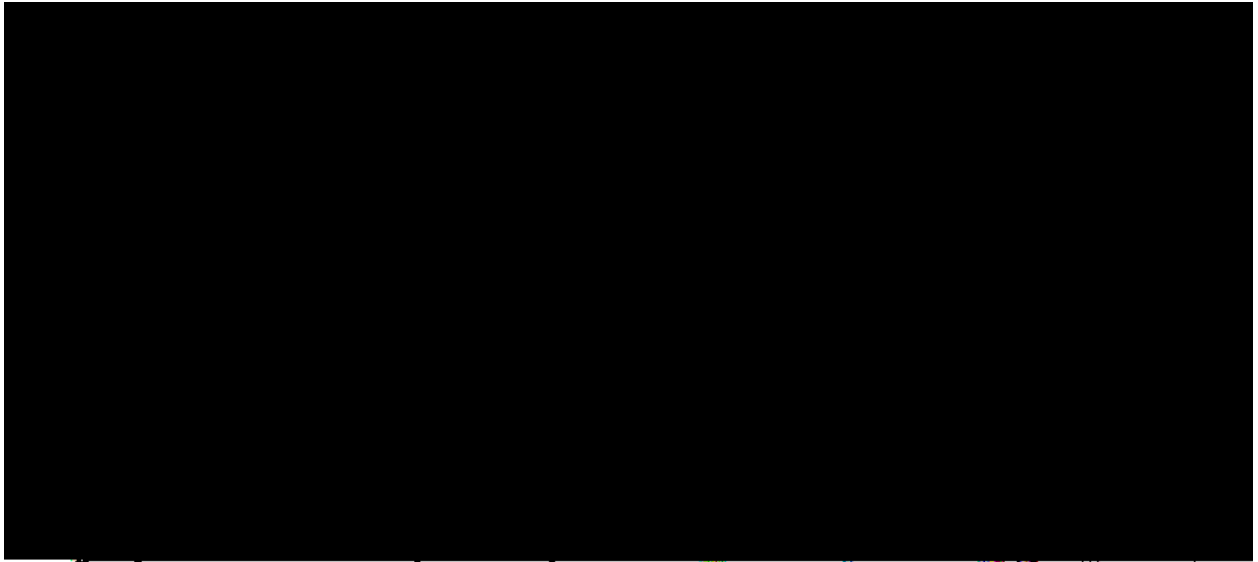


Federal Trade Commission Strategic Plan

Fiscal Years 2000 – 2005



**Under the
Government Performance and Results Act**

September 2000

COVER:

Two sculptures of a man with a spirited horse, representing Trade, stand outside the Federal Trade Commission headquarters. The sculptures were created by New York artist Michael Lantz and completed in 1942.

Table of Contents

	<i>Page</i>
Overview of the FTC Strategic Plan	1
The FTC: Past, Present, and Future	2
Past: Why the FTC was created	2
Present: The role of the FTC in Consumer Protection and Maintaining Competition	3
Future: Key external factors in the FTC's environment	4
The Agency's Goals, Objectives, Strategies, and Performance Measures	8
Goals, Objectives, and Strategies: Development, Resources, Implementation, and Evaluation	8
Performance Measures: Progress, Changes from the Original Plan, and Challenges	10
Cross-Cutting Functions	15
Significant Customer and Stakeholder Considerations	17
Implementation of the Strategic Plan of the FTC: Fiscal Years 2000-2005	18
Goal 1 – Protect Consumers: To prevent fraud, deception, and unfair business practices in the marketplace	18
Objective 1 – Identify fraud, deception, and unfair practices that cause the greatest consumer injury	18
Objective 2 – Stop fraud, deception, and unfair practices through law enforcement	20
Stopping fraud	20
Ensuring broad-based protections for consumers	21
Objective 3 – Prevent consumer injury through education	22

Goal 2 – Maintain Competition: To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace 24

 Objective 1 – Identify anticompetitive mergers and practices that cause the greatest consumer injury 24

 Objective 2 – Stop anticompetitive mergers and practices through law enforcement 26

 Objective 3 – Prevent consumer injury through education 28

Laws Enforced by the FTC 31

Key Components of the FTC 36

Primary External Stakeholders 38

Overview of the FTC Strategic Plan

Statement of Vision: A U.S. economy characterized by vigorous competition among producers and access by consumers to accurate information, yielding high-quality products at low prices and encouraging efficiency, innovation, and consumer choice.

Statement of Mission: To prevent business practices that are anticompetitive, deceptive, or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions but not impede legitimate business activity.

FTC Goals and Objectives

Goal 1: Protect Consumers

To prevent fraud, deception, and unfair business practices in the marketplace.

To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

Goal 2: Maintain Competition

The agency will achieve these goals by accomplishing the following objectives:

Objective 1:

Identify fraud, deception, and unfair practices that cause the greatest consumer injury.

Objective 1:

Identify anticompetitive mergers and practices that cause the greatest consumer injury.

Objective 2:

Stop fraud, deception, and unfair practices through law enforcement.

Objective 2:

Stop anticompetitive mergers and practices through law enforcement.

Objective 3:

Prevent consumer injury through education.

Objective 3:

Prevent consumer injury through education.

Key Five-Year Performance Measures

• From fiscal years 2000-2005, save over \$2 billion for consumers by stopping consumer fraud.

• From fiscal years 2000-2005, save over \$5 billion for consumers by stopping anticompetitive mergers and business practices that would otherwise cause price increases or reduce innovation.

The FTC: Past, Present, and Future

The Federal Trade Commission (FTC) is an independent law enforcement agency. There are five Commissioners, who are appointed by the President and confirmed by the Senate to staggered seven-year terms. No more than three Commissioners may be from any one political party. In fiscal year 2000, the Commission includes Chairman Robert Pitofsky – designated by President Clinton – and Commissioners Sheila F. Anthony, Mozelle W. Thompson, Orson Swindle, and Thomas B. Leary.

Past: Why the FTC Was Created

Congress created the FTC to implement a core function of government: to ensure that free markets work. Although the FTC originally was proposed as an administrative agency to consider competition and other economic issues, over the years Congress broadened the FTC's mandate substantially. The agency's organic statute, the FTC Act, gives the Commission power to act against unfair methods of competition and unfair or deceptive acts or practices. See "Laws Enforced by the FTC," page 30 (the statutory mission of the FTC).

To understand some of the reasons for the creation of the FTC and its broad legislative mandate, it is useful to recall that, at the turn from the 19th to the 20th century, so-called robber barons and big business trusts – large combinations of companies, such as the railroad trust, the oil trust, and the steel trust – dominated the economic landscape. Although Congress enacted the first federal antitrust law, the Sherman Act, in 1890, the Supreme Court's interpretations of that statute, along with a tremendous merger wave in the early 20th century, left some concerned that trusts still could charge monopoly prices and cause other types of economic harm. Congress created the Commission as a bipartisan tribunal that could develop a body of administrative law enabling businesses to better understand the line between vigorous competition and unlawful restraint of trade. Also, around the same time in the early 20th century, a movement was taking shape to protect consumers from unfair business practices, such as fraudulent, misleading, or deceptive representations in advertising and marketing.

The legislative history of the FTC Act reveals that Congress had both consumer protection and competition in mind when it created the FTC in 1914. In that year, Congress also passed the Clayton Act, through which the FTC plays a central role in prohibiting anti-competitive stock acquisitions.¹

¹ See, e.g., 51 CONG. REC. 13164 (remarks of Sen. Lippitt).

