

**Federal Trade Commission  
Strategic Plan**



**Under the  
Government Performance and Results Act:  
Fiscal Years 1997 — 2002**

**September 1997**

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## **Overview of FTC Strategic Plan**

**Statement of Vision:** A U.S. economy characterized by vigorous competition among producers and consumer access 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 or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity.

### **FTC Goals and Objectives**

**Goal 1: Protect Consumers**

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

**Goal 2: Maintain Competition**

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

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 1998-2002, save over \$1 billion for consumers by stopping consumer fraud.

- \$1 billion for consumers by stopping anticompetitive practices that would otherwise cause price increases.

- From fiscal years 1998-2002, save over

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## The Federal Trade Commission: Past, Present, and Future

The Federal Trade Commission (FTC) is an independent law enforcement agency. There are five Commissioners, all of whom 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. The Commission currently includes Chairman Robert Pitofsky—designated by President Clinton—and Commissioners Sheila F. Anthony, Mozelle W. Thompson, and Orson Swindle.

### **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 has broadened the FTC's mandate substantially. The agency's organic statute, the Federal Trade Commission Act, gives the Commission power to act against unfair methods of competition and unfair or deceptive acts or practices. *See also* "Laws Enforced by the FTC," page A-32 (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 had 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. 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 Federal Trade Commission 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 was to play a central role in prohibiting anticompetitive stock acquisitions.<sup>1</sup> The legislative history of the Clayton Act provides some telling examples of Congressional views on the extent to which monopolies limited the choices available for U.S. consumers at that time:

Neither at birth, in life, nor in death are we free from trusts. We are welcomed into the world by the Milk Trust and rocked in a cradle built by the Furniture Trust. As we proceed through life we find practically everything we eat and everything we wear furnished by a trust and nearly every business in which we may wish to engage completely monopolized; and at last, as we approach death, we are brought

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

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face to face with the Coffin Trust, by which we are finally conveyed to our last resting place.<sup>2</sup>

Congressional representatives viewed competition, not monopolies, as "the best environment for the advancement and the welfare of mankind in the individual initiative, the individual independence, and the individual responsibility."<sup>3</sup>

### **Present: The Role of the FTC in Consumer Protection and Maintaining Competition**

Much has changed since 1914, and we now stand at the turn from the 20th to the 21st century. Global markets, high-technology innovation, and markets in transition to new ways of competing dominate the economic landscape. The U.S. economy is among the most productive in the world today, due in no small part to the fact that it is among the most competitive.<sup>4</sup>

Consumer protection and antitrust law enforcement have played an important role in maintaining that competitiveness. The FTC continues to ensure that free markets work—that competition among producers and accurate information in the hands of consumers create the incentives to generate the best products at the lowest prices, spur efficiency and innovation, strengthen the economy, and produce benefits for consumers, workers, and investors alike.

For competition to thrive, consumers must receive accurate information about products and services. One part of the FTC's basic mission is to see that consumer information in the marketplace is not false, deceptive, or misleading.

At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. A second part of the FTC's basic mission is to prevent anticompetitive mergers and other anticompetitive business practices without interfering with businesses' legitimate activities.

These two complementary parts of its mission make the FTC the only federal general jurisdiction consumer protection agency. In addition to enforcement authority, the

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<sup>2</sup> 51 CONG. REC. 14222 (1914)(remarks of Sen. Thompson).

<sup>3</sup> 51 CONG. REC. 9167 (1914)(remarks of Rep. Nelson).

<sup>4</sup> As just one example, a renowned business and economic columnist, Robert Samuelson, recently concluded that the strength of competition in the U.S. contributed significantly to a rate of U.S. economic growth since 1991 that is two times the rate of economic growth in Japan over the same time frame. He explained, "Though Americans dislike competitive pressures, our system accepts them. Markets work in the sense that companies and workers are compelled to alter costs, wages and prices in ways that sustain production and consumption. Low-cost firms force high-cost rivals to cut prices; new products eliminate the old." Robert J. Samuelson, "In Japan, Groping for Growth....," *The Washington Post*, March 26, 1997, p. A19.

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Commission has unique jurisdiction to gather, analyze, and make public certain information concerning the nature of competition as it affects U.S. commerce. The Commission also contributes to the policy deliberations of the Congress, the Executive Branch, other independent agencies, and state and local governments, upon their request.

### **Future: Key External Factors in the FTC's Environment**

Because so many sectors of the economy are changing—and changing rapidly—the FTC's enforcement process must be a dynamic one. The Commission must constantly review its law enforcement policies, eliminate orders and regulations that place unwarranted burdens on business, and ensure law enforcement activities are effective. The following identifies those changes in the economy most likely to affect the FTC's ability to achieve its dual goals.

#### ***Goal 1: To prevent fraud, deception, and unfair business practices in the marketplace.***

Globalization and new information technologies, while creating potentially enormous benefits for consumers, also are raising new consumer protection concerns, e.g., online fraud, identity theft, loss of privacy, and international telephone scams. We have learned from experience that fraudulent operators often are among the first to take advantage of new technologies, and that the Internet appears to be an especially fertile ground for scam artists. They can set up shop 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 may give rise to a new set of concerns.

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 every indication that the "next-tech" scams will grow. And they will be more difficult to detect and pursue as they cross national borders.

As reflected in this strategic plan, this agency is working hard to find the most cost-effective ways to address these new problems before they spread. We have leveraged our resources on all fronts—through partnerships with law enforcement agencies at home and abroad, and through partnerships with the private sector in the areas of consumer and business education. However, the increased availability of new information technologies may make it difficult to keep up. Continued rapid increases in cross-border and Internet fraud could reduce the ability of this agency to achieve its consumer protection goals.

