

SUMMARY

The Federal Trade Commission (FTC) is charged with protecting consumers from fraud, deception, and unfair practices in the marketplace. The agency addresses current issues of importance to consumers, including identity theft, telemarketing fraud, Internet fraud, and credit reporting. The FTC uses targeted law enforcement actions and consumer and business education to protect the public. We work to ensure that consumers have accurate information for their purchasing decisions, and can have confidence in the traditional and electronic marketplaces.

The FTC also has a long tradition of maintaining a competitive marketplace for both consumers and businesses. We enforce the laws that prohibit anticompetitive mergers and business practices. Free and open competition is the cornerstone of our economy, bringing consumers the benefits of low prices, high quality products and services, and innovation. We work to remove restrictions on the engine of competition so that markets can function at their best. We focus particularly on market segments that matter most to consumers: health care, prescription drugs, grocery retailing, high tech, and energy. By promoting vigorous competition, the Commission acts as Chairman. No more than three Commissioners can be of the same political party. The FTC has two major bureaus, Consumer Protection and Competition, supported by the Bureau of Economics and regional and mission support offices.

The Bureau of Consumer Protection's charge is to protect consumers against fraudulent, deceptive, or unfair practices. This Bureau enforces a variety of consumer protection and credit laws enacted by Congress, as well as trade regulation rules issued by the Commission. Its actions include individual company and industry-wide investigations, administrative and federal court litigation, rulemaking proceedings, and consumer and business education.

The FTC's anti-trust arm, the Bureau of Competition, enforces antitrust laws, mergers and other

The FTC's regional offices cover seven

2001 Highlights

During 2001, the FTC's activities benefited consumers and businesses. We were successful in achieving or exceeding the majority of the performance targets we use to measure our effectiveness. Highlights of our 2001 results include:

- Saving consumers an estimated \$3.1 billion¹ through law enforcement actions – a savings of over \$21 for each \$1 appropriated for FTC operations. In addition, the FTC's law enforcement activities and consumer education efforts deter many fraudulent or anticompetitive practices that likely result in substantial, though unmeasurable, consumer savings.
- Using the more than 430,000 consumer complaints we received in 2001 to target our law enforcement and education efforts to the most serious problems affecting consumers, and sharing these complaints with over 400 law enforcement partners.
- Providing access to the 131,000 identity theft complaints and inquiries to more than 235 law enforcement members to help them identify and target the most serious consumer problems in this area.
- Saving consumers more than \$2 billion dollars on fuel and utility bills through merger enforcement actions involving gasoline and other petroleum products, and electricity and natural gas transmission.
- Facilitating consumers' access to important medications - including taking actions resulting in the preservation of ongoing development of new drugs, blocking collusion among competitors, and removing impediments to the timely availability of lower-cost generic drugs.
- Identifying approximately 200 firms engaging in pretexting, a practice through which companies obtain and sell consumers' asset or bank account information to third parties. Firms were sent letters warning them to discontinue this privacy-related violation; we followed up by filing complaints in federal court charging some companies with continuing this practice despite the warning.
- Bringing the first cases enforcing the newly effective Children's Online Privacy Protection Rule that protects children under the age of 13; defendants paid fines totaling \$100,000.
- Securing a settlement to protect competition in the growing broadband market for Internet services.
- Expanding outreach to consumers by launching two new Web sites to collect and share consumer complaint information: *Public Sentinel*, to provide the public with consumer fraud and identity theft trend data and information; and *www.econsumer.gov*, to enhance consumer protection and confidence in global e-commerce. In addition, the FTC is in the process of launching another Web site, *Soldier Sentinel*, to permit military service members to enter consumer complaints and receive education materials online.

¹A preliminary consumer savings estimate of \$3.3 billion was included in the FY 2003 Congressional Budget Justification materials. However, after a final reconciliation of the data, the final consumer savings estimate is \$3.1 billion.