² 51 CONG. REC. 9167 (1914) (remarks of Rep. Nelson).

³ The United States ranked third among 15 major industrial countries in terms of average annual growth in output (GDP) per capita for the period 1990-98. *Is There a New Economy?* Organization for Economic Co-operation and Development, First Report on the OECD Growth Project, June 2000, p. 5. According to the Council of Economic Advisers (CEA), "Industries in which companies

anticompetitive business practices without interfering with businesses' legitimate activities.

These two complementary parts of its mission make the FTC the only federal consumer protection agency with jurisdiction over a wide spectrum of consumer issues. In addition to enforcement authority, the Commission has unique jurisdiction to gather, analyze, and make

⁴ Nielson Media Research, ACNielson, and NetRatings, Inc., *Nielson//NetRatings*, <http://www.nielsennetratings.com/default.htm>

⁵ Forrester Research, Inc., *Online Retail To Reach \$184 Billion by 2004 as Post-Web Retail Era Unfolds* (visited Sept. 28, 1999), <http://www.forrester.com>

cooperation with foreign authorities to resolve concerns. In appropriate circumstances, the FTC also assists foreign authorities through technical assistance.

The following sections identify those changes in the economy most likely to affect each of the FTC's goals.

Goal 1 - Protect Consumers

To prevent fraud, deception, and unfair business practices in the marketplace.

Globalization and new information technologies create potentially enormous benefits for consumers, but also raise new consumer protection concerns, providing opportunities for online fraud, identity theft, loss of privacy, and international telephone scams. Our experience demonstrates that fraudulent operators often are among the first to take advantage of new technologies. The Internet has already become an especially fertile ground for scam artists because they can reach vulnerable consumers easily and cheaply online, and immediately access both a national and an international marketplace. Similarly, new telephone technologies are giving rise to international scams, and telemarketing fraud is increasingly a cross-border phenomenon. On the horizon is an expanding array of electronic payment systems, which gives rise to yet a new set of concerns.

To combat fraud, we monitor the traditional and electronic marketplaces and focus on the areas identified through our Consumer Information System database to be most harmful to consumers. Attacking telemarketing fraud continues to be a priority, as does protecting consumers from more traditional scams that have found new life on the Internet, including health-related fraud. The FTC also is moving to protect consumers and business against new high-tech frauds through our Internet Rapid Response Team. In fiscal year 1999, we saved consumers over \$450 million by stopping such fraud.

The law enforcement challenges in this new high-tech global marketplace will be considerable. There is little evidence that the "low-tech" scams will go away, and there is every indication that the "high-tech" scams will grow and be more difficult to detect and pursue as they cross national borders.

With the explosive growth of e-commerce (consumer sales are expected to increase from \$20 billion in 1999 to \$184 billion by 2004), newly deregulated telecommunications and electricity markets, and globalization, the FTC's scope of responsibilities grows even broader. To achieve the broadest possible compliance in the vast marketplace, the FTC targets the most serious problems for law enforcement and, where appropriate, encourages non-regulatory solutions that are effective but do not impede legitimate business activity.

Goal 2 - Maintain Competition

To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

⁶ The Washington Post has characterized the merger wave as “a frenzy of merger madness, capping a dramatic wave of global corporate consolidation that has been gaining momentum through much of this decade,” quoting merger experts who note that a key force driving merger activity is the Internet. Sandra Sugawara, “Merger Wave Accelerated in ‘99; Economy, Internet Driving Acquisitions,” *The Washington Post*, Dec. 31, 1999, p. E1.

⁷ A *Business Week* analysis and commentary observes that the New Economy may require new competition guidelines: “Traditionally, regulators focused on whether companies artificially hiked prices or restricted output. Now, they’re increasingly likely to look first at whether corporate behavior aids or impedes innovation.” See “Antitrust for the Digital Age,” *Business Week*, May 15, 2000, p. 47.

While the merger wave continues, leading firms in significant industries sometimes resist the competitive forces of evolving markets, high-technology innovation, and deregulation. They may engage in business practices that stifle the ability of new firms to enter the market or that enable existing competitors to collude. To support competition in markets in transition, such as health care, the FTC must be alert to practices designed to entrench market power and deny consumers the benefit of new forms of competition, such as conspiracies among health care providers to resist new ways of providing lower cost health care or use of the intellectual property rights in one market to gain unfair competitive advantage in another market. To support competition in innovative, high-tech arenas, the FTC must evaluate the significance of business conduct in the context of novel, high-tech settings. The analysis must distinguish between practices that restrict competition and those that otherwise promote competition by simply protecting against misappropriation of intellectual property or other efforts of firms to “free ride” on the investments of others. To support competition in newly deregulated areas, such as energy, the FTC must monitor the conduct of firms that never before have had to compete.

All of these circumstances pose new challenges to the FTC, and there is no sign that the traditional forms of anticompetitive conduct are abating to any degree.

The Agency's Goals, Objectives, Strategies, and Performance Measures

Goals, Objectives, and Strategies: Development, Resources, Implementation, and Evaluation

Development

The goals, objectives, and strategies identified in this plan reflect the agency's cumulative experience in identifying efficient ways to implement its consumer protection and competition missions, while also eliminating or minimizing burdens on legitimate business activities. The original strategic plan, written in 1997, represented the cooperative work of the entire Commission, including Commissioners, senior managers, agency staff, and external stakeholders such as private business, consumer, and professional organizations.⁸

This updated strategic plan is also the work of the entire Commission and its current stakeholders. Designated staff throughout the agency reviewed the original plan and the agency's 1999 performance report, as well as OMB Circular A-11 (on preparing strategic plans) and guidance from the U.S. Senate Committee on Governmental Affairs. The current plan, with substantive input by each key organization, was reviewed by the Commissioners and stakeholders.

This plan builds on the original plan. We considered the original agency vision, mission, and broad goals to be as critical and relevant as they were in 1997. However, we have made some modifications to the plan's performance measures and strategies. These modifications reflect lessons learned from working with the original plan, as well as changes in external factors that may affect the way the agency needs to work to meet its performance challenges. The modifications are discussed under "Performance Measures: Progress, Changes from the Original Plan, and Challenges," on page 12.

A major part of our strategic planning is to continually re-evaluate our Objectives, Performance Measures, and Performance Targets to ensure that we are measuring the most appropriate indicators and that we are correctly capturing supporting data. For example, in 1999, we concluded that two of our performance measures were better expressed as one aggregate measure that more succinctly captured the results of our efforts. Also, as part of our strategic planning, our Inspector General (IG) reviewed the performance measures and found that the methodology used for accumulation of selected performance data was not sufficiently defined to allow for consistent and accurate reporting of measures. The IG believes that the best way to avoid this weakness in the future is for the FTC to define the rationale behind each of the Performance Measures;

⁸ See "Primary External Stakeholders," page 38.

that is, to articulate clearly how consumers or businesses are better off when the FTC meets or exceeds its performance targets. As a result, the agency reexamined its measures for fiscal year 2000 and made changes to its plan.

Resources

The strategic plan was drafted using two basic assumptions. The first is that the FTC will maintain its current operational efficiencies. The second is that the strategic plan may assist the agency in identifying possible areas for additional efficiencies. Although the plan anticipates that agency budget levels will be adjusted upward each year at least to the extent of inflation, the operational processes, skills and technologies, and the human, capital, information, and other resources to be used under this plan are similar to the 1,133 full-time equivalents (FTE) and \$164,600,000 identified in the FTC's fiscal year 2001 Congressional budget submission.