#### ***Goal 2: To prevent anticompetitive mergers and other anticompetitive business practices in the marketplace.***

The FTC must maintain a proper level of antitrust enforcement in the face of unpredictable shifts in the types of business conduct that the agency must evaluate. As

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business strategies and priorities change and evolve over time, so do the types of business conduct that warrant antitrust scrutiny.

Over the past five years, however, there has been one constant in business conduct: an ongoing merger wave of historic proportions. Since fiscal year 1991, the number of proposed mergers and acquisitions reported under the Hart-Scott-Rodino (HSR) Act has doubled—from 1,529 filings in fiscal year 1991 to 3,087 filings in fiscal year 1996. The increase in the rate of merger filings is continuing; if the first-quarter fiscal year 1997 rate of HSR filings continues, there will be more than 3,500 HSR filings in fiscal year 1997.

Mergers can generate efficiencies, and most mergers are either procompetitive or competitively neutral. But mergers that are anticompetitive can raise consumer prices by millions of dollars every year. Such mergers also can reduce product quality and output, consumer choice, and innovation. The Commission has acted to protect consumers against such effects in any market in which the Commission has reason to believe a merger is likely substantially to lessen competition, including high-priority areas for consumers: health care, pharmaceuticals, energy, defense, information and technology, and consumer goods and services. Since 1991, in these six key areas alone, the agency has doubled the number of competition actions (e.g., administrative complaints, consent agreements, preliminary injunction actions authorized, staff advisory opinion letters) from 49 in fiscal year 1991 to 102 in fiscal year 1996. See "Historical Data on Consumer Protection and Competition Activity," page A-37.

The dollar volume of commerce in markets protected by the FTC's successful merger challenges is estimated to be \$24 billion in fiscal year 1996. Using the most recent high-water mark of fiscal year 1996, one can estimate that, if the FTC's successful merger challenges prevented price increases of just one (1) percent of the \$24 billion of commerce in the markets protected by those challenges, then the FTC's merger challenges alone saved consumers \$240 million in fiscal year 1996. Moreover, the benefits of the FTC's merger challenges cannot be measured simply by the prevention of price increases in the marketplace. For example, in a recent merger case, the FTC acted to make sure that no single company monopolizes R&D and innovation in gene therapy, which has the potential to produce new life-saving therapies for diseases such as cancer and cystic fibrosis.<sup>5</sup>

At the same time that the current merger wave is demanding the FTC's resources, leading firms in significant industries are sometimes resisting the competitive forces of evolving markets, high-technology innovation, and deregulation; that resistance may take the form of business practices that make it more difficult for other firms to enter the market or enable existing competitors to collude. For competition to thrive in markets in transition, such as health care, competition authorities must be alert to practices

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<sup>5</sup> A *Business Week* editorial lauded the "new savvy among trustbusters about high-tech competition," stating that "[w]hen companies care more about their patent portfolios than their factories, it's right for trustbusters to ensure that market giants don't corner knowhow." *Business Week*, Jan. 20, 1997, p.104; see also *id.*, pp.92-94 (A Booster Shot for Gene Therapy).



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 forms of lower-cost health care provision. For competition to thrive in innovative, high-tech arenas, competition authorities 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 simply protect against misappropriation of intellectual property or other efforts of firms to "free ride" on the investments of others, or otherwise promote

competition. For competition to thrive in newly deregulated areas, such as energy, competition authorities 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 has so far kept pace with these challenges through dramatic improvements in its productivity level. The doubling of competition actions between fiscal years 1991 and 1996 was achieved with very little change in resources. But there are signs that—at current resource levels—the agency may be nearing the limit of its ability to keep up. Continued growth of the merger wave and of competitive forces for change in important sectors of the economy strain the agency’s ability to meet its goal of maintaining competition.

Finally, with respect to both goals, current restrictions on the amount of resources available for administrative litigation at the FTC may impede the agency’s ability expeditiously and fairly to conclude administrative adjudication.

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

### **Goals, Objectives, and Strategies: Their Development, Achievement, and Evaluation**

**Development:** The goals, objectives, and strategies identified in this plan reflect the agency's cumulative experience in identifying cost-effective ways to implement its consumer protection and competition missions, while also eliminating or minimizing burdens on legitimate business activities. As detailed in "Development of the FTC's Strategic Plan," page A-36,<sup>6</sup> this strategic plan represents the cooperative work of the entire Commission, including Commissioners, Bureau and Office management, agency staff, and other stakeholders such as private business, consumer, and professional organizations. To ensure that the agency's goals are linked with its performance measures, the agency used an iterative process of development that connected the discussion of goals and performance measures. The agency's vision, mission, and goals were articulated first, followed by a review and assessment of: the objectives and strategies historically used by the agency to achieve its missions; agency experience regarding the success of particular objectives and strategies; and ideas and proposals for new objectives and strategies. This review and assessment provided the basis for developing this draft strategic plan and the performance measures identified herein. In turn, this draft strategic plan will form the basis for the development of the agency's annual performance plans.<sup>7</sup>

**Achievement-Resources:** This strategic plan has been 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 cost savings. 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 human, capital, information, and other resources to be used under this plan<sup>8</sup> are similar to those identified in the FTC's fiscal year 1997 budget submission (as adjusted for inflation). Nevertheless, external factors such as those discussed in Section I above may increase the agency's workload to the point where the FTC will be required to seek increased funding at some point prior to fiscal year 2002.

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, vigorously implemented by then-Chairman Janet Steiger, that have significantly increased the agency's productivity

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<sup>6</sup> See "Development of the FTC's Strategic Plan," page A-36: The Development of the FTC's Strategic Plan.

