

FEDERAL TRADE COMMISSION

**FISCAL YEAR 2005
CONGRESSIONAL JUSTIFICATION**



Budget Summary

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**Federal Trade Commission
Fiscal Year 2005 Overview Statement**

This statement supports the Federal Trade Commission's (FTC) FY 2005 budget request of \$205,430,000 and 1,094 FTE. These amounts represent increases of \$19,389,000 and 20 FTE over the FTC's FY 2004 appropriation (HR 2673).

MISSION

delay or obstruct the entry of lower-cost generic drugs on the market, and provided comments to the Food and Drug Administration on the potential for misusing Hatch-Waxman Act procedures governing the entry of generic drugs, based on the findings of an in-depth FTC study. In June 2003, the FDA adopted a new rule, incorporating certain FTC recommendations, that promotes the timely approval of low-cost generic drug alternatives. In December 2003, Congress passed the Medicare Prescription Drug Improvement and Modernization Act which made changes in the FDA's final rule, consistent with the findings of the FTC study.

- **Home Mortgages - Stopping Deceptive or Abusive Lending Practices.** The FTC continued to attack deceptive or abusive lending practices targeted toward the most vulnerable groups in our population.

brought 58 cases involving fraudulent or deceptive marketing practices related to the Internet. The agency also has formed an Internet Task Force to explore these issues. So far, the Task Force has analyzed state regulations that may restrict the entry of new Internet competitors and hosted public workshops on potential anticompetitive barriers to e-commerce.

- **Energy - Preventing Anticompetitive Gasoline Prices.** The energy market is a vital sector of the U.S. economy. In FY 2003, the FTC issued a complaint against the Union Oil Company of California that, according to the complaint, could save consumers hundreds of millions of dollars per year in gasoline purchases. In November 2003, an FTC Administrative Law Judge dismissed the complaint. This matter is currently on appeal before the Commission. The Commission also continued its merger enforcement activity in energy markets, including a consent order designed to preserve competition in the market for the delivery of natural gas to the Kansas City area following the sale of a major Midwestern natural gas pipeline.
- **Intellectual Property (IP) - Keeping Pace with Market Innovations.** The FTC recognizes the importance of applying the most current knowledge about evolving markets to its enforcement policies. For example, the FTC and the Department of Justice (DOJ) concluded a series of hearings on "Competition and Intellectual

implemented a one-call system enabling consumers to secure copies of their credit reports and have fraud alerts placed on their files at each of the credit reporting agencies.

The FTC also brings law enforcement actions to protect consumer privacy. In FY 2003, the agency settled charges that Microsoft Corporation had misrepresented the measures it used to collect and maintain the security of personal information collected through its Passport Web services. Since October 2002, the FTC has

Outreach to Specific Consumer Groups. The FTC will continue to focus its activities on several specific consumer groups through outreach, education, and law enforcement actions.

- The FTC will continue a recently instituted Hispanic Outreach Program that includes the creation of dedicated space on the FTC Web site titled "*Protection Para el Consumidor*" and the development of an on-line Spanish language consumer complaint form. To date, the FTC has translated more than 65 consumer and business education pieces into Spanish and during FY 2003, the FTC distributed nearly 500,000 print and electronic Spanish-language publications.
- The FTC also will continue to bring law enforcement actions against alleged violations affecting Spanish Oleg nla0 -1.1653 TD09 TD-0.0052 Tc-0.0038(•0.00 TD0.00275 T547.004 T547.0

in 1997 and 1998 to delay the entry of lower-cost generic competition for Schering's prescription drug K-Dur 20, which is used to treat people with low potassium. The Commission's opinion, which addressed significant policy issues at the intersection of patent law and antitrust law, concluded that Schering and its potential generic competitors, Upsher and AHP, had settled patent litigation

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- In March 2003, the Commission issued an administrative complaint alleging that Union Oil Company of California (Unocal) manipulated the process through which the California Air Resources Board set regulations for the formulation of low-emissions gasoline. According to the complaint, by not disclosing pending patent claims and by conveying a false impression that it would not assert proprietary interests in certain emissions research data, Unocal acquired monopoly power over the technology used to produce specialized gasoline required for summertime use in California. Unocal's conduct allegedly costs California consumers hundreds of millions of dollars per year in higher gasoline prices. The matter is currently on appeal to the Commission following an Administrative Law Judge's dismissal of the complaint.
 - The FTC tracks retail gasoline prices in 360 cities nationwide and wholesale prices in 20 major urban centers to alert staff to unusual changes in gasoline prices, so that further inquiry can be undertaken expeditiously. When price increases appear not to have market-driven causes, the FTC staff consults with appropriate federal and state authorities to discuss the situation and the appropriate course for any further inquiry, including a law enforcement investigation.