To ensure that the goals in this draft strategic plan are realistic in light of the expected resources, the FTC plans to continue to use two strategies that have significantly increased the agency's productivity over the last few years: (1) directing agency enforcement efforts to those areas most likely to cause consumer harm and (2) making creative use of new technologies to identify emerging problems, extend the reach of consumer and business education, and deter newly created means of stifling healthy competition.

The FTC also plans to continue the work it has undertaken to leverage its resources by extensively working with state law enforcement offices, other federal agencies, consumer and business groups, and international partners. The stakeholders shown in "Primary External Stakeholders," page 38, include many governmental and private organizations with which the agency has worked and will continue to work to ensure that its efforts are aimed at the areas of most importance to consumers and are undertaken in cost-effective ways that eliminate or minimize burdens on legitimate business activity. The FTC will continue to increase its work with international partners, such as the European Union and the International Marketing Supervision Network, to help maintain competition and protect consumers in the expanding global marketplace.

Human Resources

The FTC is currently addressing the management of its human resources to ensure it has the staff needed to fulfill its mission to protect consumers and maintain competition in the marketplace. While the FTC historically has had an enthusiastic and highly capable professional staff, it currently faces significant competitive pressures from the private sector, particularly for professionals with experience in mergers and Internet-related issues. For example, the high salaries paid by the private-sector for attorneys, economists, and information technology specialists cannot be matched by the compensation scales available to most Government agencies.

To continue to attract and retain talented professionals, the FTC has formed a human resource task force consisting of professional staff from across the agency. The task force's overall purpose is to maintain and enhance the agency's high-quality workforce by evaluating the impact on FTC staff of a variety of human resource issues. Currently, the task force is focusing on attorney and economist recruitment, development, and retention. Included among the monetary solutions under review are recruitment and retention bonuses, student loan repayments, and increasing the performance awards budget. Non-monetary solutions under review include enhancing training and professional development, creating an even more family-friendly work environment, and exploring non-traditional recognition programs.

As solutions are identified and approved, they will be integrated into the FTC's human resource management, budgeting, and strategic planning processes. Within the Commission's fiscal year 2001 budget submission is a request of additional funds for the training needed by FTC staff to keep pace with the broadening technological and international scope of the agency's law enforcement and other program activities. Further, as described later in this Strategic Plan, the Commission will continue to evaluate whether the mix of staff resources it allocates to fraud and non-fraud programs are appropriate in light of changes in the marketplace, and to identify and, where appropriate, use "best practices" adopted by other government agencies and the private bar in training new FTC staff.

Implementation

As the FTC updates its strategic plan and implements its annual performance plans, staff will be made fully aware of the goals, objectives, strategies, and performance measures contained in the strategic plan and the expectations regarding staff's role in implementing the strategic plan. The FTC's annual performance plans will identify one-year performance measures that will be used to assess the agency's progress toward its five-year strategic goals.

Evaluation

The agency will continue to review its programs on an annual basis. The program assessments will use information available from one-year performance measures, as well as a variety of other factors, including whether programs address emerging consumer concerns resulting from changes in the marketplace. These evaluations will be used to revise current performance measures or develop new measures. Specific evaluations are listed in the "Implementation" section, under each objective.

Performance Measures: Progress, Changes from the Original Plan, and Challenges

Progress

The FTC continues to work on developing outcome-based, results-oriented performance measures that reflect its strategic goals. Our annual performance plans contain performance measures and targets that will lead us to our five-year goals. The annual performance plans will reflect the impact of the appropriations process and any new legislation. If significant impacts occur, the FTC will update this strategic plan.

The Government Performance and Results Act has provided a useful opportunity to find better ways to demonstrate and evaluate the results the agency achieves. For example, in the course of working to develop the original strategic plan, the agency determined that a new, more comprehensive consumer complaint database would facilitate the agency's efforts in identifying appropriate areas for law enforcement and education.

The consumer complaint database is now in place, and through the fiscal year 1999 appropriations process, Congress provided resources for a toll-free consumer complaint line (1-877-FTC-HELP) and enhancement of *Consumer Sentinel*. *Consumer Sentinel* can now be accessed by law enforcers in the United States and Canada through an encrypted Web site to determine whether a particular fraudulent scheme is local, national, or cross-border in nature, and also to help spot larger trends for law enforcement action. *Consumer Sentinel* provides a variety of tools to help law enforcers investigate fraud and ultimately prosecute illegal activity. In addition to the complaint database, *Sentinel* features include analysis of data to determine trends in fraud, an index of fraudulent telemarketing sales pitches available from the National Tape Library, a compilation of companies already sued for fraud, and a catalogue of companies currently under investigation. In addition, *Sentinel* offers a contact list as well as how-to information to help agencies coordinate effective joint action. The complaints cover fraud and deception relating to telemarketing, direct mail, and the Internet.

Also, the agency found that a more systematic recording of information already available could facilitate estimates of the savings to consumers from various agency enforcement actions. Procedures are now in place to gather the types of information that allow estimates of some of the savings to consumers through FTC enforcement action. These procedures include systematically recording at the close of each enforcement action the information obtained through the investigation that is relevant to the estimation of consumer savings, and systematically monitoring cases to determine, for example, the amount of fraud stopped per year through FTC enforcement. These records not only positively reflect the FTC's value to consumers but also provide a means for evaluating which business practices should be scrutinized most closely to provide consumers the greatest benefits.

On the consumer protection side, the savings are calculated by adding together the annual sales of fraudulent operations halted each year through FTC enforcement. The calculation may actually underestimate the agency's impact because it assumes that the fraud would have continued for only one more year; however, it provides a uniform

method for calculating savings and minimizes speculation about the likely duration of the fraud.

For the maintaining competition mission, estimates of consumer savings take into account three principal factors: (1) the volume of commerce in the markets affected by an alleged anticompetitive merger or other alleged anticompetitive practice, (2) the percentage increase in price that likely would have resulted from such merger or other anticompetitive practice absent enforcement action, and (3) the likely duration of the alleged anticompetitive price increase. In some cases, detailed pricing data or other information will enable the calculation of a relatively precise estimate of the likely price increase.⁹ In other cases, an estimate can be derived from the analytical method used to identify the relevant market. In these cases, the agency will conservatively estimate that at least a 1% anticompetitive price increase would occur absent enforcement action, and that the anticompetitive price increase would have lasted for two years absent agency action. These assumptions are based on the analytical guidelines used by the FTC and the Department of Justice to determine when to challenge a horizontal merger. Under those guidelines, the agencies identify markets where prices could increase by at least 5% before a significant number of consumers would turn to substitutes outside that market, and where entry by other firms to deter anticompetitive pricing is unlikely to occur for at least two years. In almost every case where the FTC challenges a merger of competitors, both of these factors – as well as others – will apply. Both the “1% price increase” and the “two-year duration” for the price increase are conservative assumptions; where detailed facts are available, far greater consumer savings may be shown.¹⁰

Changes from the Original Plan

In our first strategic plan, the agency developed a variety of performance measures to assist in evaluating matters, such as the speed with which it responds to inquiries and processes investigations, the extent of litigation success, and the effectiveness of self-

⁹ For example, on occasion, a firm’s own documents may show the amount by which it believes it could raise prices after the merger. Customer interviews may provide their views on the likely amount of possible post-merger price increases. In other cases, however, the harm that would result from a merger or other practice is not necessarily an immediate price increase but some other restriction on competition, such as the blocking of innovation that promises new or better products in the future. It is much more difficult to calculate a dollar estimate of consumer savings in such cases, and the agency generally will not attempt to do so.