<sup>7</sup> The agency's annual performance plan for fiscal year 1999 is now under development; it will use the framework outlined in Section IV of this strategic plan.

<sup>8</sup> The development of a comprehensive consumer complaint database will require some shifts in the use of the FTC's available technology resources. Maintaining an 800-number telephone service for consumer complaints could further improve the efficiency and accuracy of the consumer complaint database; this proposal is under consideration.

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over the last few years: (1) directing agency enforcement efforts to the areas most likely to cause consumer injury, and (2) eliminating FTC rules and guides that are unnecessary and streamlining others.<sup>9</sup> See generally "Historical Data on Consumer Protection and Competition Activity," page A-37. The FTC also plans to continue the work it has undertaken to leverage its resources extensively—working with states, other federal agencies, and consumer and business groups. The primary external stakeholders shown in "List of Primary External Stakeholders," page A-44, includes many governmental and private organizations with which this 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.

**Achievement-Implementation:** The goals, objectives, and strategies in this strategic plan have been made available to FTC staff. The roles of managers and staff in using particular strategies to achieve the agency's goals and objectives have been discussed. In some cases, managers are already being evaluated on how well they implement the goals, objectives, strategies, and performance measures contained in the draft strategic plan.

As the FTC finalizes and implements its strategic and annual performance plans, FTC staff will understand the goals, objectives, strategies, and performance measures contained in the strategic plan, and expectations regarding staff's role in implementing the strategic plan will be defined and communicated. As noted below, the FTC's annual performance plan for fiscal year 1999 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 (designed to measure progress toward the agency's strategic goals), as well as a variety of other factors, including whether the cost of an ongoing program is justified by the benefits that it provides to U.S. consumers. The program evaluations to be undertaken for particular objectives are detailed in Section IV of this strategic plan.

### **Performance Measures:<sup>10</sup> Progress and Challenges**

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<sup>9</sup> Since the FTC's regulatory reform program began in 1992, the FTC has reviewed more than half its rules and industry guides, repealing 27 rules and guides and streamlining or clarifying another 19. In the last 18 months, the FTC has stepped up the pace of its regulatory reform efforts, repealing more than 38% of its trade regulation rules. This effort is intended to ensure that all current rules and guides are appropriately targeted and their costs are balanced against the benefits they are designed to achieve.

<sup>10</sup> The "performance measures" discussed in this section might also be termed "strategic goals," since they identify the "five-year goals" that this agency is to achieve by the close of fiscal year 2002—e.g., consumer savings of a certain amount. However, the term "performance measure" has seemed best suited to maintaining the focus on the results that the agency is to achieve; thus, that is the term used throughout this strategic plan. The agency's "strategic goals" are framed in terms of the FTC's two missions. See Section I above (Overview of FTC Strategic Plan).

**Progress:** The FTC has made substantial progress in developing outcome-based, results-oriented performance measures. Indeed, the 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 performance measures for the Results Act, the agency determined that a new, more comprehensive consumer complaint database would facilitate the agency's efforts in two important ways: first, it would allow the agency to better identify appropriate areas for investigation; second, it would enable the agency to evaluate whether its enforcement actions in fact had reduced consumer complaints in certain areas.

Also, while working to develop performance measures, 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. The agency has worked hard to estimate some of the consumer savings generated by FTC enforcement efforts in the recent past. In addition, the agency is putting in place procedures to gather the types of information that will allow future estimates of some of the savings to consumers ensured 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 matters such as the amount of fraud stopped per year through FTC enforcement.

The agency's work in this area has already paid off. The agency estimates that, in fiscal year 1996 alone, each of its two missions generated consumer savings of at least \$200 million—totaling at least \$400 million, an amount about 4 times that of the FTC's annual budget. In light of those numbers, the FTC has set five-year performance goals for its missions (consumer protection and maintaining competition) to achieve over \$2 billion in consumer savings by the close of fiscal year 2002—that is, for each mission to achieve at least \$200 million in consumer savings for each year from fiscal year 1998 through fiscal year 2002. On the consumer protection side, the savings will be calculated by adding together the annual sales of all of the fraudulent operations halted that 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 a merger or other anticompetitive practice, (2) the percentage increase in price that likely would have resulted from the merger or other anticompetitive practice absent enforcement action, and (3) the likely duration of the 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.<sup>11</sup> 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 "2-year duration" for the price increase are conservative assumptions; where detailed facts are available, far greater consumer savings may be shown.<sup>12</sup>

In addition, as shown in detail in Section IV, the agency has developed a variety of other performance measures that will assist the agency 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-regulatory, amnesty, or leniency programs. The agency will be tracking its progress on these performance measures through parallel one-year performance measures in the FTC's annual performance plans, and the agency will make adjustments if appropriate.

**Challenges:** Nevertheless, like most law enforcement agencies, the FTC has confronted a challenge in developing results-oriented performance measures for some of its consumer protection and maintaining competition activities. This challenge is greatest where the agency's enforcement presence, guidelines, and other educational efforts have successfully deterred businesses from attempting transactions that would elicit FTC enforcement action.

On the consumer protection side, it would be extraordinarily difficult to quantify the dollar benefits to consumers who were not deceived or misled because the FTC's presence

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<sup>11</sup> 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.

<sup>12</sup> 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.

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as "the cop on the beat" for the \$100 billion national advertising industry deterred certain companies from even considering the use of misleading or deceptive ads. On the competition side, it would be extraordinarily difficult to quantify the benefits to consumers who did not have to pay anticompetitive price increases because the agency's enforcement guidelines deterred companies from even proposing certain anticompetitive mergers or engaging in certain anticompetitive practices. In a world in which economic growth continues to be heavily dependent on innovation,<sup>13</sup> there are likely to be substantial consumer benefits from FTC actions such as those taken to prevent the monopolization of certain areas of R&D or to prevent the defrauding of consumers who are venturing into the new world of Internet commerce.

