau and its officers Kalomeris, Borja, and O'Rourke agreed to settle allegations that they misrepresented affiliation with the Better Business Bureau and the government. The defendants

## Federal Trade Commission

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assets to preserve them for consumer redress, and appointed a receiver. The Commission is also seeking a permanent injunction against the challenged activities.

*USM Corporation d/b/a Senior Citizens Against Telemarketing; Anita Sowards; SCAT Services*

The Commission alleged that USM and its president operated a fraudulent recovery room and misrepresented to elderly consumers that they were affiliated with a government consumer protection agency and would, for a fee ranging from \$200 to more than \$1,000, recover money that the consumers had lost to other fraudulent telemarketers. A federal district court ordered a temporary halt to the allegedly deceptive telemarketing scheme and froze the defendants' assets to preserve funds for consumer redress. The Commission is seeking a permanent injunction against the defendants' deceptive practices.

*Value Investments, Ltd.; Marjorie Goldberg*

Value Investments, which offered and sold mortgage broker franchises, and Marjorie Goldberg agreed to settle allegations that they violated the Franchise Rule. Under the terms of the settlements, Value Investments and Goldberg are permanently enjoined from future violations of the rule.

*W.W. Chambers Company, Inc.; Thomas S. Chambers; William W. Chambers, III; William W. Chambers, Sr.*

The Commission alleged that W.W. Chambers, a funeral home operator, and its principals violated the Funeral Rule on numerous occasions by failing to provide consumers with written itemized price lists and other information. The Commission asked the court to permanently prohibit the defendants from violating the Funeral Rule in the future and to order them to pay a civil penalty for each violation of the rule.

*Wayne Phillips; Accelerated Systems, Inc.; U.S. Educational Services, Inc.*

The Commission asked a federal court to order workshop seller Wayne Phillips and two of his companies to pay \$2.1 million plus

interest in consumer redress owed by him under the terms of a 1991 settlement with the Commission that prohibits him from misrepresenting the availability of government loans to consumers.

*(Wolf Group)*

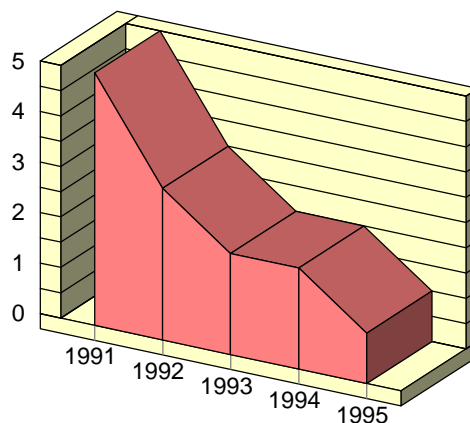
*Louis Abramowitz*

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**CIVIL PENALTY ACTIONS  
COMPETITION MISSION**



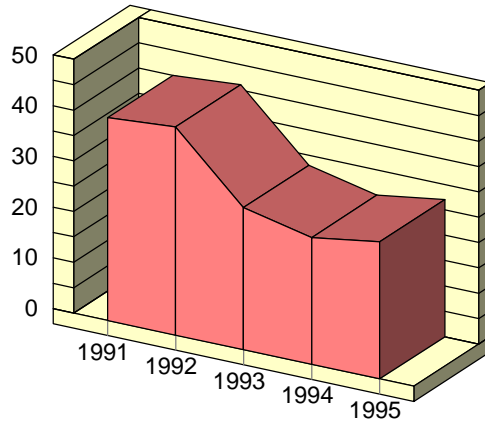
**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product
Onkyo U.S.A. Corporation	C-3092	07/25/95	Order Violation	Household Audio and Video Equipment

**COMPETITION MISSION** *Onkyo U.S.A. Corporation*  
**(DETAIL)**

The U.S. District Court for the District of Columbia entered a judgment requiring the payment of \$225,000 in civil penalties to settle charges that Onkyo U.S.A. Corporation violated a 1982 consent order. The Commission alleged that Onkyo's sales representatives encouraged a dealer to fix and adhere to specified prices for Onkyo audio components and related products sold to consumers through retail outlets. The complaint was filed in the U.S. District Court for the District of Columbia.