¹⁰ The conservative default parameters of a 1% price increase for two years may significantly underestimate the likely consumer savings in some cases. For example, in the *Staples/Office Depot* merger case, agency staff estimated, based on company data, that the merger would result in consumer losses totaling approximately \$1.1 billion over a five year period—that is, about \$200 million per year. The conservative default estimate would have been \$24.75 million over two years—a little more than \$12 million per year.

regulatory, amnesty, or leniency programs. In completing our first performance report, for fiscal year 1999, we found that two performance measures were better expressed as one aggregate measure that more succinctly captured the results of our efforts.

On the consumer protection side, our measures still include dollar savings for consumers, the number of consumer complaints and inquiries added to our database, and the number of educational messages disseminated. We are, however, reporting the number of consumer complaints and inquiries added to our database on an annual basis instead of as a cumulative count of the total number of entries in the database. We have discontinued using the percentage of a targeted industry brought into compliance as a measure of our non-fraud law enforcement efforts. Instead, we have added a measure of the size in dollars of deceptive and unfair advertising campaigns that are stopped through FTC action.

Under Objective 2 on the consumer protection side, the measure of our efforts to ensure broad-based protections for consumers was changed to a more comprehensive measure of Commission efforts to reduce harms to consumers. The new measure is: "Each year, the FTC will reduce consumer injury by obtaining orders stopping deceptive or unfair major national advertising campaigns with combined media expenditures totaling \$300 million; by 2005, \$1.5 billion in such campaigns will have been stopped." This measure was chosen because it captures the broad impact in (1) stopping major misleading ad campaigns and deterring others, and (2) preventing consumers nationwide from being injured by purchasing products/services promoted by deceptive or unfair national advertising campaigns. The premise is: the more a company spends on an advertising campaign, the more widespread the deceptive or unfair message. This is a conservative measure of the agency's impact because it includes only deceptive or unfair ad campaigns of major national advertisers. It does not count all the advertising we may influence, for example modest advertising expenditures, multi-level marketing, claims made solely on product packaging, and fraud-related advertising (which is captured in another measure).

The Internet is playing an increasing role in both the perpetration of fraud and the means we use to combat it, as reflected in our consumer protection performance measures. The FTC has established an Internet Lab to investigate high-tech consumer problems. Computers and sophisticated software allow investigators to search for fraud and deception on the Internet and to capture Web sites to preserve evidence for presentation in court. The agency's own Internet site (www.ftc.gov) is a forum for disseminating educational materials and receiving consumer complaints and inquiries. We also share our comprehensive consumer fraud database, *Consumer Sentinel*, with more than 250 law enforcement agencies across the United States and Canada through a secure Web site.

In an environment of increasing Internet usage, monitoring the number of "hits" on ftc.gov's education materials and business guidance is one tool we use to evaluate our

efforts to extend the reach of our messages. The use of *Consumer Sentinel* by law enforcement to stop fraud is another indication of our effectiveness.

On the competition side, our experience working with the original strategic plan has led us to update and improve a number of performance measures. Under Objective 1, we will measure our success in identifying anticompetitive mergers by focusing on the percentage of matters in which we request additional information from the parties that result in enforcement action. This, we believe, is more closely related to our objective than the measure it replaces (the average time taken to review HSR-reported transactions); it measures our effectiveness in identifying transactions that need evaluation, instead of measuring time spent on the process.

Given

dependent on innovation,¹¹ there are likely to be substantial consumer benefits from FTC actions such as those taken to prevent the monopolization of certain areas of research and development or to prevent the defrauding of consumers who are venturing into the new world of Internet commerce.

Cross-Cutting Functions

The FTC investigates, analyzes, and reports on various consumer and competition issues, e.g. *Marketing Violent Entertainment to Children* and the *Midwest Gasoline Price Investigation*, at the request of the Administration and Congress. The FTC also actively consults with other agencies to coordinate matters of mutual interest and ensure that agency goals do not conflict.

On the consumer protection side, the agency works closely with a wide variety of federal and state partners. To fight fraud and other unfair and deceptive practices, it pursues joint enforcement with the Postal Inspection Service, the Department of Justice, the State Attorneys General, the Securities and Exchange Commission (SEC), the Federal Communications Commission (FCC), and numerous other federal and state agencies. The agency also works closely with the Department of Justice's Office of Consumer Litigation to coordinate enforcement in areas of shared responsibility, including enforcement of FTC rules and orders.

In addition, the agency works cooperatively with a number of federal agencies in areas of shared (or overlapping) jurisdiction over advertising. Pursuant to a Memorandum of Understanding, it works with the Food and Drug Administration (FDA) to combat deceptive claims for over-the-counter drugs, devices, food, and cosmetics – with the FDA primarily responsible for labeling claims and the FTC primarily responsible for advertising claims. It works with the Consumer Product Safety Commission (CPSC) to address product safety, exchanging case referrals, collaborating on education projects, and relying on CPSC's expertise in evaluating the safety of products. It coordinates enforcement and education efforts in areas shared with the Environmental Protection Agency, including pesticides, "green" claims, and water treatment products. And it collaborates with

¹¹ Many economists agree that the gains to society from innovation are substantial and, over the long run, are likely even greater than those associated with competitive pricing. For example, the Council of Economic Advisers (CEA) characterizes the economics growth literature as follows: "Over the past 50 years, more than half of all productivity gains in the U.S. economy, as measured by output per labor hour, have come from innovation and technical change." *Economic Report of the President*, February 1999, p. 171. See also CEA: "In the long run, productivity growth sets the pace for improvements in the quality of life." *Economic Report of the President*, February 2000, p. 50. As "new growth theory" economist Paul Romer has reportedly observed: "Competitive markets are, on balance, the best mechanism for guiding technology down a path that benefits consumers." "Antitrust for the Digital Age," *Business Week*, May 15, 2000, p. 47.

¹² Most of the FTC's antitrust enforcement is conducted pursuant to Section 5 of the FTC Act, which governs "unfair methods of competition," and Section 7 of the Clayton Act, which governs anticompetitive mergers. Section 5 of the FTC Act is enforced solely by the FTC, but merger enforcement under Section 7 is shared with the Department of Justice, which also enforces the Sherman Act. Congress has established a filing fee of \$45,000 for premerger notifications required under the Hart-Scott-Rodino Act. By statute, the amount collected in filing fees is split equally between the FTC

Task Force on Antitrust Aspects of Defense Industry Consolidation. The FTC also consults with agencies such as the FDA, the FCC, and the Patent and Trademark Office on competition-related matters within their special expertise, as well as with the Department of State on international matters. On mergers and anticompetitive practices involving electric utilities, the FTC shares jurisdiction with the Federal Energy Regulatory Commission (FERC) and the Department of Justice. FTC staff also initiated and participates in an interagency working group with FERC and the Department of Justice on competition matters related to electricity restructuring and regulatory reform, and staff submits competition and advocacy comments in response to rules proposed by FERC.

Internationally, the FTC has been an active participant in the International Marketing Supervision Network (IMSN). The IMSN is a network of consumer protection and fair trade organizations from more than two dozen countries. Its purpose is to share information about cross-border commercial activities that could affect consumer interests and to encourage international cooperation among law enforcement agencies. In 2001, the FTC will assume the presidency of the IMSN for a one-year term.