The agency has not yet found appropriate, results-oriented performance measures to capture consumer benefits such as these. The FTC will continue to work, however, to develop such performance measures, since the agency's deterrence and other less-quantifiable efforts produce significant benefits for consumers that should be taken into account in evaluating the agency's performance.

### **Cross-Cutting Functions**

The FTC 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, the Federal Communications Commission, and numerous other federal and state agencies. To educate consumers and businesses, it has led efforts to establish a "one-stop" government website ([www.consumer.gov](http://www.consumer.gov)) with four of its federal government partners, the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), the National Highway Traffic Safety Administration (NHTSA), and the U.S. Office of Consumer Affairs; and it routinely works with other federal and state agencies on coordinated education campaigns. 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.

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<sup>13</sup> 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*, Robert M. Solow, "Technical Change and the Aggregate Production Function," 39 *Rev. Econ. & Statistics* 312, 320 (1957) (estimating that 90% of real per capita income growth from 1909 to 1949 was due to innovation and education, rather than growth in capital and labor); Edwin Mansfield et al., "Social and Private Rates of Return from Industrial Innovations," 91 *Quarterly Journal of Economics* 221 (1977)(R&D displays a very high rate of social return); William Baxter, "The Definition and Measurement of Market Power in Industries Characterized by Rapidly Developing and Changing Technologies," 53 *Antitrust Law Journal* 717, 726 (1984).

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 FDA to combat deceptive claims for over-the-counter drugs, devices, and food—with the FDA primarily responsible for labeling claims and the FTC primarily responsible for advertising claims. It works with the 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 numerous other agencies on, e.g., alcohol advertising (the Bureau of Alcohol, Tobacco, and Firearms), vehicle safety (NHTSA), and projects requiring the technical or scientific expertise of particular agencies (e.g., the National Institute of Standards and Technology, the National Institutes of Health). These efforts maximize impact and minimize duplication among partner agencies.

On the competition side, a particularly high level of consultation and coordination occurs with the Department of Justice. The FTC and the Antitrust Division of the Department of Justice share many areas of antitrust jurisdiction, although there are some differences in the statutes they enforce.<sup>14</sup> As a result, consultation and coordination occur at both the policy level and the day-to-day working level. The agencies consult on matters of policy to ensure that both apply the same standards in analyzing business practices and that uniform standards are communicated to the business community. To that end, the FTC and DOJ's Antitrust Division have jointly issued antitrust guidelines on the analysis of horizontal mergers, mergers and joint ventures in the health care area, the licensing of intellectual property, and on international enforcement. At the day-to-day working level, the agencies maintain a liaison arrangement to ensure that there is no duplication of effort or conflict between the investigations of the two agencies. Under that liaison arrangement, neither agency may initiate an investigation without first consulting with the other to determine whether there would be any duplication or conflict. For time-sensitive merger investigations, special procedures ensure expeditious completion of this "clearance" process.

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<sup>14</sup> 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. The agencies' enforcement responsibilities differ in two principal respects. First, Section 5 of the FTC Act can reach certain anticompetitive practices that are beyond the reach of the Sherman Act or the Clayton Act, although Section 5 is coextensive with those statutes in many respects. Second, criminal antitrust jurisdiction is solely within the Department of Justice. The FTC Act also assigned important non-enforcement responsibilities to the agency. In particular, the FTC studies and reports on important competition and economic issues. For example, an FTC study led to the passage of important securities laws in 1933 and to the enactment of major amendments to the Clayton Act in 1950. More recently, the FTC held a series of comprehensive hearings in late 1995 on competition and consumer protection policy in the new technological and global business environment. The global competition hearings in turn led to a series of hearings in 1997 on how to improve antitrust guidance to business about joint venture activities.



The agency also has a working relationship with numerous other agencies. In connection with mergers in the defense industry, the agency consults with the Department of Defense pursuant to the recommendations of the Report of the Defense Science Board 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.

### **Significant Customer and Stakeholder Considerations**

The agency sent its draft strategic plan (as well as earlier drafts of the agency's vision, mission, and goals) to the stakeholders listed in "List of Primary External Stakeholders," page A-44, for review and comments. In response, the agency received comments from the Assistant Attorney General for Antitrust at the Department of Justice; the Deputy General Counsel (Acquisition & Logistics) at the Department of Defense; staff of the Office of Management and Budget, the Council of Economic Advisers, the Federal Reserve System, the Agency for International Development, and the Consumer Product Safety Commission; and the Section on Antitrust and Trade Regulation of the Federal Bar Association. The responses were uniformly favorable; stakeholders described the draft plan as well thought-out, thorough, and clear.

No stakeholder expressed substantive disagreement with any of the programmatic, policy, or management courses-of-action presented in the plan. Rather, two stakeholders expressed interest in adding areas of effort to the FTC's plan; given current resource constraints, however, those additions do not appear feasible at this time.

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## **Implementation of the Strategic Plan of the FTC: Fiscal Years 1997-2002**

**Statement of Vision:** A U.S. economy characterized by vigorous competition among producers and consumer access 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 or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity.

### ***Goal 1: To prevent fraud, deception, and unfair business practices in the marketplace.***

As the nation's only general jurisdiction consumer protection agency, the FTC is a relatively small agency with a big mission. This agency therefore must make effective use of limited resources by targeting its law enforcement and education efforts for maximum impact, and by leading federal, state, and private sector partners in joint initiatives.