2001 Assessment - Measuring Performance Through Results

A major feature of our strategic planning process is the continual reevaluation of our objectives, performance measures, and performance targets. This process gives us the opportunity to assess our impact on the marketplace and evaluate how well we are doing our job of protecting

achieve the five-year goal, we expect to reach the five-year goal by achieving greater savings in subsequent years.

Together, consumer savi

During the past several years, a staggering level of merger activity dominated our antitrust agenda, with the number, size, and scope of proposed mergers leaping to new highs year after year. Although the volume of mergers abated somewhat in 2001, the size, scope, and complexity of mergers continues to increase. For example, just three of the mergers we investigated in 2001 together were worth about a third of a trillion dollars. A single large transaction may involve dozens of overlaps in different combinations of products and geographic markets, each of which may require investigation.

In addition, as the economy evolves, we increasingly encounter mergers involving high-technology markets, complex scientific research and development, and intellectual property. This trend requires a commensurate expansion of our expertise in markets involving science and technology, along with thoughtful examination of the intersection of antitrust and intellectual property law. Thus, for example, the FTC and Department of Justice Antitrust Division have begun a series of hearings focusing on the implications of competition and patent law and policy.

Amendments to the Hart-Scott-Rodino Act (HSR Act), which require companies to report certain proposed mergers to the FTC

and Department of Justice (which jointly enforce the antitrust laws), took effect in 2001. The amendments raised the dollar thresholds determining which mergers are subject to the reporting requirement, but did not change the substantive standard of legality under the antitrust laws. As a result, fewer mergers are reported to us under HSR. Transactions that raise antitrust concerns are very likely to be among those reported. Nevertheless, we are increasing our efforts to monitor marketplace developments and take action on non-reportable mergers that could still harm consumers, and we will not hesitate to challenge an already-consummated merger where necessary.

Although the FTC faces challenges – especially addressing consumer privacy issues and maintaining competition in a growing global and electronic marketplace – we are able to address them more effectively through strategic planning, performance management, and results measurement. Using these processes, we will continue to assess and reassess the challenges and opportunities facing the FTC. Our aim is to continue as a citizen-centered and results-oriented agency positioned to be innovative and aggressive in protecting consumers and businesses from fraudulent, unfair, deceptive, and anticompetitive acts or practices.

THE RESULTS

GOAL 1 PREVENT FRAUD, DECEPTION, AND
UNFAIR BUSINESS PRACTI

education

OBJECTIVE 1.1 IDENTIFY PRACTICES THAT CAUSE CONSUMER INJURY

To prevent fraud, deception, and unfair business practices in the marketplace, we first must identify such practices, especially those that cause the greatest consumer injury, where we can make the greatest impact.

Strategies

To identify consumer protection problems, the FTC collects and analyzes data from many sources. Our Consumer Response Center now receives roughly 10,000 consumer complaints and inquiries a week via a toll-free number (1-877-FTC-HELP), mail, and the Internet. Partners such as the National Fraud Information Center of the National Consumers League, the Internet Fraud Complaint Center, Better Business Bureaus, and the Canadian fraud database, PhoneBusters, also provide us with the consumer complaint data they collect. All of this information is entered into the Consumer Information System database and analyzed by FTC staff to identify trends and target fraudulent, deceptive, and unfair business practices. We share the fraud complaints that we collect with more than 400 other law enforcement agencies across the United States, Canada, and Australia via an encrypted Web site called Consumer Sentinel. Although the FTC is not empowered to act on behalf of individual consumers, consumer complaint data obtained through Consumer Sentinel enables the FTC and its other law enforcement partners to coordinate their enforcement efforts, and to spot trends and target the most serious consumer problems. Summary and trend data are shared with the public on our Public

Sentinel Web site (consumer.gov/sentinel) created in 2001. The constant input and analysis of fresh complaint data have allowed the FTC to move quickly – in some instances in a matter of weeks – to stop illegal practices before they cause more harm to consumers.