**CIVIL PENALTY ACTIONS  
CONSUMER PROTECTION MISSION**



**CONSUMER PROTECTION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	

**Civil Penalty Actions**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>
Gannett Satellite Information Network	X950075	09/21/95	900-Number Rule	900-Number Services
Great Lakes Collection Bureau, Inc.	X950074	09/13/95	Fair Debt Collection Practices Act	Debt Collection
HealthComm, Inc.	X950026	01/31/95	Order Violations	Meal Replacement Foods and Food Supplements
I. B. Diffusion, L.P.	X950045	05/31/95	Care Labeling Rule	Women's Clothing and Accessories
Jani-King International, Inc.	X950068	07/26/95	Franchise Rule	Commercial Cleaning Service Franchises
Jessica McClintock, Inc.	X950032	01/30/95	Care Labeling Rule	Women's and Girls' Clothing
L.O.V. II, Inc. d/b/a Lewis and Wright Funeral Directors	X950052	07/10/95	Funeral Rule	Funeral Services
National Financial Services, Inc.	X910020	07/20/95	Fair Debt Collection Practices Act	Debt Collection
Neiman-Marcus Company, Inc.	X950008	11/03/94	Mail/Telephone Order Rule	Retailer of Consumer Goods
Patton Brothers Funeral Homes	X950053	07/11/95	Funeral Rule	Funeral Services
Payco American Corporation	X930051	03/08/95	Fair Debt Collection Practices Act	Debt Collection
Ronco, Inc.	X950009	11/22/94	Mail/Telephone Order Rule	Food Dehydrates and Hair Products
Ruzich Funeral Home, Inc.	X950071	07/07/95	Funeral Rule	Funeral Services
Safe-Stride International, Inc.	X930040	10/29/94	Franchise Rule	Non-Slip Bathtub and Floor Treatment Franchises
Shulman Promotions, Inc. d/b/a On Your Own Business Shows	X950012	12/29/94	Franchise Rule	Promote Franchise and Business Opportunity Trade Shows
SMI/USA, Inc.	X940003	07/05/95	Order Violations	Self-Improvement Courses, Tapes, and Other Products
Sun Coast Resources, Inc.	X950001	10/05/94	Fuel Rating Rule	Gasoline Sales

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Title	Number	Action Date	Type of Matter	Product
TCA, Inc. James R. Brown	X950082	05/18/95	Fair Debt Collection Practices Act	Debt Collection

**CONSUMER PROTECTION MISSION (DETAIL)** *Alpha Services Corporation d/b/a East Lawn Funeral Home; Mark D. White*

Alpha Services agreed to settle allegations that it violated the Funeral Rule by failing to provide some consumers who inquired in person with a general price list, a casket price list, or an outer burial container price list; failing to provide consumers an itemized written statement of funeral goods and services they selected; and failing to include certain required disclosures on the general price list and the outer burial container price list they did provide. The settlement requires the defendants to pay an \$18,000 civil penalty and prohibits future violations of the rule.

*American Distribution, Inc.; American Comic & Entertainment; American Comics; American Entertainment; American Entertainment, Inc.; Entertainment This Month; Stephen E. Milo*

American Distribution and its president and founder, Stephen Milo, sellers of comic books and other entertainment novelties by mail, agreed to settle allegations that they failed to ship merchandise within the times specified in their advertising, in violation of the Mail/Telephone Order Rule. The Commission also alleged that the defendants failed to properly notify customers of their option to either consent to the delays or cancel their orders and receive prompt refunds and that they improperly issued company credits rather than refunds on canceled orders. The defendants agreed to pay a \$50,000 civil penalty and to exchange for cash as much as \$150,000 to \$200,000 worth of credit vouchers held by customers. In addition, the settlement prohibits the defendants from violating the rule in the future.

*American TelNet, Inc.; Abraham (Michael) Pardes; Michael Self; Ted Liebowitz*

American TelNet agreed to pay \$2.5 million to settle allegations that it illegally used 800-numbers for 900-number-type services and

then billed possibly unwary consumers and businesses for calls made from their phones to sex and psychic advice lines. The Commission also alleged that American TelNet illegally referred 800-number callers to international or 900-numbers without making proper price disclosures. The defendants agreed to pay a \$500,000 civil penalty and \$2 million to be used for a consumer redress program. This is the first Commission case enforcing the 900-Number Rule. *T c 0*

*Beltone Electronics Corporation, Inc.*

Beltone



company from violating the FDCPA, requires the company to notify consumers of their right to tell Great Lakes to stop contacting them, and requires the company

## Federal Trade Commission

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to the civil penalty, Jessica McClintock is prohibited from violating the rule in the future.

*L.O.V. II, Inc. d/b/a Lewis and Wright Funeral Directors;  
Irving Sanchez, III; Richard A. Lewis*

L.O.V. and its officers agreed to settle allegations that they did not give consumers itemized lists of all the goods and services they offer, in violation of the Funeral Rule. The settlement requires the defendants to pay a \$7,500 civil penalty and prohibits them from violating the rule in the future.

*National Financial Services, Inc.; N. Frank Lanocha; Robert J. Smith*

National Financial Services (NFS), a debt collection agency, and its owner, Robert Smith, were ordered to pay a \$500,000 civil penalty for violating the Fair Debt Collections Practices Act (FDCPA). In addition, Frank Lanocha, an attorney affiliated with NFS and Smith, was ordered to pay a \$50,000 civil penalty for similar violations of the FDCPA. The \$550,000 total civil penalty is the largest ever obtained by the Commission in a debt-collection case.

*Neiman-Marcus Company, Inc.*

Neiman-Marcus8.32 96 0 T TD 0.02 ( ) Tj 3.48 0 1Tc ( ) Tj 1sc04 2.04 06D2





## **Federal Trade Commission**

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*Shulman Promotions, Inc. d/b/a On Your Own Business Shows;  
Silas Shulman*

These promoters of franchise and business opportunity trade shows agreed to settle allegations that they violated the Franchise Rule by sponsoring franchise shows at which exhibitors made earnings claims without providing required disclosure documents. Shulman Promotions and company president, Silas Shulman, agreed to a proposed settlement that would prohibit them from violating the rule in the future. In addition, the defendants agreed to pay a \$10,000 civil penalty.

