



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 21, 2005

BY ELECTRONIC MAIL

Ms. Karen Evans
Administrator, Office of E-Government and Information Technology
Office of Management and Budget
Old Executive Office Building, Room 572
17th Street & Pennsylvania Avenue, NW
Washington, DC 20503

Dear Ms. Evans:

Pursuant to your Memorandum for Chief Information Officers, entitled "FY 2005 E-Government Act Reporting Instructions" and dated July 28, 2005, the following is the annual E-Government report on the progress of the Federal Trade Commission ("FTC," "Commission," or "the agency") in implementing the E-Government Act of 2002. As required, we are reporting on: (1) the agency's overall implementation of the Act, including a summary of one agency-specific E-Government initiative of our choosing; and (2) the process for determining which agency information will be made available on the Internet under 207(f)(2) of the Act.

1. Overall FTC E-Government Implementation and Agency-Specific E-Government Initiative

The FTC has been a leader in the use of technology and the Internet to inform citizens of its mission and conduct certain other transactions with them without having to enlarge its workforce significantly. In FY 2003, the Commission premiered a redesign of its <http://www.ftc.gov> Web site. Also in 2003, the FTC deployed the National Do Not Call Registry, which now has over 64 million phone numbers registered enabling citizens to stop getting unwanted telemarketing phone calls. In 2004, the agency implemented a Web service to update the FTC's Identity Theft database with records from the National White Collar Crime Center. Collecting this information in one database and sharing it with other agencies helps law enforcement identify trends in consumer issues and track illegal activities of specific businesses. The FTC is currently working to implement the electronic filing of required information about mergers and acquisitions under the Hart-Scott-Rodino Premerger Notification Act. The FTC has coordinated the implementation of this interagency project and will operate this system on behalf of the FTC and the Department of Justice. The FTC also participates and cooperates in the implementation of OMB-identified E-Government initiatives that relate to the FTC's mission and operations, such as www.regulations.gov. The FTC also complies with other provisions of the E-Government Act that apply to the Commission, including, for example, the provisions of Title III (Federal Information Security Management Act), and the privacy-related provisions of Title II (e.g., Web privacy policies and privacy impact assessments where required).

For our agency-specific initiative, we are highlighting the FTC's **National Do Not Call Registry**. The Commission established the Registry under the FTC's Telemarketing Sales Rule, as amended, and related authorizing legislation, to enable citizens to opt-out of unwanted

telemarketing solicitation phone calls. The Registry is, by virtually every available measure, an effective e-government consumer protection initiative. The Registry opened ahead of schedule, and successfully accommodated a very high volume of consumer registrations and business requests for data. During FY 2003 and FY 2004, more than 64 million telephone numbers were registered, and the available data shows that compliance with the National Do Not Call Registry provisions of the amended Telemarketing Sales Rule is high, and that consumers are receiving fewer unwanted telemarketing phone calls.

At the time the FTC announced its intent to create a National Do Not Call Registry, more than two dozen States had some form of do not call list. The FTC has worked diligently with the States that have do not call lists to further the goal of having a single, nation-wide registration program. Ultimately, the FTC's National Do Not Call Registry is intended to allow consumers who do not want to receive unsolicited telemarketing calls to register with a single government agency, and it also streamlines the process for businesses, by providing a single point of contact to obtain the list of all consumer telephone numbers that they may not call. The dialogue with States regarding coordination of do not call efforts continued throughout FY 2003 and FY 2004. During that time period, seven States with established State do not call registries stopped collecting consumer registrations at the State level. Instead, they have relied upon the National Do Not Call Registry to enforce their State laws. Another ten States that did not have a State registry in place at the time enacted laws that "adopted" the National Do Not Call Registry as the State registry for State law purposes. In addition, seventeen States that operated or continue to operate do not call lists contributed their data to the National Do Not Call Registry in FY 2003 and FY 2004, with over 12.6 million telephone numbers transferred by those States.

The FTC and the FCC have worked closely to coordinate their efforts to enforce the National Do Not Call Registry. In 2003, the two agencies signaled their commitment to cooperate and ensure efficient enforcement of their respective do not call rule provisions with a Memorandum of Understanding. The staff of the agencies began preliminary discussions in FY 2003 – even before the effective date of the do not call rules – about enforcement strategies that would avoid unnecessary duplication, signal to industry their strong commitment to mandating compliance, and promote cooperation in investigations. Coordination continued throughout FY 2004, with regular meetings to discuss issues pertaining to do not call enforcement, including review of the agencies' respective enforcement priorities.

For the National Do Not Call Registry and other FTC e-government initiatives, the FTC communicates with appropriate stakeholders for their input. These communications take the form of public comments, FTC hosted forums, workshops, and conferences, and individual communications, among other methods. Regarding general interactions with citizens with disabilities and those without access to the Internet, the FTC allows citizens to register by both phone and via the Internet. The Registry Web site is fully compliant with both Section 508 (supporting citizens with disabilities) and Section 208 (e.g., having a Web site privacy policy and ensuring it is machine-readable).