#### **Objective 1: Identify fraud, deception, and unfair practices that cause the greatest consumer injury.**

The FTC is undertaking a new initiative to upgrade and expand the existing consumer complaint database to make it the most comprehensive database in the country. Currently, the Telemarketing Complaint System (TCS), overseen by the FTC and the National Association of Attorneys General, focuses solely on telemarketing fraud. The new, more comprehensive database will capture complaints about a broad array of consumer problems nationwide, and will be available to state and federal law enforcement partners around the country, so that all agencies can target problems more effectively and allocate resources more strategically.

In addition, the FTC will continue to use and improve its other current methods to identify problem areas and emerging issues that may raise consumer protection concerns. These methods include monitoring advertising and marketing practices, and exploring newly emerging consumer protection issues through hearings, workshops, and other forms of public outreach.

#### **1. Strategies**

- Establish and build the capacity of a comprehensive nationwide consumer complaint database, using the existing TCS as the foundation.
- Assure the privacy and security of database information.
- Improve the agency's ability to collect information by monitoring the marketplace and holding hearings and workshops.

- Search for new methods of collecting reliable data to identify problem areas.

## **2. Year-by-Year Implementation Plans**

### **Fiscal Years 1997-2002:**

Each year the agency will do the following:

- Identify new sources of consumer complaint data and solicit broader participation in the comprehensive database system by other law enforcement agencies.
- Assess the adequacy of measures to assure the privacy and security of the database.
- Monitor the marketplace to identify illegal practices that may not be fully captured by the database.
- Identify newly emerging consumer protection issues arising from changes in the marketplace, such as new technologies and globalization, and explore these issues through public workshops, hearings, and studies.

### **Fiscal Year 1997:**

- Make available to its law enforcement partners the FTC's newly updated TCS system.
- Create a system for capturing and entering into the database the thousands of consumer complaints received annually by the FTC.

### **Fiscal Year 1998:**

- Continue to build the capacity of the new system to capture complaints received by the FTC.
- Enhance the ability to analyze information in the comprehensive database so the agency can better evaluate the economic impact of consumer protection problems and the effectiveness of law enforcement, regulation, and education.

### **Fiscal Year 1999:**

- Expand the database to include international participants, both as suppliers of data and as users of the system.
- Take the steps necessary to permit exchange of data among law enforcement officials in other countries.

### **Fiscal Year 2000:**

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- Continue to update the capacity of the database system to analyze data.

### **3. Five-Year Performance Measures**

#### **By Fiscal Year 2002, the agency will:**

- Establish the nation's most comprehensive database for consumer complaint data.
- Increase five-fold the number of complaints entered into the database (fiscal year 1996 baseline of approximately 70,000).
- Increase by 50% the number of law enforcement offices using the database (fiscal year 1996 baseline of 100).
- Achieve a 90% rate of satisfaction with the database among its users (primarily federal, state, and local law enforcement officials).

### **4. Program Evaluations**

- Assess the adequacy of the database by surveying users to determine their satisfaction with it.
- Determine whether the software is providing adequate data analysis and security, and whether it would be cost-effective to update it.
- Assess privacy protections by reviewing complaints, if any, and evaluating the policies in place.
- Evaluate the utility of workshops and hearings for identifying and exploring newly emerging consumer protection issues by, among other things, surveying participants in these public forums and reviewing the information obtained at these events.

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

#### **Stopping Fraud**

Fraud costs consumers billions of dollars a year. Telemarketing fraud alone cheats consumers out of an estimated \$40 billion annually, and has been widely identified as a leading consumer problem. Stopping and deterring consumer fraud therefore are top FTC priorities.

#### **1. Strategies:**

- Lead and coordinate the nationwide attack on telemarketing fraud.

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- Target law enforcement efforts every year on three or four other areas of significant fraud (based on the number of complaints, extent of consumer injury, trends shown by the database, etc.).
  - Leverage resources, where possible, through joint enforcement with federal and state partners (e.g., Postal Inspection Service, Department of Justice, State Attorneys General, Securities and Exchange Commission, Federal Communications Commission, Commodity Futures Trading Commission).
  - Establish a comprehensive program to assure compliance with federal district court orders in fraud cases.
  - Target newly emerging “frontier” areas of fraud (e.g., cross-border and online scams).

## **2. Year-by-Year Implementation Plans**

### **Fiscal Years 1997-2002:**

Each year the agency will do the following:

- Identify and target the most significant areas of emerging or continuing fraud for federal-state “sweeps” or other law enforcement initiatives.
- Annually assess recent years’ enforcement efforts by determining the reduction in consumer injury and the extent of compliance with court orders, undertaking additional law enforcement where needed.
- Recruit new local, state, federal, and international law enforcement partners for anti-fraud initiatives.

### **Fiscal Year 1997:**

- Design a comprehensive compliance program for district court orders in fraud cases and begin to implement it.

### **Fiscal Year 1998:**

- Complete implementation of the compliance program for district court orders.
- Establish a baseline for compliance with district court orders.

## **3. Five-Year Performance Measures:**

**By Fiscal Year 2002, the agency will:**

- Key goal: **Save consumers over \$1 billion by stopping consumer fraud, in each year from fiscal years 1997-2002, in amounts matching the record amount of**

**fraud stopped in fiscal year 1996 (approximately \$200 million of consumer harm that otherwise would have occurred during fiscal year 1996).**

- Maintain an annual litigation success rate of 90-95% for obtaining preliminary relief in fraud cases.

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- Lead joint enforcement initiatives in which, on average, federal and state partners bring two actions for every one action brought by the FTC alone.
  - Reduce the amount of consumer injury by at least 50% in areas of targeted law enforcement (within two years following the targeted efforts).
  - Increase compliance with federal district court orders by at least 25% (fiscal years 1998-99 baseline) in areas of targeted compliance monitoring.
  - Increase the number of cooperative, cross-border fraud law enforcement actions by 25% each year (fiscal year 1997 baseline).