In 2001, we created a public Web site for Consumer Sentinel, consumer.gov/sentinel, that provides consumer fraud and identity theft trend data and information on how Consumer Sentinel serves the public. We are also working with the Department of Defense to launch a new site that will allow military service members to enter complaints online and receive consumer education materials. This complaint data will be added to our Consumer Sentinel database and will be tracked by the Defense Department, which will then be able to address the most

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group that identifies and shares information about worldwide consumer protection issues. Through econsumer.gov, consumers in the 15 participating countries can file complaints using an online form and obtain consumer education materials. Law enforcement members can access a nonpublic site to obtain specific information about the complaints that consumers have filed.

We continue to increase our capacity to analyze data quickly through database enhancements that improve our ability to respond to fraud and identity theft earlier, and thus prevent greater consumer injury. For example, Consumer Sentinel, our law enforcement encrypted Web site, contains a new “alert” function that flags suspects and issues alerts to our law enforcement partners.

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OBJECTIVE 1.2 STOP PRACTICES THAT CAUSE CONSUMER INJURY

Once we identify fraud, deception, and unfair business practices in the marketplace, we focus our law enforcement efforts on areas where we can have the greatest impact for consumers.

Strategies

The FTC plays a vital role in protecting consumers' privacy, emphasizing both enforcement and education. We focus on telemarketing, unsolicited e-mail (SPAM), identity theft, and pretexting, as well as enforcement of the Children's Online Privacy Protection Act, the Gramm-Leach-Bliley Act, and the Telemarketing Sales Rule as well as Section 5 of the Federal Trade Commission Act. Obtaining consumers' private financial information under false pretenses

forcement actions in 60 sweeps against fraudulent operators. This total includes 410 cases brought by the FTC alone. In 2001, the FTC led 5 sweeps resulting in a total of 229 actions, including 39 FTC cases – for every case the FTC brought our partners brought almost 5 more. We will continue to use sweeps to leverage our resources not only by reducing fraud through additional law enforcement

Performance Assessment

OBJECTIVE 1.3 PREVENT C

consumer information provided by the federal government through FirstGov, a public-private partnership.

Performance Measure and Results

We gauge our impact under this objective by tracking the number of consumer and business education publications we distributed to the public. Ideally, we would like to measure the extent to which our educational materials improve consumer understanding and help them get better value for their money. This would be extremely difficult to measure, but tracking the distributions of publications in response to consumer requests gives us a rough idea of how many consumers believe our information will prove useful. In 2001, the FTC distributed approximately 15 million publications: 5.4 million print publications and 9.6 million through the consumer protection Web page on the FTC Web site. This is the second year in which electronic distribution surpassed print distribution. We exceeded our goal of 10 million publications by approximately 5 million, due primarily to an increase of 4 million or 71% in the number of publications accessed online. Our reach nationwide was extended by more aggressive outreach and promotion of FTC materials and our toll-free numbers. We used information from our database to target our education campaigns to serious consumer problems.

Performance Assessment and Future Trends

The FTC seeks to alert as many consumers as possible to the telltale signs of fraud, deception, and unfair business practices, and other critical consumer protection issues. Use of the Internet to disseminate information about fraud and technology-related matters plays an in-

termediate role in the FTC's education, deterrence, and enforcement efforts, permitting the agency to reach vast numbers of consumers and businesses quickly, simply, and at low cost. As demonstrated by our online distribution total, the FTC has successfully promoted and led the use of the Internet to educate and empower consumers, a trend that we expect to accelerate in the future.

Our measure of the number of publications distributed by the FTC indicates our impact in educating consumers, although it does not fully capture the millions of FTC publications that are distributed to consumers by others. While the number of print publications we distribute remained relatively static, the number of publications accessed through the Internet has soared as more consumers and businesses go online. In 1996, we distributed only 140,000 publications online. In 2001, we distributed 9.6 million through our three Internet Web sites alone. These statistics illustrate the Internet's coming of age as a mainstream medium and highlight its usefulness in any large-scale educational effort. Consequently, we will increase our use of the FTC's Web site, ftc.gov, and the multi-agency Web site, consumer.gov, to reach consumers, businesses, law enforcement officials, and the media more efficiently and effectively.