2. Process for determining which information will be made available on the Internet

In Fiscal Year 2004, the Commission continued to provide through the Internet -- as prescribed by Section 207 of the E-Government Act -- public access to virtually all public documents generated in its public proceedings, including administrative and federal court law enforcement proceedings; rulemaking and guide development proceedings; and hearings, workshops, and conferences. In carrying out these efforts, the Commission assigned the highest priority to complying with all applicable statutes, regulations, and Presidential and other official directives, and to effecting mission-critical and essential program operations. To that end, the Commission has placed on its Web site, <http://www.ftc.gov>, electronic copies of virtually all public documents it has authorized or approved since 1996 -- when the Commission Web site was established -- including administrative complaints and consent orders issued pursuant to Part 2 and Part 3 of the Commission Rules of Practice, 16 C.F.R. §§ 2.31-2.34, 3.11, 3.25; federal court filings; Congressional testimony; Federal Register notices and other documents issued in proceedings involving rules and guides; Commission and staff reports (including all Commission annual reports since 1915); competition advocacy filings; and consumer education materials. These documents typically are placed on the Commission Web site at the same time as the news releases describing them. More recently, the Commission has effected the same approach with respect to all public motions and other filings by the parties -- and all public opinions and orders issued by the Commission and Administrative Law Judges -- in administrative adjudicative proceedings conducted pursuant to Part 3 of the Commission Rules of Practice, 16 C.F.R. § 3.1 et seq.

In addition, with respect to rulemaking, in Fiscal Year 2004 the Commission continued to comply with Section 206 of the E-Government Act. All Commission rulemaking notices and other Federal Register documents published in Fiscal Year 2004 were posted on the Commission's Web site and linked to the news releases describing them. Moreover, the Commission accepted public comments in each of its rulemaking proceedings electronically, through the creation and maintenance of either comment filing forms or email boxes. Furthermore, the Commission made public comments and other documents from its rulemaking docket -- as defined in the Commission's public record rule, 16 C.F.R. § 4.9(b) -- routinely available for inspection and downloading on its Web site. In addition, the Commission continued to participate fully in the ongoing initiative to establish a centralized Federal regulatory docket, at www.regulations.gov.

The Commission will continue to assign the highest priority to providing public access through its Web site to virtually all public documents generated in its ongoing and newly initiated public proceedings. The Commission will also pursue providing such access to as many public records compiled or generated prior to the establishment of the Web site in 1996 as possible. The schedule for achieving this latter objective with respect to particular types of documents will be determined on the basis of legal and mission requirements and priorities; public interest or demand (as indicated, for example, by public comments on the proposed schedule described below); the cost of converting paper documents into an electronically

accessible format; the age, condition, and location of the existing paper records; and other relevant considerations. The schedule may be adjusted in the future as warranted to reflect funding and staff availability and technical improvements.

The Commission has solicited public comment on the above priorities and on the following proposed schedule for providing public access through its Web site to copies of as many public documents as possible in the indicated categories:

- Within one to five years: (1) Commission opinions, Administrative Law Judge initial decisions, and administrative complaints and consent orders issued in administrative proceedings; (2) press releases; (3) competition advocacy filings; (4) advisory opinions; (5) acquisition and divestiture applications and Commission rulings thereon; (6) petitions to quash compulsory process, and Commission rulings thereon; (7) investigation closing letters; (8) minutes of public Commission meetings; (9) notices to the staff concerning standards of conduct; and (10) clearance requests from former agency employees to participate in Commission proceedings, and agency responses thereto.
- Within six to ten years: (1) Interlocutory orders issued in administrative proceedings; (2) continuing guaranties under the textile labeling statutes and rules; (3) appliance energy consumption reports; (4) petitions for rulemaking and guidance proceedings, and Commission responses thereto; and (5) reports of compliance with Commission administrative orders.
- Within eleven to fifteen years: (1) Commission and staff reports; (2) pleadings in administrative proceedings; (3) rulemaking and guidance proceeding documents; (4) transcripts and exhibits in administrative proceedings; and (5) Freedom of Information Act requests and letter responses thereto.

The foregoing priorities and proposed schedule, along with a request for public comment, have been placed on the Commission Web site, on a page that is linked to the main page for FTC Web policies. See <http://www.ftc.gov/ftc/sitepolicy/sec207.htm>. Members of the public may continue to file comments on the priorities and proposed schedule by means of an email box set up on that page. Although described as a proposed schedule, this version, as a practical matter, may be viewed as the agency's "final" proposed schedule, subject to additional changes, if any, that may be warranted by any comments received by the agency.

Finally, regarding progress made to ensure that information posted by the agency is searchable, the posting of such information on the agency's Web site presumes that it can and will be searchable through the Web site search engine, which displays results in order of relevancy to the search terms, and with response times that are comparable to industry best practices.

Ms. Karen Evans
Office of Management & Budget
October 21, 2005

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Should you have any additional questions, please do not hesitate to contact Daniel Danckaert of my staff at (202) 326-2322, ddanckaert@ftc.gov, or Alex Tang, Attorney, Office of the General Counsel, at (202) 326-2447, atang@ftc.gov.

Sincerely,

//s//

Stephen Warren
Chief Information Officer