The FTC and the Antitrust Division also consult regularly with their counterparts in Europe, North America, and the Far East, both individually and through organizations such as the Organization for Economic Cooperation and Development. The FTC (and Department of Justice) also have a “positive comity” agreement with members of the European Community, under which one country’s antitrust authorities may ask the another country’s antitrust authorities to take measures against activities there that violate the latter's competition laws and that harm the requesting country's commerce.

To educate consumers and businesses, the FTC led efforts to establish a “one-stop” government Web site (www.consumer.gov) with four of its federal government partners, the CPSC, the FDA, the NHTSA, and the U.S. Office of Consumer Affairs. The FTC continues to manage the site, which now has 155 member agencies. The FTC routinely works with other federal and state agencies on coordinated education campaigns.

Significant Customer and Stakeholder Considerations

The agency sent a draft of this strategic plan to its stakeholders, listed in “Primary External Stakeholders,” for review. Comments were received from several stakeholders, and where deemed appropriate suggested changes were made to this document.

Implementation of the Strategic Plan of the FTC: Fiscal Years 2000-2005

Statement of Vision: A U.S. economy characterized by vigorous competition among producers and access by consumers to accurate information, yielding high-quality products at low prices and encouraging efficiency, innovation, and consumer choice.

Statement of Mission: To prevent business practices that are anticompetitive, deceptive, or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions but not impede legitimate business activity.

Goal 1 – *Protect Consumers*

- Search for better methods of collecting information to keep abreast of new consumer protection problems in traditional markets and emerging markets such as the Internet.

2. Year-by-Year Implementation Plans, FY 2000-2005

Each year the agency will work to:

- Recruit new partners in the United States and abroad to contribute complaint data to *Consumer Sentinel*.
- Improve the capacity to receive and integrate complaints from international sources.
- Add to the group of state, local, federal, and international law enforcement agencies participating in *Consumer Sentinel*; train new partners in how to take full advantage of its features.
- Facilitate the exchange of data with law enforcement officials in other countries through *Consumer Sentinel* or other means.
- Monitor the marketplace to identify illegal practices that may not be fully captured by the database, for example through the Internet Lab and Web surfs.
- Increase the number of Identity Theft complaints in the database and refer trend data and complaints to public and private sector partners such as credit bureaus and law enforcement partners.
- Identify new consumer protection issues emerging as a result of changes in the marketplace (for example, growth in e-commerce, deregulation of industries, emergence of new products and services, globalization) and explore these issues through public workshops, hearings, and studies.

3. Five-Year Performance Measure

By 2005, the FTC will collect and enter into its comprehensive information system one-half million complaints and inquiries a year; each year it will increase the prior year's collection by about 50,000. (The baseline is 300,000 in 2000.) Through its databases and other data collection efforts, such as Web surveys ("Surf Days"), and systematic analysis of data, the FTC and its law enforcement partners are able to identify and target the most serious cases of fraud and deception, coordinate their efforts, and respond quickly to emerging problems.

4. Program Evaluations

- Assess whether the FTC's law enforcement and education efforts are addressing the leading problem areas identified by the complaint database.
- Determine the extent to which *Consumer Sentinel* services are used by law enforcement partners.
- Assess privacy and security protections for the database by reviewing complaints, if any, and evaluating the policies in place.

Objective 2: Stop fraud, deception, and unfair practices through law enforcement.

A. Stopping Fraud

Fraud costs consumers billions of dollars a year. Telemarketing fraud continues to be a leading cause of consumer injury and remains a high priority for the FTC. In addition, the Internet is a fertile ground for fraud. It is cheap and easy to enter, and offers fraudsters a global market, anonymity, and easy exit. Almost 25% of all fraud complaints received by *Consumer Sentinel* now relate to the Internet. The challenge for the FTC, working with its partners, is to stop online fraud quickly before it harms consumers and undermines confidence in the new arena.

1. Strategies

- Lead and coordinate the nationwide attack on telemarketing fraud.
- Target high-tech frauds such as those that have moved to the Internet and those that exploit other new technologies.
- Develop additional international law enforcement arrangements to tackle the growing problem of cross-border fraud.
- Increase the capacity to respond rapidly, with enforcement and other approaches, to fast-moving technology-based scams.

2. Year-by-Year Implementation Plans, FY 2000-2005

Each year the agency will:

- Target for federal-state “sweeps” or other law enforcement initiatives the most significant areas of telemarketing fraud and other types of fraud, for example, direct mail scams, predatory lending, unauthorized telephone billing (“cramming”), etc.
- Stop the most pernicious Internet-related scams as they are identified in the *Consumer Sentinel* database or through other monitoring, for example, comprehensive Internet surfs by U.S. and global partners.
- Recruit new local, state, federal, and international law enforcement partners for anti-fraud initiatives; provide international assistance where appropriate.
- Train staff and equip the FTC’s Internet Lab to keep pace with technology and support rapid response law enforcement capability.

3. Five-Year Performance Measures

Each year, the FTC will stop approximately \$400 million in Internet and other fraud; by 2005, the FTC will have saved consumers \$2 billion through law enforcement actions stopping consumer fraud.

4. Program Evaluations

- Assess the overall trends revealed by the database to determine whether the amount of

- Monitor the online market to ensure broad compliance with consumer protection laws, rules, and guides; target law enforcement to the most serious violations.
- Implement with new congressionally mandated regulations governing financial privacy and online children's privacy, and recently updated regulations governing franchising, telemarketing sales, and telephone billing services.
- Address cutting-edge consumer protection issues in emerging areas – e-commerce, globalization, and the marketing of new digital products and services and newly deregulated services (for example, telephone, electricity, and natural gas).

3. Five-Year Performance Measures

Each year, the FTC will reduce consumer injury by obtaining orders stopping deceptive or unfair major national advertising campaigns with combined media expenditures totaling \$300 million; by 2005, \$1.5 billion in such campaigns will have been stopped. This measure captures the broad impact in (1) stopping major misleading ad campaigns and deterring others, and (2) preventing consumers nationwide from being injured by purchasing products/services promoted by deceptive or unfair national advertising campaigns. The premise is: the more a company spends on an advertising campaign, the more widespread the deceptive or unfair message. This is a conservative measure of the agency's impact because it includes only deceptive or unfair ad campaigns of major national advertisers. It does not count all the advertising we may influence, for example modest advertising expenditures, multi-level marketing, claims made solely on product packaging, and fraud-related advertising (which is captured in another measure).

4. Program Evaluations

- Assess whether the mix of resources allocated to fraud and non-fraud programs is appropriate in light of changes in the marketplace.
- Evaluate the success of self-regulatory programs.
- Determine whether there are new industries or areas of marketing that require law enforcement or that may be appropriate for self-regulation.

Objective 3: Prevent consumer injury through education.

Consumer and business education is the first line of defense against fraud, deception, and unfair practices. All FTC law enforcement initiatives include a consumer and/or business education component aimed at preventing consumer injury and unlawful business practices.

1. Strategies

- Focus consumer and business education efforts on areas where fraud, deception, unfair practices, and information gaps cause the greatest injury.
- Creatively use technology, including new interactive media, to extend the reach of consumer and business education.
- Increase public awareness of consumer protection problems and solutions by conducting and publishing studies and filing advocacy comments on changes in the marketplace and the impact of business and government actions on consumers.
- Encourage private and public partners to participate in education initiatives.