*SMI/USA, Inc.; Charles G. Williams; James L. Sirbasku; Paul Meyer*

SMI/USA, Inc., and three of its officers agreed to settle allegations that they violated the Franchise Rule and a 1970 consent order in promoting and selling their franchises fo





<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product</b>









*Comtel Data Systems, Inc.; Comtel Group, The;*  
*Foe;*  
*Foe;*

## Federal Trade Commission

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*Interactive Marketing Concepts, Inc.;*  
*Advanced Marketing and Promotions, Inc.;*  
*Consumer News Service, Inc.; Donald Hellinger; Robert Ostroff*

Donald Hellinger, Robert Ostroff, and their companies agreed to settle allegations that they deceptively promoted credit cards and other products or services via 900-numbers. The two settlements call for a total of \$15,000 in consumer redress and prohibit the defendants from understating the cost of calling their 900-numbers or making other alleged misrepresentations, require them to disclose certain material information in connection with future promotions, and bar them from assisting others engaged in similar deceptive practices.

*Main Distribution Center; Authorized Distribution Center, Inc.;*  
*Corporate Business Products, Inc.; David Krischer;*  
*Ronald Merenstein; Steven Toth; Walter Rebar*

Four individuals and their three corporations agreed to settle allegations that they used deceptive and misleading practices to sell photocopier toner and other supplies by telephone. The settlement bars all of the defendants from marketing toner or office supplies in the future, and it permanently bars the individuals from the tele-marketing of office supplies in the future. The settlement requires consumer redress payments in the following amounts: Toth and Rebar jointly, \$700,000; Merenstein, \$425,000; Krischer, \$50,000; Corporate Business, \$1,000,000; and Authorized Distribution, \$250,000; a total of \$2,425,000.

*Mini Snacks, Inc.; John Sanchez; Tim McCarty*

Mini Snacks and corporate officers, John Sanchez and Tim McCarty, agreed to pay \$100,000 in consumer redress to settle allegations that they misrepresented the earning potential and other aspects of their vending machine franchises and failed to provide key pre-purchase information to potential franchisees, in violation of the Franchise Rule. The settlement also prohibits the defendants from misrepresenting or making unsubstantiated claims about any aspect of any business venture they promote and requires them to comply with the rule in the future.

*National City Bank of Minneapolis, The*

National City Bank agreed to settle allegations that it and the law firm of Larkin, Hoffman, Daly & Lindgren attempted to prevent the Commission from collecting on an \$11.2 million federal court judgement from William Ulrich and his firm, Security Rare Coin & Bullion. The Commission had alleged that National City Bank and Larkin helped Ulrich fraudulently transfer several million dollars in rare coins into trusts for his three daughters, and then convert a substantial portion of the coins back to his own use. The settlement requires the bank to pay \$399,750. The funds collected in this case will be combined and, if practical, used to provide redress to consumers of Security Rare Coin.

*NCH, Inc.; James H. Hart; Robbin McLaurin*

A federal district court judge upheld Commission allegations against NCH and its principals for their roles in a fraudulent telefunding scheme. The Commission had alleged that the defendants deceptively offered “highly valuable” prizes to consumers in return for making a contribution to a charitable organization named “Operation Life.” In addition, the Commission alleged that the defendants misrepresented the charitable activities in which Operation Life was engaged. The defendants were ordered to pay \$2,645,760 in consumer redress and were permanently banned from engaging in any prize-promotion telemarketing activities in the future.

*O.J.T. Corporation; Jalal Jalallar; O. J. Art Gallery, Inc.; Omar Jalallar*

These dealers of artwork prints purportedly by such well-known artists as Marc Chagall, Joan Miro, Salvador Dali, Pablo Picasso, and others agreed to settle allegations that they misrepresented the authenticity of the prints they sold. The Commission alleged that the dealers often falsely represented that the prints were in fact hand-signed by the respective artists. Additionally, the Commission alleged that the dealers distributed the counterfeit prints to retailers, thus assisting art galleries and other retailers to misrepresent the authenticity of prints as well. The settlement requires the defendants to pay \$25,000 in consumer redress. It also prohibits them from making similar false representations about the artwork they market or

## **Federal Trade Commission**

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sell in the future and from assisting others who have made, or intend to make, such misrepresentations.

*(Pase Corporation)*  
*and*

falsely representing any fact material to a consumer's decision to purchase recovery services he offers or any good or service he telemarkets and requires him to pay \$123,610 in consumer redress.

*Renaissance Fine Arts, Ltd.; Cornell Gabos*

A federal district court permanently banned Renaissance and its president, Cornell Gabos, from deceptively marketing artworks and ordered Gabos to pay \$2.3 million in consumer redress. The Commission alleged that the defendants misrepresented the authenticity and value of artworks purportedly by such artists as Picasso, Chagall, Dali, and Miro.

*(Research Awards Center)*

*Deborah C. Taylor*

Deborah Taylor agreed to settle allegations stemming from her role in misrepresenting the likely benefits of joining the many sweepstakes-entry clubs she and other defendants operated. The settlement prohibits Taylor from misrepresenting promotions, products, or services or the likelihood that that

**Federal Trade Commission**

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*(Salsa's Franchise Development Corporation)*  
*Richard L. Levinger*

that they misrepresented the company's refund policy. The settlement also prohibits the defendants from misrepresenting the availability and conditions of obtaining a loan in the future.