#### **4. Program Evaluations**

- Assess the impact of anti-fraud efforts using database information (e.g., the number of complaints, the amount of injury, the number of fraudulent operators).
- Assess the overall trends revealed by the database to determine whether the amount of resources dedicated to the fraud program should be altered or the program's priorities modified.
- Compare the cost-effectiveness of existing efforts to fight fraud with the cost-effectiveness of alternative approaches, such as criminal enforcement, harsher civil remedies, and consumer education.

### **Ensuring Broad-Based Protections for Consumers**

The FTC has jurisdiction over the \$100 billion national advertising industry, the \$600 billion direct marketing industry, and credit transactions affecting virtually every consumer in this country. To achieve the broadest possible compliance in this 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 unduly burden legitimate business activity.

#### **1. Strategies**

- Monitor national advertising in print, television, radio and other electronic media to identify illegal practices that may not be fully captured by the database.
- Identify and target for law enforcement areas that create the greatest risks to consumer health, safety, and economic well-being.
- Minimize the burdens of FTC rules, guides, and orders through systematic review.
- Encourage self-regulation and private initiatives, where appropriate, in lieu of regulation or law enforcement.





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## **2. Year-by-Year Implementation Plans**

### **Fiscal Years 1997-2002:**

Each year the agency will do the following:

- Identify problem areas and establish noncompliance baselines for areas of targeted law enforcement.
- Monitor compliance in areas of targeted enforcement undertaken in recent years; take appropriate follow-up action (e.g., enforcement, education, self-regulation program) where compliance falls short of 20% improvement.
- Establish noncompliance baselines in areas considered for self-regulatory, amnesty, and leniency programs; measure compliance achieved by prior years' self-regulatory, amnesty, and leniency programs.

### **3. Five-Year Performance Measures:**

#### **By Fiscal Year 2002, the agency will:**

- Maintain an annual compliance rate of 90-95% by those subject to recent FTC orders.
- Increase industry-wide compliance, on average, by 20% in problem areas targeted by law enforcement efforts (within two years of targeted efforts).
- Complete 10-year cycle for review of all FTC rules and guides; review at least half to determine whether they apply to the new information technologies and the global marketplace.
- Harmonize all FTC appliance and apparel labeling rules, to the extent permitted by law, with NAFTA.
- Have in place at least 10 self-regulatory, amnesty, or leniency programs that improve industry compliance rates by 10% (within two years of each program's adoption).

## **4. Program Evaluations**

- Assess the adequacy of data for targeting non-fraud law enforcement efforts and the cost-effectiveness of gathering better data.
- Assess whether the mix of resources allocated to fraud and non-fraud programs is appropriate in light of changes in the marketplace.

- Evaluate the effectiveness of law enforcement for increasing compliance in targeted areas.
- Evaluate the success of self-regulatory programs and identify factors to evaluate success in the future.
- 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.
- Extend the reach of consumer and business education through private and public partnerships and the use of new media such as the Internet.
- Improve the timeliness of response to consumer and business inquiries.
- Increase public awareness of consumer protection problems and solutions by conducting and publishing studies on changes in the marketplace and the impact of business and government actions on consumers.

**2. Year-by-Year Implementation Plans**

**Fiscal Years 1997-2002:**

Each year the agency will:

- Steadily increase the size of the audience for FTC messages in areas of targeted law enforcement.
- Recruit new private sector partners for consumer and business education.
- Upgrade the content to increase the usage of both the FTC's website ([www.ftc.gov](http://www.ftc.gov)) and the "one-stop" government website for consumer information ([www.consumer.gov](http://www.consumer.gov)).
- Increase the timeliness of responses to consumer and business inquiries.

- File amicus briefs in appropriate consumer protection matters.
- File advocacy comments to inform other governmental entities about consumer protection issues, upon their request.

**Fiscal Year 1997:**

- Begin consolidating consumer response specialists within the FTC who handle consumer complaints and inquiries.
- Establish a baseline for the timeliness of responses to consumer inquiries by consumer response specialists.
- Lead the effort to establish the "one-stop" government website ([www.consumer.gov](http://www.consumer.gov)) with federal agency partners (e.g., Consumer Product Safety Commission, Food and Drug Administration, National Highway Traffic Safety Administration, U.S. Office of Consumer Affairs).

**Fiscal Year 1998:**

- Complete consolidation of consumer response specialists, and begin to expand the range of complaints and inquiries they handle.
- Complete implementation of the "[www.consumer.gov](http://www.consumer.gov)" website, and continue to work with the FTC's partners to expand and improve it.

**Fiscal Year 1999:**

- Enhance the capacity of the technology for handling electronic and telephone inquiries.

**3. Five Year Performance Measures:****By Fiscal Year 2002, the agency will:**

- Increase by 20% each year the size of the audience for FTC education messages (fiscal year 1996 baseline).
- Recruit 100 new public and private sector partners for consumer and business education.
- Increase the timeliness of responses to consumer inquiries by 5% per year (fiscal year 1999 baseline).

**4. Program Evaluations**

- Assess whether the agency is using the appropriate mix of media to communicate its consumer education messages and whether the agency is making the best use of the available media.
- Determine whether the FTC needs to reach new audiences, in light of any changes in demographics and marketing practices.
- Encourage consumer behavioral research within and outside the Commission that will help the agency to evaluate the effectiveness of its education messages.
- Review the focus of FTC education efforts and adjust based on changing consumer and business needs.