In the next year, we will continue to focus consumer and business education efforts on areas identified by our consumer complaint databases where information gaps cause the greatest injury, such as globalization, Internet scams, fraudulent schemes, and identity theft. In the privacy area, we will use an approach that has proven successful in the past by establishing an outreach program to increase consumer awareness of and business compliance with the privacy information required by the Gramm-Leach-Bliley Act. We will continue to creatively use technology, including new

interactive media, to extend the reach of consumer and business education.

Finally, Census data shows that the United States has a large and growing Spanish-speaking population. Because these consumers may not speak English or are non-native speakers of the language, they may be more susceptible to the nuances and complexities of disclosures, advertisements, or other aspects of consumer transactions. In order to meet the needs of this vulnerable group, the FTC will assess what areas of consumer educa-

tion would be most beneficial to them, and identify topics where Spanish language materials are not already provided by other government agencies.

Increasing the visibility of the FTC as the nation's consumer protection champion not only helps consumers better protect themselves, but also encourages consumers to provide the FTC with more and better complaint data. That, in turn, will make our law enforcement and education efforts even more effective.

GOAL 2 PREVENT ANTICOMPETITIVE MERGERS AND OTHER ANTICOMPETITIVE BUSINESS PRACTICES IN THE MARKETPLACE

Competition among sellers in an open marketplace results in lower prices for consumers, leads to high quality products and services, maximizes consumer choice, and spurs the discovery and development of beneficial new products and services. Anticompetitive mergers, and other practices that diminish competition, deny consumers these benefits, and are illegal under the anti-trust laws. Thus, the FTC's goal is to promote vigorous competition by applying the anti-trust laws to (1) prevent anticompetitive mergers and (2) stop

OBJECTIVE 2.1 IDENTIFY ANTICOMPETITIVE MERGERS AND PRACTICES THAT CAUSE CONSUMER INJURY

To prevent anticompetitive mergers and anticompetitive business conduct, we must first determine which mergers and business practices are anticompetitive.

Strategies

To achieve this objective, the FTC identifies the mergers and business practices that should be examined as potentially anticompetitive, and conducts an inquiry to determine whether to pursue enforcement action. A collateral, but

and complexity of merger transactions. Large, multifaceted transactions - the ones that remain subject to HSR - are more likely to raise antitrust issues, and those issues ma

year, regardless of when the second request was issued, is most logical.

In 2001, the FTC took enforcement action in 68% of the second request merger investigations concluded during the year. We initially set a target of at least 50%, which we exceeded by a significant margin. Since our goal, however, is to balance the need to identify all potentially anticompetitive mergers, while also minimizing the burdens that the second request imposes on businesses, a percentage approaching 100% would be cause for concern because that would suggest the possibility of our having failed to pursue illegal mergers.

Upon review, we have realized that merger matters concluded in 2001 included many that were very difficult and complex. Thus, we do not believe that our having taken enforcement action in 68% of the matters involving a second request is the result of having selected only simple cases to pursue. It is more likely that our initial target was too cautious. We make significant efforts to "clear" mergers, where possible, during the preliminary waiting period, to avoid encumbering businesses with costs and delays associated with a second request in competitively benign transactions. We will continue to assess our performance target under this measure during 2002.

Following 2000, a year with an unprecedented level of merger activity, 2001 marked the restoration of our historic balance of resource allocations between merger and nonmerger activity. The 56 new nonmerger investigations opened in 2001 are particularly significant when compared to the 25 new nonmerger investigations opened in 2000. The restoration of resources that had been diverted to merger work allowed us to take

a more proactive approach to identify possible sources of anticompetitive conduct in 2001. As in the past, we focused our efforts on sectors of the economy that most affect consumers. Thus, we focused on likely anticompetitive patent extension strategies in the pharmaceutical industry, a practice that can deny consumers significant cost savings from generic drugs. We also began to look more systematically at the possibility of restraints on competition among groups of professionals resulting from practices of professional associations. Possible anticompetitive abuse of the standard setting process in the computer technology and other sectors was an additional priority area. Finally, the agency established two task forces to examine the scope of exemptions to the antitrust laws to identify possible categories of harmful conduct that may purportedly be, but are not in fact, exempt from the antitrust laws.