*Southwest Sunsites, Inc.; Barry Gross; Sarah Gross;  
Trustees of the Sydney and Sarah Gross Trust*

The court granted a summary judgment in a lawsuit against Barry and Sarah Gross, trustees of the Sydney and Sarah Gross Trust, to collect consumer redress required by a 1990 consent agreement. The 1990 agreement settled Commission allegations that several companies and individuals had used unfair and deceptive tactics in sales of undeveloped land. Under the settlement, the defendants were required to pay a total of \$2.5 million in consumer redress over a two-year period. The redress payments were guaranteed by the Gross Trust. The defendants made the first payments, totaling \$1 million, but failed to make further payments. Trustees of the Gross Trust have made additional payments; however, over \$1 million (including interest) remains unpaid. The summary judgment requires that the trustees pay all unpaid sums owed under the original redress agreement plan.

*Spectrum Resources Group, Inc.; Charles Davis;  
Integrated Wireless, Inc.; James Greenbaum; Jeff Jolcover;  
Midas Media I, Ltd.; Sid Ridich*

A federal district court judge upheld Commission allegations against the Spectrum Resources Group, a cluster of companies selling investments in wireless cable opportunities. The Commission had alleged that Spectrum and related individuals and companies ran a fraudulent scheme in which investors lost several million dollars. The order prohibits the defendants from engaging in similar practices in the future and requires the payment of more than \$5 million in consumer redress.

*(Telefundors for the Gleaners)  
Ronald Cooke*

Ronald Cooke agreed to settle allegations stemming from his role in a fraudulent prize-promotion pitch to induce consumers, many of them elderly, to donate money to two purported charitable organizations. The settlement contains broad injunctions against

## **Federal Trade Commission**

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similar misrepresentations and imposes strict requirements that Cooke monitor employees and telemarketers he assists in the future. He is also required to post a \$1 million bond before engaging, or assisting others engaging, in telephone prize-promotion



*(United Consumer Services, Inc.)  
Falcon Financial Services, Inc.; Stuart Jedlicki*

Falcon Financial and Stuart Jedlicki agreed to settle allegations that they ran a deceptive recovery room telemarketing scheme. The Commission alleged that the defendants targeted victims who had lost money in a previous scheme by investing in Specialized Mobile Radio licenses. The defendants allegedly made a variety of deceptive representations in promising to recover the victims' losses for an up-front fee. The defendants are subject to broad injunctions against deceptive conduct in connection with the sale of recovery services, consumer information and consulting services, and investments and are also required to pay \$37,500 in consumer redress.

*United Holdings Group, Inc.; John Roberts; Christopher Vener*

United Holdings Group and its two principal officers agreed to settle allegations that they ran a deceptive telefunding scheme to solicit donations for a charity. The settlement requires Roberts and Vener to each post a \$1 million performance bond to protect consumers before engaging in any prize promotion or charitable solicitation effort in the future. In addition, the settlement requires the defendants to pay \$217,000 in consumer redress.

*United States Business Bureau; Paul Kalomeris;  
Reuben Sierra Borja; William Robert O'Rourke*

*(See page 92.)*

*(United States Information Bureau)  
Frederick J. Hartbrodt; Lawrence E. Clark*

Two telemarketers agreed to settle allegations that they made numerous false and unsubstantiated advertising claims to consumers in connection with the marketing and sale of information packages. The information in the packages concerned government auctions of real property, automobiles, and other personal property; federal job opportunities; and credit cards and credit repair services. Under the settlements, Hartbrodt and Clark are prohibited from making similar misrepresentations when marketing the same types of information packages to consumers in the future. The settlement with Hartbrodt

## Federal Trade Commission

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required him to pay \$25,000 for consumer redress and to post a \$200,000 performance bond before selling information packages to consumers again. Clark agreed to pay \$10,000 in redress.

*Water Resources International, Inc. a/k/a American Soap Products Company*

Water Resources and its officers agreed to settle allegations that they used various false and deceptive representations about the safety of drinking water and the efficacy of their treatment devices in order to induce consumers to purchase home water-purification devices. The settlement prohibits the defendants from misrepresenting the results of in-home water testing and the efficacy of their treatment devices and requires payment of \$100,000 for possible consumer redress.

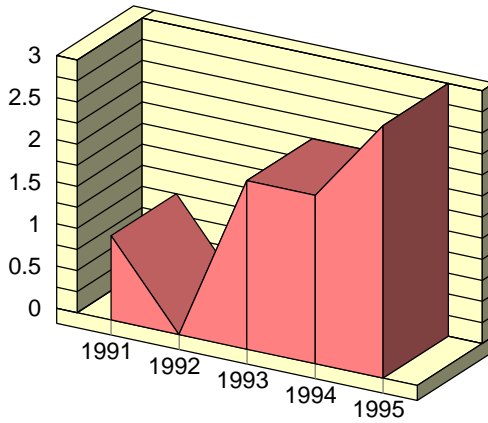
*Wine Exchange, Inc., The; Benton E. Lane; Kenneth S. Gross; Marilyn W. Lane*

The Wine Exchange and three individuals agreed to settle allegations that they made false and misleading claims in connection with the wines they offered as “excellent,” “low-risk” investments to consumers.

opportunity. The settlement also contains a broad prohibition against false or misleading claims in connection with the sale of any franchise

or business venture or with any telemarketing activity in which he engages and prohibits future violations of the Franchise Rule.