High Technology. In addition to bringing enforcement actions in high tech areas, the FTC is studying the impact of the Internet and intellectual property on competition law and policy. The agency has paid particular attention to standard-setting processes to ensure they are not abused. As technology advances, efforts to establish industry standards for the development and manufacture of new products will increase. Standard setting is most often procompetitive, but abuses in the process can seriously harm robust

Administrative Litigation. At the end of FY 2003, with nine cases pending, the FTC was engaged in more administrative litigation involving competition matters than at any time in recent memory. The heavy administrative litigation workload is a result of the FTC's increased focus on consummated merger transactions following the revision in HSR filing thresholds and a significantly greater emphasis on the nonmerger side of the mission, which typically has produced most of the administrative litigation. Antitrust litigation, whether in an administrative proceeding or in federal court, requires major expenditures for travel, stenographic reporting, and expert witnesses, in addition to significant staff time.

- The revised HSR filing thresholds exempt

20 new FTE [\$2,320,000]. The one-time and continuing workload impact of new

Through FY 2003, appropriation language has barred the FTC from implementing these requirements. In FY 2004, the FDICIA provision in the FTC's appropriation language was changed to remove the implementation bar for most provisions, but retained it for a few

PRESIDENT'S MANAGEMENT AGENDA

As described in detail in a following section titled "President's Management Agenda," the FTC is committed to managing its resources effectively and achieving immediate, concrete, and measurable results in each of the five management initiatives: human capital; competitive sourcing; e-government; financial management; and integration of budget and performance. Over the past decade, the agency has found new ways to meet growing demands and reach out to more consumers and businesses without an appreciable addition of personnel. To address these issues, the FTC has been engaged in long-term, concerted efforts to work better and smarter. These efforts dovetail with the President's Management Agenda. To date, the agency has established an outstanding record of assessment, realignment, innovation, and improvement. Also, there are several continuing efforts underway to address, among other areas, recruitment and training, performance and costs, reporting and systems.

Budget Summary

(\$ in thousands)

Budget by Mission:	Fiscal Year 2004		Fiscal Year 2005		Change	
	<u>FTE</u>	<u>Dollars</u>	<u>FTE</u>	<u>Dollars</u>	<u>FTE</u>	<u>Dollars</u>
Consumer Protection	569	\$103,844	583	\$118,788	14	\$14,944
Maintaining Competition	<u>505</u>	<u>82,197</u>	<u>511</u>	<u>86,642</u>	<u>6</u>	<u>4,445</u>
Total	<u>1,074</u>	<u>\$186,041</u>	<u>1,094</u>	<u>\$205,430</u>	<u>20</u>	<u>\$19,389</u>

Budget by Funding Source:

Offsetting Collections			
HSR Filing Fees	\$112,000	\$150,000	\$38,000
Do-Not-Call Fees	<u>23,100</u>	<u>20,000</u>	<u>-3,100</u>
Subtotal Offsetting Collections	\$135,100	\$170,000	\$34,900
General Fund	50,941	35,430	-15,511
Total	<u>\$186,041</u>	<u>\$205,430</u>	<u>\$19,389</u>

Summary of Changes

(\$ in thousands)

	FY 2004	FY 2005	Change
Budget Authority	\$186,041	\$205,430	+\$19,389
Full-time Equivalents	1,074	1,094	+20

Explanation of Change:	FTE	Dollars
A. Mandatory Costs		
1. Mandatory salary and benefit increases.	---	+ \$5,834
2. One less pay day in FY 2005.	---	-428

Annual Performance Plan Objectives by Program FTE

	Fiscal Year 2004				Fiscal Year 2005			
	CP Obj. 1	CP Obj. 2	CP Obj. 3	Prgm. Total	CP Obj. 1	CP Obj. 2	CP Obj. 3	Prgm. Total
Advertising Practices	7	55	2	64	7	56	2	65
Marketing Practices	13	127	5	145	13	128	5	146
Financial Practices	6	46	2	54	6	50	2	58
Enforcement	3	50	2	55	3	51	2	56
Planning & Information	47	2	4	53	47	3	4	54
International Consumer Protection	2	4	1	7	2	5	1	8
Consumer & Business Education	0	0	16	16	0	0	17	17
Economic & Consumer Policy Analysis	0	4	2	6	0	4	2	6
Program Management	6	19	3	28	6	20	3	29