More generally, we improve our ability to identify anticompetitive mergers and practices that harm consumers by expanding our knowledge and understanding of new and evolving antitrust policy issues. As the economy evolves - with new products and services, as well as new uses of the ec

OBJECTIVE 2.2

STOP ANTICOMPETITIVE MERGERS AND PRACTICES THROUGH LAW ENFORCEMENT

Law enforcement represents the most direct method by which the Commission pursues its goal of preventing anti-competitive mergers and anti-competitive business practices.

In nonmerger matters, we seek to stop ongoing activity.

Strategies

To stop potentially anti-competitive mergers and practices through law enforcement, we seek legal remedies under the antitrust laws, through federal court action, administrative proceedings, or negotiated settlements. For mergers, our preferred strategy - that is, the most effective and cost-efficient strategy - is to prevent such mergers before they occur. We implement this strategy primarily through our authority to seek a federal court injunction preventing the transaction. In many cases, we are able to resolve a competitive concern by negotiating a consent agreement before having to seek an injunction. In some instances, such as when a merger has already been consummated, we can rely on the FTC's internal administrative remedial powers to restore competition lost as a result of the merger. In many cases, the competitive problem relates to only a portion of the transaction, so a divestiture of assets sufficient to preserve or restore competition, which will allow other, competitively neutral or beneficial aspects of the merger to go forward, is frequently a successful remedy.

obtain the needed relief through litigation, if necessary.

We place increasing emphasis on crafting remedies that will successfully eliminate the anticompetitive effects of the activity in question, and do so in a timely fashion. As part of this strategy, we study and evaluate the remedies used in past antitrust cases, particularly divestiture orders used to resolve merger cases. This ongoing process focuses on what makes divestiture orders most effective in preserving or restoring competition, and on how to expedite the completion of curative divestitures.

We also study current or emerging topics involving possible antitrust enforcement to develop policy positions. For example, in early 2001 the FTC issued reports summarizing the results of workshops held in 2000 relating to two current antitrust topics, slotting allowances and business-to-business (B2B) electronic marketplaces. A second workshop to explore competition policy issues related to B2B and business-to-consumer (B2C) electronic commerce took place in May 2001. Additional work relating to slotting allowances is also underway. The learning derived from these workshops, as well as from economic research on various competition issues, will provide a foundation for future enforcement initiatives.

Other strategies include ongoing training programs for our attorneys to develop their skills and maximize their effectiveness in litigation, negotiation, and other areas. We also work to ensure that administrative litigation and adjudication reach a timely resolution, so that challenged restrictions on competition are removed without undue delay.

Finally, we make our law enforcement presence visible in order to serve our objective through deterrence. Each successf

concerns raised by the agency and we are unsuccessful in obtaining relief through the courts.

Because positive results lead to beneficial outcomes, it is important that we usually succeed when we challenge anticompetitive mergers and practices. We do not help consumers if we do not succeed in persuading a court to block a merger, for example, either because we failed to present our case adequately or because the merger turns out not to be anticompetitive. This is not to say that the FTC, or any law enforcement agency, should win every case. Some cases involve very close questions, on which reasonable minds can and do differ. Other cases may be very difficult from a litigation standpoint, and all of the FTC's antitrust challenges are defended by highly competent and well-financed counsel. The agency should not shy away from challenging cases that may result in occasional losses, as long as the overall record is successful.