**PART III  
ADMINISTRATIVE  
COMPLAINTS  
COMPETITION  
MISSION**



**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product
B.A.T. Industries P.L.C.	D09271	11/28/94	Horizontal Merger	Cigarettes
Freeman Hospital	D09273	03/21/95	Horizontal Merger	General Medical and Surgical Hospitals
International Association of Conference Interpreters a/k/a Association Internationale des Interprètes de Conférence	D09270	10/25/94	Horizontal Price Fixing	Business Services

## Federal Trade Commission

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**COMPETITION MISSION** *B.A.T. Industries P.L.C.; American Brands, Inc.;*  
**(DETAIL)** *American Tobacco Company, The;*  
*Brown & Williamson Tobacco Corporation*

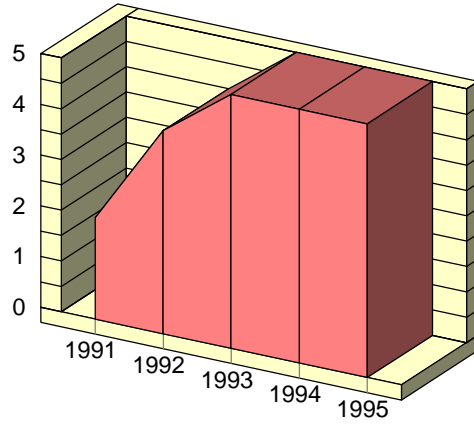
(See page 126.)

*Freeman Hospital; Freeman-Oak Hill Health System;*  
*Tri-State Osteopathic Hospital Association d/b/a Oak Hill Hospital*

The Commission alleged that the merger of Freeman and Tri-State would reduce competition and could raise prices or reduce services for inpatient acute-care hospital services in Joplin and surrounding areas of Missouri and Kansas. The parties consummated the merger after the district court denied the Commission's request for a preliminary injunction.

*International Association of Conference Interpreters a/k/a*  
*Association Internationale des Interprètes de Conférence;*  
*United States Region of the International Association of Conference*  
*Interpreters*

The Commission issued an administrative complaint alleging that International Association of Conference Interpreters and its affiliate members conspired to fix the fees they would charge for interpretation services performed in the United States. In August 1994, separate consent orders were accepted with American Association of Language Specialists and American Society of Interpreters.

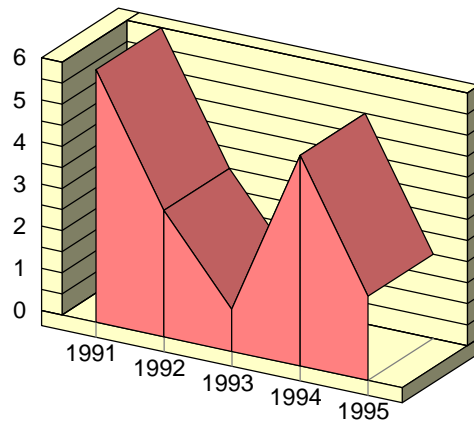



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as well as about a demonstration and studies regarding its efficacy. The Commission also alleged that RustEvader illegally included in its warranty a provision that requires consumers to pay for a biannual inspection at an authorized Rust Evader dealer to keep their warranty in force. The Commission is seeking an order that, among other things, prohibits RustEvader and its president, David McCreary, from using the names Rust Evader or Rust Buster for this or substantially similar products, from making deceptive claims regarding automotive products, and from conditioning warranty coverage on a consumer's purchase of a name brand service.

# Federal Trade Commission

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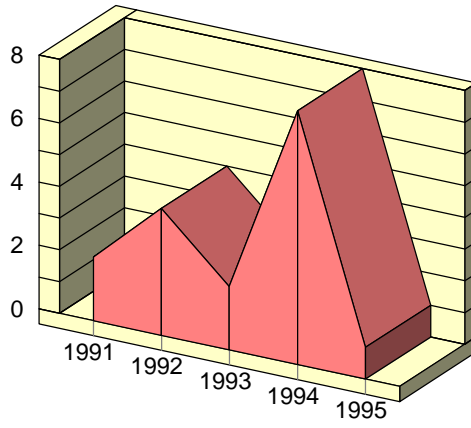





*Red Apple Companies, Inc.;*  
*Designcraft Industries, Inc. d/b/a Sloan's Supermarkets, Inc.;*  
*John A. Catsimatidis; Supermarket Acquisition Corp.*