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**Goal 2: 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. Anticompetitive mergers can raise prices, or reduce output, quality, services, innovation, or choice for consumers. A wide variety of other business practices may harm consumers in similar ways. Such practices include collusive activity among competitors (e.g., price fixing and improper facilitating practices) and certain restraints in the chain of product distribution (vertical restraints), such as exclusive dealing arrangements and tying arrangements.

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. Similar shifts may be observed in how and when firms use various other forms of business conduct.

Due to these shifts, there is no single "correct" level of competition enforcement. In some years, the proper level may require many competition actions; in other years, fewer will be required. This strategic plan uses the agency's experience from fiscal year 1991 to fiscal year 1996 as a baseline from which to assess whether a given level of enforcement falls within the recent range of levels of competition enforcement.

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

Hart-Scott-Rodino Premerger Notification provides the FTC with an effective starting point for identifying anticompetitive mergers before they are consummated. Mergers reported to the agency under that program vary tremendously in their complexity and potential anticompetitive effect. In some cases, the agency can make a reasonable judgment about whether a merger has the potential to be anticompetitive or procompetitive within a few days of filing, 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.<sup>15</sup>

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<sup>15</sup> In fiscal year 1996, the FTC and the Department of Justice received notification of 3,087 transactions under HSR. The FTC investigated 36 transactions with formal requests for additional information.

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The FTC administers the HSR Program both for itself and for the Antitrust Division of the Department of Justice (DOJ), which shares authority to challenge anticompetitive mergers.<sup>16</sup> Through an informal “clearance” process, the two agencies avoid duplicative effort and 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. In the last two years, the average time from filing to assignment to one of the agencies has been reduced from approximately 11 business days to about 8.

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 (e.g., consumer and competitor complaints, referrals from other government agencies, monitoring the trade press). Here, too, however, the informal “clearance” process avoids any duplication of investigation or litigation effort between DOJ’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 mergers that were not required to be reported under HSR or that were not reported in violation of HSR.
- Continue to make efficient use of the initial 30-day period after HSR filings (or 15 days for a cash tender offer) to determine whether a merger is likely to harm competition, including prompt inter-agency clearance and timely review of filings to avoid unnecessary extended investigations.
- Through hearings, Bureau of Economics studies, and other means, identify emerging trends and focus on potentially anticompetitive business practices or other issues that need to be addressed because of changes in the economy, technology, and the marketplace.
- Refine the investigative and decisional tools used in both merger and nonmerger investigations through continuous learning.
- Maintain and improve the timeliness, efficiency, and effectiveness of nonmerger investigations by returning resources to the nonmerger program to the extent the level of merger activity permits.

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<sup>16</sup> Congress has established filing fees 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 and the Department of Justice.

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## 2. Year-by-Year Implementation Plans

In Fiscal Years 1997, 1999, and 2001:

- Review and refine data-monitoring systems relevant to (a) the timeliness of the HSR review process, (b) the degree to which appropriate resources are being devoted to initial review of each matter prior to issuance of an investigative “second request,” and (c) the degree to which cases are being resolved through “quick look” investigation (*i.e.*, one not requiring the parties to produce all of the documents and information called for by the “second request”).
- Review effectiveness of “model second request” implemented in fiscal year 1995 and other model documents to be created and distributed beginning in fiscal years 1997-98 in furthering the agency’s competition mission and avoiding unnecessary burden on businesses.

Fiscal years 1997-2002:

- Continue and improve the investigative skills and antitrust analysis training programs begun in fiscal year 1995. Ensure that lead attorneys and managers collect any important lessons learned at the close of each significant investigation and transmit them to appropriate personnel for incorporation in training programs and model pleadings.
- 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 by (1) monitoring the trade press; (2) responding to and following up on case leads by Congressional offices, other Executive branch agencies, state and local government; and (3) letting potential 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 regional offices and in the nonmerger divisions on how to improve techniques for monitoring business practices and for identifying anticompetitive practices.
- Evaluate on an annual basis the need for in-depth study of a major competition issue, such as the 1996 study of competition in the global economy and the 1997 study of joint ventures and other collaborative arrangements.
- Conduct economic studies of the effects of business actions on competition and consumer welfare.





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### 3. Five-Year Performance Measures

#### By Fiscal Year 2002, the agency will:

- Complete review of all HSR-reported transactions, on average, within 20 days.
- Continue to open about the same number of nonmerger investigations each year from fiscal years 1997 to 2002 as were opened in each of the fiscal years 1991-96 (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.

### 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 ensuring that the *remedies* imposed by the FTC are effective. The agency conducted a preliminary evaluation of the effectiveness of FTC remedies for anticompetitive mergers by contacting market participants some months after implementation of the remedy to determine its effect on the market. This preliminary study was completed in fiscal year 1996, and findings from this study were reported in a speech by the Director of the Bureau of Competition that April. The study is being followed up in a wider sample of cases. So far, the FTC has been able to shorten substantially the time for the implementation of certain merger remedies after acceptance of the order for public comment. In fiscal year 1995, the average time for implementing those remedies was around 15 months. The FTC expects to maintain an average of nine months or less in the future.

#### **1. Strategies**

- Continue to save consumers millions of dollars a year by challenging anticompetitive mergers, and negotiating consent orders and winning litigated orders.
- Negotiate merger and nonmerger consent orders and win litigated orders that have significant remedial, precedential, and deterrent effects.
- Improve negotiation and litigation skills through continuous learning.

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- Maintain the progress made in fiscal years 1995-96 in ensuring the effectiveness of remedies in Commission orders.
  - Ensure that administrative litigation and adjudication reach a timely resolution.

## **2. Year-by-Year Implementation Plans**

Fiscal Years 1997-1999:

- Work with economists and others to improve techniques for estimating the savings to consumers from stopping anticompetitive mergers.