We far exceeded our goal in 2001,

avoiding delays that might deplete the
viability of the assets to be divested.

that the merger or practice in question

OBJECTIVE 2.3 PREVENT CONSUMER INJURY THROUGH EDUCATION

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

Strategies

The FTC uses education and outreach to help prevent consumer injury, increase business compliance, and augment our law enforcement efforts. We pursue this strategy through guidance to the business community; outreach efforts to federal, state and local agencies, business groups and consumers; development and publication of anti-trust guidelines and policy statements; and speeches and publications. Through these mechanisms, we publicize the anti-trust law and our enforcement intentions, with the likely result of deterring future anti-competitive behavior.

Our law enforcement efforts are also made more effective by public awareness of what types of conduct are likely to be challenged.

the scope of the antitrust laws, demonstrating that the FTC is active in bringing enforcement actions against certain types of mergers and practices, and signaling future enforcement intentions – all of which serve to deter harmful marketplace activity. Just as citizens benefit from the effect of the local “cop on the beat” in deterring crime, consumers ultimately benefit when the FTC makes its presence visible.

We measured our effectiveness in educating the public about the antitrust laws and the FTC’s enforcement activities, policies, and priorities by tracking the number of public outreach efforts in written (e.g., guidelines and policy statements) or oral (e.g., speeches and testimony) form. Although this measure of activity does not directly relate to outcomes in the marketplace, there is evidence that success in communicating enforcement priorities has a strong impact on the level of anticompetitive activity taking place.⁶ Because we did not systematically collect this information before 2001, we have not set a target yet but have collected data to use as a baseline in evaluating future performance. In 2001, we completed a total of 141 separate public outreach efforts.

Second, with the importance of the Internet as a vital source of information in today’s society, we believe that the number of “hits” on antitrust education and outreach material on the FTC’s Web site is an important indicator of our success in educating the public and in stimulating public interest in our work. Use of the

Internet to disseminate information about antitrust and other competition-related matters plays an integral role in the FTC’s education and deterrence efforts, permitting the agency to convey a wealth of information quickly, simply, and inexpensively to the business and legal communities, and to consumers. This measure more directly ref and 0 0 Tw .00 0.00cts rg 13.

Appendix FY 2001 Performance Measures

	FY 2001 Target	FY 2001 Actual	Met or Exceeded
Goal 1: Prevent fraud, deception, and unfair business practices in the marketplace.			
<i>Objective 1.1—Identify fraud, deception, and unfair practices that cause the greatest consumer injury:</i>			
Measure 1.1.1: Annual number of consumer complaints and inquiries entered into database.	350,000	430,000	T
<i>Objective 1.2—Stop fraud, deception and unfair practices through law enforcement:</i>			
Measure 1.2.1: Dollar savings for consumers from FTC actions which stop fraud.	\$400 million	\$487 million	T
Measure 1.2.2: Total expenditures of deceptive or unfair advertising campaigns stopped.	\$300 million	\$86 million	see text
<i>Objective 1.3—Prevent consumer injury through education:</i>			
Measure 1.3.1: Number of education publications distributed to or accessed electronically by consumers.	10 million	15 million	T
Goal 2: Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.			
<i>Objective 2.1—Identify anticompetitive mergers and practices that cause the greatest consumer injury:</i>			
Measure 2.1.1: Percent of HSR second requests resulting in enforcement action.	50%	68%	T
Measure 2.1.2: Number of nonmerger investigations opened per year.	45 to 70	56	T
<i>Objective 2.2—Stop anticompetitive mergers and practices through law enforcement:</i>			
Measure 2.2.1: Positive outcome of cases brought by FTC due to alleged violations.	80%	94%	T
Measure 2.2.2: Dollar savings for consumers resulting from FTC actions stopping anticompetitive mergers.	\$800 million	\$2.5 billion	T
Measure 2.2.3: Dollar savings for consumers resulting from FTC actions stopping anticompetitive nonmerger activity.	\$200 million	\$157 million	see text
<i>Objective 2.3—Prevent consumer injury through education:</i>			
Measure 2.3.1: Quantify number of education and outreach efforts.	determine baseline	141	T
Measure 2.3.2: Quantify number of hits on antitrust information on FTC Web site.	determine baseline	2.6 million	T