2. Year-by-Year Implementation Plans, FY 2000-2005

Each year the agency will:

- Deliver information to more consumers, industry members, and law enforcement partners faster and more efficiently.
- Focus education on high-profile and emerging issues where consumer information gaps are greatest, for example, globalization, Internet scams, online privacy, identity theft, etc.
- Increase education efforts about frauds that cause consumers the greatest financial injury.
- Through greater outreach, lead more consumers to the FTC's Web site (www.ftc.gov) and the "one-stop" government Web site for consumer information (www.consumer.gov).
- Expand coverage of FTC messages, including the toll-free helpline, through marketing, new products, technology, a speakers bureau, etc.
- Take education messages directly to consumers through town hall meetings, multimedia information kiosks, online newsletters, etc.
- Continue efforts to identify and reach under-served audiences, including businesses and law enforcement offices.

3. Five Year Performance Measures

By 2005, the FTC will provide its education messages online and in print to 12 million recipients a year; each year it will increase the prior year's audience by about 500,000. (The baseline is 9.5 million in 2000.)

4. Program Evaluations

- Determine the number of publications distributed or accessed online.
- Assess whether the appropriate mix of media is being used to communicate consumer education messages and whether the FTC is making the best use of the available media and technology.
- Assess the number and range of public and private organizations that partner with FTC to do outreach.

- Determine whether the FTC needs to reach new audiences, in light of any changes in demographics, advertising, and marketing practices.
- Review the focus of FTC education efforts and adjust them based on changing consumer and business needs.
- Assess the educational needs of the Spanish-speaking population.

Goal 2 – Maintain Competition

To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.

The hallmark of modern antitrust has been the application of sophisticated economic analysis and thorough factual investigation to distinguish between conduct that threatens the operation of free markets and conduct that promotes and advances their operation.

The challenge to the FTC is to maintain a high quality of antitrust analysis and a proper level of antitrust enforcement in the face of unpredictable shifts in the types of business conduct that the agency must evaluate. For example, in some years, business strategy may focus on acquisitions that expand a company’s business operations into entirely new and unrelated areas; such acquisitions are less likely to require extensive antitrust scrutiny. By contrast, in other years, business strategy may focus on acquisitions that enhance the “core competencies” at the heart of a firm’s business operations; such acquisitions are more likely to require antitrust review to determine whether the proposed merger likely would increase market power or otherwise facilitate anticompetitive behavior.

Due to these shifts, there is no single “correct” allocation of antitrust enforcement resources. In some years (for example, during the recent wave of corporate merger activity) resources must, of necessity, be focused primarily on merger enforcement; in other years greater emphasis may be given to various forms of nonmerger anticompetitive activity. In addition to these variables, some measures of FTC performance may vary depending on the size and scope of the specific matters that come under review.

Objective 1: Identify anticompetitive mergers and practices that cause the greatest consumer injury.

Hart-Scott-Rodino Premerger Notification (HSR) provides the FTC with an effective starting point for identifying anticompetitive mergers before they are consummated. Mergers reported to the agency vary tremendously in their complexity and potential anticompetitive effect. In some cases, the agency can make a reasonable judgment within a few days of filing about whether a merger has the potential to be anti-competitive or procompetitive, simply by reviewing materials filed with the notification.

In other cases, an investigation can take months and require a major commitment of resources. Far more transactions fall into the former category than the latter.¹³

The FTC administers the HSR Program both for itself and for the Antitrust Division of the Department of Justice, which shares authority to challenge anticompetitive mergers. Through an informal clearance process, the two agencies ensure that only one agency investigates and, if necessary, challenges any given transaction. Assignment to one agency or the other takes place after preliminary review of a transaction, which identifies the likely markets, if any, in which anticompetitive effects may occur. The assignment is based principally on expertise with particular markets.

On the nonmerger side, there is no comparable statutorily mandated program to help identify anticompetitive business practices. The agency must employ a variety of methods to identify potentially anticompetitive practices (for example, consumer and competitor complaints, referrals from other government agencies, and monitoring the trade press). Here too, however, the informal clearance process avoids any duplication of investigation or litigation effort between Department of Justice's Antitrust Division and the FTC.

1. Strategies

- Track and maintain the timeliness of review under the HSR Program.
- Use trade press articles, consumer and competitor complaints, and other means to identify

¹³ In FY 1999, the FTC and the Department of Justice received notification of 4,642 transactions under HSR. The FTC investigated 45 transactions utilizing formal requests for additional information.

2. Year-by-Year Implementation Plans, FY 2000-2005

Each year the agency will work to:

- Continue to refine the “model second request” and other model documents used by staff in furthering the agency’s competition mission and avoiding unnecessary burden on businesses.
- Continue and improve the investigative skills and antitrust analysis training programs. Identify “best practices” used by government and private antitrust attorneys and use this knowledge in training FTC staff.
- Review significant deviations from the statistical benchmarks for timely and efficient review of merger transactions and take corrective action where necessary.
- Continue to use and improve existing techniques for identifying anticompetitive business practices, such as (1) monitoring the trade press, (2) responding to and following up on case leads by Congressional offices, other Executive Branch agencies, and state and local governments, and (3) letting potentially aggrieved parties know they can lodge complaints with us by “getting our message out” through speeches to and electronic and other publications for consumer, bar, and business groups (including those representing specific industries), and general public outreach.
- Hold discussions on at least an annual basis among attorneys in the FTC’s regional offices and in the nonmerger divisions on ways to improve techniques for monitoring business practices and for identifying anticompetitive practices.
- Conduct workshops on significant marketplace phenomena, such as the May 2000 workshop on slotting allowances and the June 2000 workshop on business-to-business electronic marketplaces, to identify markets and practices that require in-depth antitrust scrutiny.
- Conduct economic studies of the effects of business actions on competition and consumer welfare.

3. Five-Year Performance Measures

By 2005, the agency will:

- Continue effective screening of HSR premerger notification filings to identify those that most likely present antitrust concerns, so that at least 50% of HSR requests for additional information result in enforcement action. Success on this measure will benefit consumers by targeting resources on the transactions most likely to have harmful anticompetitive effects.
- Continue to open about the same number of nonmerger investigations each year from fiscal year 2000 through fiscal year 2005 as were opened in each of the fiscal years 1991-1999 (ranging from 45 to 70 investigations in each of those fiscal years), if that number of nonmerger investigations continues to be appropriate in light of marketplace conduct and the need to deter anticompetitive business practices. Success on this measure will depend largely on the availability of resources in light

of the demands imposed by the ongoing wave of mergers. Resources permitting, success on this measure would help consumers because the opening of investigations indicates that the agency is identifying possible anticompetitive activity that may warrant enforcement action.

4. Program Evaluations

- Assess the significance (quantitatively in dollar savings to consumers and qualitatively in deterrence value and precedential significance) of the top 20% (measured in terms of hours spent) of matters in the investigational stage each year.

Objective 2: Stop anticompetitive mergers and practices through law enforcement.

This enforcement goal includes both obtaining orders to stop anticompetitive activity (either through litigation or by consent) and ensuring that the remedies imposed by those orders are effective. The FTC's antitrust enforcement activity consistently saves consumers hundreds of millions of dollars each year. In recent years, the agency has refined its measurement of this dollar savings to consumers resulting from merger enforcement. Current efforts focus on similarly quantifying the benefits of the FTC's nonmerger enforcement. With respect to designing effective remedies, the agency completed a study of the divestiture process. The study recommended a number of order provisions and other steps to improve upon the effectiveness of divestiture orders.