Fiscal Years 1999—2005 Annual Performance Measures

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual	FY 2004 Target	FY 2005 Target
Measure 1.1.1: (FY 2001-2005) Annual number of consumer complaints and inquiries entered into database.	----	----	430,000	680,000	944,000	700,000	750,000
Measure 1.1.2: (FY 2003-2005) Annual number of consumer complaints and inquiries related to identity theft entered into database.	----	----	----	----	321,000	250,000	300,000
Measure 1.2.1: (FY 1999-2005) Dollar savings for consumers from FTC actions which stop fraud.	\$454 million	\$265 million	\$487 million	\$561 million	\$606.3 million	\$400 million	\$400 million
Measure 1.2.2: (FY 2001-2002) Total expenditures of deceptive or unfair advertising campaigns stopped.	----	----	\$86 million	\$40 million	----	----	----
Measure 1.2.3: (FY 2003-2005) Number of data searches conducted by FTC and other law enforcement personnel of the FTC's Consumer Sentinel.	----	----	----	----	27,685	24,000	26,000
Measure 1.2.4: (FY 2003-2005) Number of data searches conducted by law enforcement personnel reviewing the FTC's Identity Theft complaints.	----	----	----	----	2,167	1,700	1,850
Measure 1.3.1: (FY 1999-2005) Number of education publications distributed to or accessed electronically by consumers.	8.6 million	11.0 million	15.0 million	19.3 million	28.0 million	15.0 million	20.0 million
Measure 1.3.2: (FY 2003-2005) Annual number of education publications related to Identity Theft distributed or accessed electronically.	----	----	----	----	3.0 million	2.5 million	3.0 million
Measure 1.3.3: (FY 2003-2005) Annual number of Spanish-language education publications distributed or accessed electronically.	----	----	----	----	----	----	----

**Fiscal Years 1999—2005
Annual Performance Measures**

	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual	FY 2004 Target	FY 2005 Target
Measure 2.1.1: (FY 2001-2004) Percent of HSR second requests resulting in enforcement action.	----	----	68%	68%	70.0%	60-80%	60-80%
Measure 2.1.2: (FY 1999-2003) Number of nonmerger investigations opened per year.	45	25	56	59	50	----	----
Measure 2.1.3: (FY 2004-2005) Percent-1.7(%)Pe							

Program and Financing

(\$ in millions)

Identification Code: 29-0100-0-1-376	FY 2003 actual	FY 2004 est	FY 2005 est
Obligations by program activity:			
00.01 Consumer Protection	64	25	19
00.02 Maintaining Competition	51	26	16
01.92 Subtotal, Direct Program	115	51	35
09.01 Consumer Protection	36	79	100
09.02 Maintaining Competition	25	56	70
09.03 Reimbursable Program	1	1	1
09.99 Total Reimbursable Program	62	136	171
10.00 Total New Obligations	177	187	206
Budgetary resources available for obligation:			
21.40 Unobligated balance carried forward, start of year	8	9	9
22.00 New budget authority (gross)	177	187	206
22.10 Resources available from recoveries of prior year obligations	1
23.90 Total budgetary resources available for obligation	186	196	215
23.95 Total new obligations	-177	-187	-206
24.40 Unobligated balance carried forward, end of year	9	9	9
New budget authority (gross), detail:			
Discretionary:			
40.00 Appropriation	115	51	35
Spending authority from offsetting collections:			
Offsetting collections (cash):			
68.00 Offsetting collections (HSR Fees)	56	112	150
68.00 Offsetting collections (Do Not Call Fees)	5	23	20
68.00 Offsetting collections (Fed. Reimb. Programs)	1	1	1
68.90 Spending authority from offsetting collections (total discretionary)	62	136	171
70.00 Total new budget authority (gross)	177	187	206
Change in obligated balances:			
72.40 Obligated balance, start of year	22	32	19
73.10 Total new obligations ¹	177	187	206
73.20 Total outlays (gross)	-166	-200	-204
73.45 Recoveries of prior year obligations	-1
74.40 Obligated balance, end of year	32	19	21
Outlays (gross), detail:			
86.90 Outlays from new discretionary authority	160	168	185
86.93 Outlays from discretionary balances	6	32	19
87.00 Total outlays (gross)	166	200	204
Offsets:			
Against gross budget authority and outlays:			
Offsetting collections (cash) from:			
88.00 Federal sources	1	1	1
88.40 Non-Federal sources - HSR Fees	56	112	150
88.40 Non-Federal sources - Do Not Call Fees	5	23	20
88.90 Total, offsetting collections (cash)	62	136	171
Net budget authority and outlays:			
89.00 Budget authority	115	51	35
90.00 Outlays	104	64	33

¹Includes \$1 million in each fiscal year for obligation of funds reimbursed by other federal agencies.

Object Classification

(\$ in millions)

Identification Code: 29-0100-0-1-376	FY 2003 actual	FY 2004 est	FY 2005 est
Direct Obligations:			
Personnel Compensation:			
11.1 Full-time permanent	53	24	17
11.3 Other than full-time permanent	5	2	1
11.30 Other			
11.5 Other personnel compensation	1	1	...
11.9 Total Personnel compensation	59	27	18
12.1 Civilian personnel benefits	14	7	4
21.0 Travel and transportation of persons	1	1	1
23.1 Rental payments to GSA	11	5	3
23.3 Communications, utilities, and miscellaneous charges	2	1	1
24.0 Printing and Reproduction	1
25.1 Advisory and assistance services	11	5	5
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Personnel Summary

Identification Code: 29-0100-0-1-376	FY 2003 actual	FY 2004 est	FY 2005 est
Direct			
Full-time equivalent employment	684	294	187
Reimbursable			
Full-time equivalent employment	367 ¹	786 ²	913 ²

¹ Includes 3 FTE reimbursed by other federal agencies.

² Includes 6 FTE reimbursed by other federal agencies.