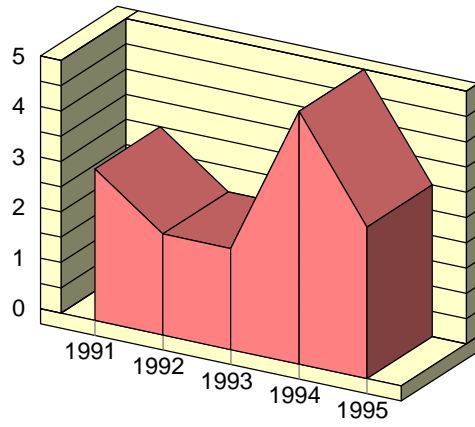
Red Apple, Sloan's, and John Catsimatidis, the Chairman of Red Apple and Sloan's, agreed to settle administrative charges that Red Apple's acquisition of 32 Sloan's Supermarkets could reduce competition among supermarkets in four Manhattan residential neighborhoods. The consent order requires Red Apple to divest one supermarket in the Upper East Side, the Upper West Side, Greenwich Village, and Chelsea, and to divest a second store in two of the first three of those neighborhoods. In addition, Red Apple is prohibited, for 10 years, from acquiring additional supermarkets in Manhattan without prior Commission approval. While the administrative action against Red Apple was pending, the Commission learned that Red Apple planned to sell some of the supermarkets listed in the Notice of Contemplated Relief to Rite Aid. This is the first time the Commission authorized staff to seek injunctive relief to prevent the sale of assets that were potential candidates for divestiture.

**PART III CONSENT ORDERS ISSUED  
CONSUMER PROTECTION MISSION**



**CONSUMER PP**


**FINAL ORDERS  
COMPETITION MISSION**



**COMPETITION MISSION (SUMMARY)**

## Federal Trade Commission

Title	Number	Action Date	Type of Matter	Product
Detroit Automobile Dealers Association	D09189	06/30/95	Horizontal Restraints	New Car Dealers
Hospital Board of Directors of Lee County d/b/a Lee Memorial Hospital	D09265	07/07/95	Horizontal Merger	General Medical and Surgical Hospitals
R.R. Donnelley & Sons Co.	D09243	07/21/95	Horizontal Merger	Commercial Printing, Gravure

### **COMPETITION MISSION** *Detroit Automobile Dealers Association* (DETAIL)

The Commission upheld its earlier decision and ruled that certain members of the Detroit Automobile Dealers Association who allegedly agreed to restrict showroom hours of operation are not exempt from antitrust scrutiny under the nonstatutory labor exemption. On remand from the U.S. Court of Appeals for the Sixth Circuit, the Commission opinion requires 12 dealerships and 10 individuals to open their showrooms for a minimum number of hours per week for one year.

### *Hospital Board of Directors of Lee County d/b/a Lee Memorial Hospital*

The Commission dismissed a complaint that challenged Lee Memorial Hospital's acquisition of Cape Coral Hospital of Fort Myers, Florida, after the parties abandoned the transaction. The dismissal of the administrative complaint also terminates the Commission's petition for a rehearing of the decision of the U.S. Court of Appeals for the Eleventh Circuit affirming a lower court ruling. The lower court had denied the Commission's motion for injunctive relief on grounds that the acquisition was exempt from antitrust scrutiny under the "state action doctrine," which allows certain state policies to displace competition. Cape Coral Hospital later agreed to be acquired by Health Management Associates, Inc., a firm that does not own or operate any hospital in Lee County.

### *R.R. Donnelley & Sons Co.; Pan Associates, L.P.*

The Commission overturned a 1994 initial decision and dismissed the administrative complaint against Donnelley on grounds that the

product market for analyzing the effects of Donnelley's 1990 acquisition of Meredith/Burda Company L.P. should also include offset printing, which competes broadly with gravure printing for publication printing jobs. The Commission also found that the merged firm could not engage in unilateral anticompetitive conduct, in part because other firms in the market have relatively elastic supply for high-volume printing and have already repositioned their products in response to the merger. The initial decision had held that the acquisition would eliminate competition in gravure printing used for magazines, catalogs, advertising inserts, and other large-scale volume, multipage publications.

### RULEMAKING ACTIVITIES

**CONSUMER** *Alternative Fuel Labeling Rule*  
**PROTECTION MISSION**

The Commission issued this final rule establishing uniform labeling requirements for nonliquid alternative fuels, such as compressed natural gas, hydrogen, and electricity, and alternative-fueled vehicles, which result in disclosure of cost and benefit information, enabling consumers to make reasonable purchasing choices and comparisons.

*Energy Labeling Rule*

The Commission completed certain amendments to the lamp-labeling rules to facilitate industry compliance and issued an enforcement policy statement to provide the industry additional time to comply with the new statutorily mandated rules.

*Fuel Rating Rule*

A survey of gasoline distributors to assess compliance with the Fuel Rating Rule demonstrated that the overall level of compliance was good. The report on the survey also found that state laws that require gasoline to be tested periodically are effective and concluded that they would be beneficial if enacted in states that currently do not have them.