1. Strategies

- Continue to save consumers millions of dollars a year by challenging anticompetitive mergers, negotiating consent orders, and winning litigated orders.
- Continue to save consumers millions of dollars a year by challenging other (non-merger)

- For each year, estimate the dollar savings to consumers resulting from the FTC's successful merger and nonmerger challenges.
- Continue and improve negotiation and litigation skills training programs. Ensure that lead attorneys and managers collect any important lessons learned at the close of each significant negotiation and litigation and transmit them to appropriate personnel for incorporation in training programs and model pleadings. Identify "best practices" used by government and private antitrust attorneys and use this knowledge in training FTC staff.
- Continue to track the time between entry of the Commission's proposed merger consent orders and the implementation of divestitures, licenses, or other affirmative relief. Seek civil penalties where appropriate if a respondent fails to fulfill its obligations under an order in a timely fashion.
- Monitor the timeliness of administrative adjudication, including issuing to the public on a quarterly basis a status report on the progress of all cases before the administrative law judges.

3. Five-Year Performance Measures

By 2005, the agency will:

- Over the period of fiscal years 2000 to 2005, save consumers at least \$4 billion by taking action against anticompetitive mergers that would otherwise increase prices.
- Over the period of fiscal years 2000 to 2005, save consumers at least \$1 billion by taking action to stop anticompetitive nonmerger activity.
- For cases in which the Commission finds reason to believe the law has been violated, achieve a positive result (including consent orders, litigation victories, and, for mergers, transactions abandoned after recommendation of a complaint) in at least 80% of those cases. Success on this measure will depend largely on the availability of resources in light of the demands imposed by the ongoing wave of mergers. Resources permitting, success on this measure would help consumers because the opening of investigations indicates that the agency is identifying possible anticompetitive activity that may warrant enforcement action.

4. Program 000v8 w (beg)1381381

Educating governmental bodies helps avoid governmental conduct that can have anticompetitive consequences.

In addition, as an adjudicative body, the FTC is especially well suited to explore complex competition issues and to engage academicians, practitioners, and business persons in that process.

1. Strategies

- Continue to educate businesses and consumers about antitrust issues through traditional means such as guidelines, advisory opinions, speeches, studies and other publications.
- Continue to enhance and develop newer avenues of communication, such as e-mail and the FTC Web site.
- Continue to provide advice about the competitive implications of proposed government actions to other governmental bodies upon request.

2. Year-by-Year Implementation Plans, FY 2000-2005

Each year the agency will work to educate through means including:

- *Guidelines* – The FTC periodically issues guidelines to help businesses understand and comply with the application of the antitrust laws in certain areas, such as horizontal mergers, international operations, intellectual property, and health care. Most recently, the Commission issued, in April 2000, guidelines relating to collaboration among competitors.
- *Advisory opinions* – Continue to provide Commission and staff advisory opinions on competition issues; continue to provide guidance in response to informal telephone requests, particularly concerning HSR matters.
- *Advocacy comments* – File advocacy comments to inform other governmental entities about competition issues, upon their request.
- *Amicus briefs* – File amicus briefs in appropriate competition matters.
- *Written releases* – Monitor the content of complaints, press releases, and analyses to aid public comment to ensure they are “transparent,” that is, that they explain in sufficient detail and with sufficient clarity the evidence and theory of a case, within the constraints of confidentiality.
- *Other materials* – Make available prepared texts of speeches; as appropriate, develop other materials that explain Commission policies and procedures.
- *Public speaking* – Continue to have Commissioners and staff speak at and participate in seminars, panel discussions, and conferences to explain how the Commission analyzes mergers and business practices.
- *Economic studies* – Continue to conduct economic research to develop knowledge about how markets operate.

- *International*

¹⁴ Act of Sept. 26, 1914, ch. 311, § 5, 38 Stat. 717, 719 (codified as amended at 15 U.S.C. §§ 41-58 (1994)).

²⁰ *Stouffer Foods Corporation*, Docket No. 9250 (Sept. 26, 1994), slip op. at 3; *Kraft, Inc.*, 114 F.T.C. 40, 120 (1991), *aff'd and enforced*,

transfer systems); Fair Credit and Charge Card Disclosure Act of 1988, *codified in relevant part at* 15 U.S.C. § 1637(c)-(g) (requiring that credit and charge card issuers provide certain disclosures in direct mail, telephone and other applications and solicitations to open-end credit and charge accounts and under other circumstances); Home Equity Loan Consumer Protection Act of 1988, *codified in relevant part at* 15 U.S.C. §§ 1637, 1647 (requiring that creditors provide certain disclosures and substantive limitations for open-end credit plans secured by the consumer's residence); Home Ownership and Equity Protection Act of 1994, *codified in relevant part at* 15 U.S.C. § 1639 (establishing disclosure requirements and prohibiting equity stripping and other abusive practices with respect to high-cost mortgages); Credit Repair Organizations Act (1996), 15 U.S.C. §§ 1679-1679j (prohibiting misrepresentations to individuals or others and requiring certain disclosures in the offering or sale of credit repair services).

²⁴ More recent labeling statutes administered or enforced by the Commission include, for example, the Fair Packaging and Labeling Act (1966), 15 U.S.C. §§ 1451-1461 (directing the FTC to issue labeling regulations applicable to consumer commodities other than food, drugs, therapeutic devices, and cosmetics), the Hobby Protection Act (1973), 15 U.S.C. §§ 2101-2106 (prohibiting the manufacturing or importation of imitation numismatic and collectible political items not marked in accordance with FTC regulations), the Dolphin Protection Consumer Information Act (1990), *codified in relevant part at* 16 U.S.C. § 1385 (prohibiting deceptive "dolphin safe" claims on tuna products), and the Violent Crime Control and Law Enforcement Act of 1994, *codified in relevant part at* 15 U.S.C. § 45a (requiring that "Made in U.S.A." claims conform to standards established by FTC decisions and orders). The Commission also has substantial regulatory and enforcement responsibilities under a number of labeling and disclosure statutes in the energy area. *See, e.g.*, Energy Policy and Conservation Act (1975), 42 U.S.C. § 6201 *et seq*

concern for consumer financial and children's privacy brought further statutory enforcement responsibilities to the FTC in the 1990s.²⁵

In executing its antitrust law enforcement responsibilities, the Commission relies upon both Section 5 of the FTC Act – which prohibits unfair methods of competition – and a number of other antitrust statutes. As a general proposition, practices that constitute unfair methods of competition include at least practices that violate the Sherman Act and the Clayton Act. Thus, for example, although the Commission cannot directly enforce the Sherman Act, it can prohibit – as unfair methods of competition – practices that (1) violate Section 1 of the Sherman Act because they constitute a “contract, combination..., or conspiracy, in restraint of trade or commerce;” or (2) violate Section 2 of the Sherman Act because they constitute monopolization of, an attempt to monopolize, or a conspiracy to monopolize a particular market.²⁶ In addition, the Commission can directly enforce the Clayton Act. Thus, for example, Section 7 of the Clayton Act authorizes the Commission and the Justice Department to prevent acquisitions that may substantially lessen competition or tend to create a monopoly, and therefore threaten competition and consumer welfare. To assist with that effort, Section 7A of the Clayton Act requires companies to file premerger notifications with the Commission and the Department of Justice's Antitrust Division for transactions satisfying certain threshold requirements, and to wait specified periods of time before consummating such transactions. The Commission also has authority to enforce Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, which prohibits

²⁵ See, e.g., Telephone Disclosure and Dispute Resolution Act of 1992, as amended, *codified in relevant part at* 15 U.S.C. §§ 5701 et seq. (authorizing FTC regulations for pay-per-call disclosures, advertising, and billing); Telemarketing and Consumer Fraud and Abuse Prevention Act (1994), *codified in relevant part at* 15 U.S.C. §§ 6101-6108 (authorizing FTC regulations to define and prohibit deceptive and abusive telemarketing practices); Children's Online Privacy Protection Act (1998), 15 U.S.C. §§ 6501-6506 (authorizing FTC regulations to require parental consent for the online collection of personally identifiable information from children under the age of 13); Identity Theft Assumption and Deterrence Act of 1998, *codified in relevant part at* 18 U.S.C. § 1028 note (requiring the FTC to log and acknowledge identity theft complaints, provide information to the affected individuals, and refer their complaints to appropriate entities); Gramm-Leach-Bliley Act, Pub. L. No. 106-102 (1999) (authorizing FTC regulations to protect the privacy of consumers' personal financial information collected by certain financial institutions).

²⁶ See, e.g., *United States v. American Airlines Inc.*, 743 F.2d 1114 (5th Cir. 1984); *FTC v. Motion Picture Advertising Serv. Co.*, 344 U.S. 392, 394-95 (1953); *FTC v. Cement Institute*, 333 U.S. 683, 694 (1948); *Fashion Originators' Guild v. FTC*, 312 U.S. 457, 463-64 (1941).

As the foregoing discussion indicates, the history of the Commission since 1914 has followed a pattern of ever-increasing statutory responsibilities. The Commission has used its enforcement tools to enhance both the power and the efficiency with which it can prevent unfair competition and unfair or deceptive acts or practices.

With respect to its consumer protection enforcement, in recent years the Commission has relied more and more frequently on federal court actions not only to secure preliminary injunctions against unfair or deceptive acts or practices, freezes of defendants' assets, and the appointment of receivers to preserve defendants' assets for later consumer redress, but also to secure permanent injunctions providing a variety of ancillary equitable relief, including consumer redress, civil penalties, and disgorgement. The Commission has also used its enforcement tools to reach the assets of, and proscribe practices used by, fraudulent operators, as well as entities that have aided and abetted them.

With respect to its competition enforcement, in recent years the Commission has relied on federal court actions, pending the completion of an administrative trial on the merits, to prevent the consummation of mergers and acquisitions that may substantially lessen competition. The Commission also has secured substantial civil penalties from firms that fail to comply with the premerger notification requirements of the Hart-Scott-Rodino Act.

Key Components of the FTC

The FTC is composed of the following organizations:

The Commission: The FTC is an independent agency that reports to Congress on its actions. The Commission is headed by five Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. The President chooses one Commissioner to act as Chairman. No more than three Commissioners can be of the same political party. In fiscal year 2000, the Chairman is Robert Pitofsky, and the Commissioners are Sheila F. Anthony, Mozelle W. Thompson, Orson Swindle, and Thomas B. Leary.

Bureau of Competition: This Bureau is the FTC's antitrust arm. It acts to prevent business practices that restrain competition, such as monopolization or anticompetitive mergers. It thereby ensures that the marketplace continues to provide a full range of product and service options for consumers to choose among, which in turn helps to ensure that consumers have the benefit of low prices and good product variety. The Bureau's actions include individual company investigations, administrative and federal court litigation, and consumer and business education.

Bureau of Consumer Protection: This Bureau's mandate is to protect consumers against unfair, deceptive, or fraudulent practices. The Bureau enforces a number of consumer protection laws enacted by Congress, as well as trade regulation rules issued by the Commission. Its actions include individual company investigations, law enforcement sweeps coordinated with other law enforcement agencies, administrative and federal court litigation, and consumer and business education. The Bureau also contributes to the Commission's ongoing efforts to inform Congress and other government entities of the impact that proposed actions could have on consumers.

Bureau of Economics: This Bureau helps ensure that the FTC considers the economic impact of its actions. To achieve this, the Bureau provides economic analysis and support to antitrust and consumer protection casework and rulemaking. It also analyzes the impact of economic government regulation on competition and consumers and provides Congress, the Executive Branch, and the public with economic studies of various markets and industries.

Regions: The Regions comprise the Northeast, Southeast, East-Central, Midwest, Northwest, Southwest, and Western regions, served by offices in New York, Atlanta, Cleveland, Chicago, Seattle, Dallas, and Los Angeles and San Francisco, respectively. Their program activities are coordinated through the Bureaus of Competition and Consumer Protection. These offices conduct investigations and litigation, provide advice to state and local officials on the competitive implications of proposed actions, recommend cases, provide local outreach services to consumers and business persons, and coordinate activities with local, state, and regional authorities. The regional offices

frequently sponsor conferences for small businesses, local authorities, and consumer groups.

Mission Support Offices:

Primary External Stakeholders

Chairmen and Ranking Members of the following Congressional Committees

Senate Committee on Appropriations

Senate Subcommittee on Commerce, Justice and State, the Judiciary, and Related Agencies

House Committee on Appropriations

House Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies

Senate Committee on Commerce, Science, and Transportation

Senate Subcommittee on Consumer Affairs, Foreign Commerce and Tourism

House Committee on Commerce

House Subcommittee on Telecommunications, Trade and Consumer Protection

Senate Judiciary Committee

Senate Subcommittee on Antitrust, Business Rights, and Competition

House Judiciary Committee

Senate Committee on Small Business

House Committee on Small Business

Senate Committee on Governmental Affairs

House Committee on Government Reform and Oversight

House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs

Senate Committee on Banking, Housing, and Urban Affairs

Senate Subcommittee on Financial Institutions and Regulatory Relief

Senate Subcommittee on Financial Services and Technology

House Committee on Banking and Financial Services

House Subcommittee on Financial Institutions and Consumer Credit

Federal and State Agencies

Office of the Vice President (National Performance Review)
Office of Management and Budget
Council of Economic Advisers
National Economic Council
Department of Commerce (Office of General Counsel)
Department of Defense (Office of General Counsel)
Department of Health & Human Services (Food & Drug Administration)
Department of Justice (Antitrust Division; Civil Division, Consumer Litigation Section)
State Department (Agency for International Development)
Consumer Product Safety Commission
Federal Communications Commission
Federal Energy Regulatory Commission
Federal Reserve Board
Securities and Exchange Commission
Small Business Administration
U.S. Postal Inspection Service

Private Organizations

ABA Antitrust Section
American Advertising Federation
American Association of Retired Persons
American Electronics Association
American Savings Education Council
Association of American Advertising Agencies
Association of National Advertisers
Business Roundtable
Center for Democracy and Technology

Center for Media Education
Center for Science in the Public Interest
Consumer Federation of America
Consumers Union
Council of Better Business Bureaus
Direct Marketing Association
Electronic Retailing Association
Federal Bar Association
Interactive Services Association
Information Technology Association of America (ITAA)
Information Technology Industry Council
Internet Alliance
The JumpStart Coalition for Personal Financial Literacy
National Association of Attorneys General
National Association of Consumer Agency Administrators
National Association of Manufacturers
National Consumers League
National Federation of Independent Businesses
National Fraud Information Center
NetCoalition.Com
North American Securities Administrators Association
Public Voice for Food and Health Policy
Software and Information Industry Association
U.S. Chamber of Commerce