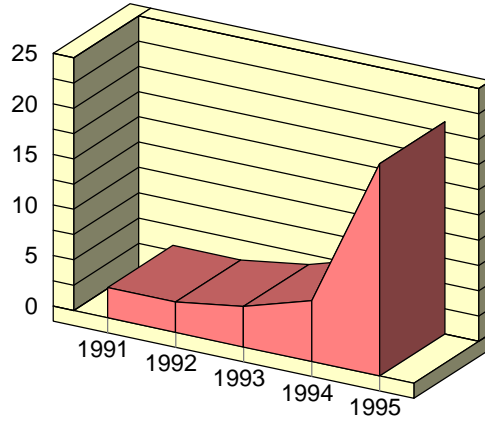
*Recycled Oil Rule*

The Commission initiated a rulemaking proceeding to establish a rule to govern recycled or re-refined oil intended for use as engine oil. The rule would implement statutory requirements designed to encourage the use of recycled oil and would permit manufacturers to represent on a recycled engine-oil container label that the oil is substantially equivalent to new engine oil, as long as the determination of equivalency is based on test procedures prescribed by the new Commission rule.

*Regulatory Reform*

The

**ORDER MODIFICATIONS  
COMPETITION MISSION**



**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product
Amerada Hess Corporation, et al.	C-2456	01/03/95	Horizontal Merger	Crude Petrol 9 0.017 12 m 51.24 0.013 Tc 0



**Order Modifications**

**Appendix**

Title	Number	Action Date	Type of Matter	Product
Goodyear Tire & Rubber Company, The	C-1957	06/08/95	Vertical Restraints	Tires
H.D. Lee Co., Inc., The	C-0411	02/14/95	Service/Promotional Allowances	Apparel/Accessories
Harley-Davidson Motor Company	D05698	07/11/95	Monopolization	Motorcycles
Interco Incorporated	C-2929	03/27/95	Vertical Price Fixing - RPM	Men's, Women's Clothing/ Accessories
Levi Strauss & Co.	D09081	12/20/94	Vertical Price Fixing - RPM	Men's, Women's Clothing/ Accessories
NorAm Energy Corp.	C-3265	04/05/95	Monopolization	Gas Transmission and Distribution
P. Lorillard Co.	D06600	08/24/95	Service/Promotional Allowances	Tobacco

## **Federal Trade Commission**

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The Commission granted a petition from the American Academy of Orthopaedic Surgeons and set aside a 1976 consent order that prohibited them from initiating, publishing, or circulating relative value scales (RVS) for medical or surgical procedures. The Commission ruled that setting aside the order will allow the American Academy of Orthopaedic Surgeons to circulate the Abt Restudy and other RVS information to third-party payers, its members, and other nongovernmental entities involved in influencing health care policy and physician reimbursement.

### *American World Industries, Inc.*

The Commission terminated a 1965 consent order settling allegations that American World's predecessor, Armstrong Cork Company, entered into agreements with its wholesalers to fix the prices, terms, and conditions of sale of Armstrong's floor covering products by wholesalers, retail dealers, and flooring contractors. The order was terminated in accordance with the sunseting policy, under which the Commission presumes that the public interest requires terminating orders that have been in effect for more than 20 years.

### *Atlas Supply Co., et al.*

The Commission terminated a 1951 consent order settling allegations that Atlas, its shareholders, Chevron U.S.A., Inc., BP Exploration and Oil, Inc., and other respondents knowingly accepted discriminatory prices for tires, batteries, and automotive products. The Commission terminated the order in accordance with its sunseting policy, under which the Commission presumes, in the context of petitions to reopen and modify existing competition orders and in the absence of rebuttal evidence, that the public interest requires terminating orders that have been in effect for more than 20 years.

### *DC Comics; Warner Publisher Services, Inc.*

The Commission set aside two separate 1960 orders against DC Comics (National Comics Publications, Inc.) and Warner (formerly Independent New Company, Inc.). The orders required the companies to offer promotional allowances for their publications on proportionally equal terms to all customers. The orders were modified in accordance with the Commission's sunseting policy, under which

the Commission presumes that the public interest requires terminating orders that have been in effect for more than 20 years.

*Food Service Equipment Industry, Inc.*

The Commission granted the request of Food Service and set aside a 1941 consent order settling allegations that Food Service and approximately 100 of its members and officers attempted to monopolize the market for resale and distribution of food service equipment by, among other things, agreeing not to sell certain equipment through anyone other than recognized dealers. The order was terminated in accordance with the sunset policy, under which the Commission presumes that the public interest requires terminating orders that have been in effect for more than 20 years.

*General Motors Corporation; General Motors Sales Corp.*

The Commission terminated a consent order in 1941. (The termination of certain orders is discussed in 85, 28, 225, 96-14, 16. The

## **Federal Trade Commission**

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The Commission set aside a 1971 consent order as it pertains to Goodyear, the only party that filed a petition to reopen the order. The order remains in effect as to the other respondents. The consent order settled allegations that Goodyear, B.F. Goodrich, Firestone, General Tire, and Uniroyal violated antitrust laws by hindering competition in the sales and leasing of special mileage commercial tires to transit companies and by allocating transit company customers among themselves. The consent order had prohibited the respondents from refusing to sell special mileage commercial tires to transit companies and from continuing the leasing of such tires for periods longer than five years. The Commission terminated the order in accordance with its sunset policy, under which the Commission presumes, in the context of petitions to reopen and modify existing competition orders and in the absence of rebuttal evidence, that the public interest requires terminating orders that have been in effect for more than 20 years.

### *H.D. Lee Company, Inc., The*

The Commission terminated a 1963 consent order against H.D. Lee in accordance with its sunset policy, under which the Commission presumes that the public interest requires reopening and setting aside competition orders that have been in effect for more than 20 years. The order settled allegations that the company illegally discriminated in offering advertising or promotional payments to its customers in connection with the resale of its wearing apparel.

### *Harley-Davidson Motor Company*

The







**CONSUMER AND BUSINESS EDUCATION EFFORTS**

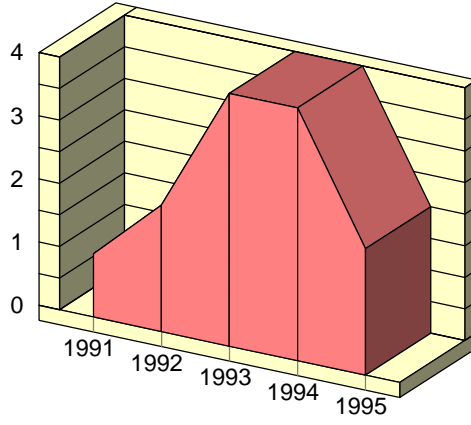
**CONSUMER  
PROTECTION MISSION**

The Office of Consumer and Business Education produced 23 new and 20 revised publications. Five of the publications were business booklets; thirteen resulted from joint efforts; and eight were in Spanish. Total publication distribution during the fiscal year exceeded 3.4 million. To enhance its outreach, the Office went on the Internet with *ConsumerLine*, the electronic version of nearly 140 consumer and business publications, and reported nearly 63,000 hits during the fiscal year.

The Office participated with 60 other government agencies in Public Service Recognition Week and participated with the U.S. Office of Consumer Affairs and 36 other federal agencies in a Congressional Expo. The Office also worked with several organizations on LifeSmarts, a high school consumer game show, and with the Consumer Literacy Consortium, a group of more than 20 private and public sector organizations, to write, produce, and market *66 Ways to Save Money*.

With the Food and Drug Administration, the National Association of Attorneys General, the American Association of Advertising ( ) Tjt3o41 -






## **Federal Trade Commission**

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of Appeals for the D.C. Circuit dismissed Coca-Cola's petition to review the Commission's 1994 decision.

*Hospital Board of Directors of Lee County d/b/a Lee Memorial  
Hospital*

On November 30, 1994, the United States Court of

**ECONOMIC REPORTS AND WORKING PAPERS**

***ECONOMIC REPORTS*** Economic Reports are major, published reports, usually containing original research and entailing a substantial commitment of resources, concerning an issue of current policy interest or of long-term impact on Federal Trade Commission antitrust or consumer protection missions.





**Federal Trade Commission**

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assuring increased safety. The comments stated that fixing prices reinforces the effects of restricting output, inhibiting responses to changes in supply and demand and leading to inefficient allocation of resources and that as long as entry and rates are not artificially constrained by law or by other means, pilots in Alaska should have the usual market-based incentives to compete for customers through lower prices, innovation, and increased efficiency.

*California: Electric Power Deregulation*

## **Federal Trade Commission**

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agreements could cover the hours of operation, insurance, equipment and furnishings, and utilities. The optometrist would have to place a sign at the entrance of the office indicating that the optometrist is an independent practitioner. Commission staff said that allowing optometrists to lease space from optical goods stores could benefit consumers through greater competition and efficiencies in operation.

Kansas law presently prohibits someone who is not a licensed optometrist from maintaining an office for the practice of optometry, from controlling or attempting to control an optometrist's professional judgment or practice, and from bearing any expenses or having any interest in an optometrist's practice, books, records, or materials. The law does permit optometrists to enter into leases and debt instruments not otherwise in violation of the law.

### *Michigan: Funeral-Cemetery Regulation*

The Cleveland Regional Office testified before the Michigan State House of Representatives on proposed legislation that would amend the Michigan statutes regulating the licensing and operation of funeral esta



*Nevada: Automobile Brokering Bill*

Joan Lambert, a member of the Nevada State Assembly, requested Commission comments on a bill that would amend the definition of a “new vehicle” by adding the criterion of having less than 2500 miles on the odometer and would prevent used vehicle dealers from doing anything except acquiring and selling used vehicles. Commission staff commented that the bill could reduce competition and

## Federal Trade Commission

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Florida and southern California, are beginning to go global and may be physically located in other countries yet target U.S. consumers. These fraudulent telemarketers may use 800 numbers that connect U.S. consumers to boiler rooms located in Canada. However, consumers are not likely to expect that calling an 800 number would connect them to a foreign country, and even consumers who understand that they are talking with someone in a foreign country may not understand the implications this may have on their rights or on the ability of the U.S. government to investigate and redress fraudulent practices. Staff advised that despite the barriers to investigating foreign telemarketers who victimize consumers in the U.S., cooperation with foreign law enforcement authorities does sometimes yield success, and that in the domestic context the Commission has had significant success against fraudulent telemarketers and has been working actively to alert consumers in the United States to the dangers of dealing with foreign telemarketers.

### *Vermont: Legislative Hearings on Health Care*

The staff of the Bureau of Economics testified before the Joint Committee on the Public Interest in Competitive Practices in Health Care of the Vermont legislature on a proposal to exempt

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## Index of Cases Listed in the Appendix

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