Fiscal Years 1997-2002:

- For each year, estimate the dollar savings to consumers as a result of the FTC's successful merger challenges.
- Continue and improve the negotiation and litigation skills training programs begun in fiscal year 1995. 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.
- 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 the respondent fails to fulfill its obligations under the order in a timely fashion.
- Monitor the timeliness of administrative adjudication, including by 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 Fiscal Year 2002:**

- Key goal: **Over the period of fiscal years 1997 to 2002, save consumers at least \$1 billion by taking action against anticompetitive conduct that would otherwise increase prices.**
- 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.
- Maintain an average time from proposed order to divestiture of no more than 9 months.

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#### 4. Program Evaluations

- Each year, assess the estimated consumer savings from mergers that were successfully challenged. Determine if the agency is on track to save consumers \$1 billion over a five-year period. Determine how the savings compares to the resources spent on the mission.
- Each year, assess the deterrence value and precedential significance of the enforcement actions brought during the year.
- Conduct periodic assessments of past investigative and enforcement activity to ensure: (1) that enforcement actions are brought only when anticompetitive effects from the challenged practices or mergers are likely and (2) that anticompetitive practices or mergers are not overlooked.

#### Objective 3: Prevent consumer injury through education.

Educating the public about competition law and policy is a critical part of our mission to ensure that markets are competitive. Educating businesses and their legal advisers helps prevent anticompetitive mergers and other practices from being proposed and reduces businesses' cost of compliance. Educating the general public helps consumers to know their rights and to bring violations to the agency's attention, thus reducing the cost of identifying anticompetitive conduct. It also encourages cooperation with the agency's investigations and enforcement actions when members of the public understand how antitrust enforcement benefits the common good. 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—guidelines, advisory opinions, speeches, publications—and develop newer avenues of communication, such as the FTC website.
- Continue to provide advice to other governmental bodies upon request.

#### 2. Year-by-Year Implementation Plans

Fiscal Years 1997-2002:

- *Guidelines*—In April 1997, completed revision of the treatment of efficiencies in the Horizontal Merger Guidelines, begun as a result of the public input from the 1995 Global Competition Hearings. In fiscal years 1997 and 1998, evaluate whether to formulate and issue guidelines for joint ventures. In FY 1998 and later years,

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consider whether further revisions are needed to the Horizontal Merger Guidelines or other guidelines; consider whether to issue additional guidelines, as appropriate.

- *Advisory opinions*—Continue to provide Commission and staff advisory opinions on competition issues; continue to provide guidance in 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,” *i.e.*, 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.
- *International efforts*—Continue to support outreach efforts to international bodies to explain U.S. antitrust perspectives on competition theories and approaches; continue to aid the development of antitrust laws and programs in developing nations by participating in technical missions.
- *Internet Publication*—Make available on the FTC’s website on the Internet the guidelines issued by the agency, advisory opinions, advocacy comments, written releases, texts of speeches, and other materials that explain the Commission’s policies and procedures.

### **3. Five-Year Performance Measures**

#### **Fiscal Years 1997-2002:**

- The number of education and outreach efforts, including the number of speeches and public speaking opportunities/participations by Commission personnel on competition issues, the number of advisory opinions issued, the number of advocacy comments filed, the number of amicus briefs filed, and the number of international outreach efforts.

### **4. Program Evaluations**

- Assess whether education and outreach efforts target the right audiences and address the issues that have the most impact on the marketplace.
- Seek input from consumer groups, business groups, bar groups and other FTC “customers” on the effectiveness of FTC educational efforts.

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## Laws Enforced by the FTC

The Federal Trade Commission (FTC) is an independent agency established by Congress in 1914 to enforce the Federal Trade Commission Act (FTC Act).<sup>1</sup> Section 5 of the FTC Act prohibits "unfair methods of competition," and was amended in 1938 also to prohibit "unfair or deceptive acts or practices."<sup>2</sup> The Commission enforces a variety of other antitrust and consumer protection laws as well.

Although the nation's first antitrust law, the Sherman Act, was enacted in 1890, the history of the Commission may be said to begin with the Supreme Court's landmark 1911 decision in the *Standard Oil* case,<sup>3</sup> in which the Court declared that Section 1 of the Sherman Act prohibited only *unreasonable* restraints on trade that have a direct effect on interstate commerce. In the aftermath of that decision, the Senate passed a resolution calling for a study of its impact,<sup>4</sup> and two years later the Senate Commerce Committee produced a report calling for the establishment of an administrative agency to consider antitrust issues.<sup>5</sup> After receiving the Senate report, the House Commerce Committee reported out a bill to create a new agency with broader powers than those proposed by the Senate. The House and Senate bills would have given the new agency the duties of the Bureau of Corporations of the Department of Commerce, which were principally to collect and study data and to issue reports on antitrust and related economic issues. The House bill, however, went much further, including provisions to prohibit "unfair methods of competition," create an expert body to give definition to that general prohibition, and grant the new agency quasi-judicial powers to enforce that prohibition.<sup>6</sup> The final version of the Federal Trade Commission Act followed this approach.

The FTC Act provides a comprehensive framework for carrying out the Commission's law enforcement initiatives. In executing its consumer protection law enforcement responsibilities, the Commission can rely both upon Section 5 of the FTC Act—which prohibits unfair or deceptive acts or practices—and upon a number of more specific consumer protection statutes. Under Section 5, the Commission has determined that a representation, omission, or practice is *deceptive* if: (1) it is likely to mislead consumers acting reasonably under the circumstances; and (2) it is material, that is, likely to affect

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<sup>1</sup> Act of Sept. 26, 1914, ch. 311, § 5, 38 Stat. 717, 719 (codified as amended at 15 U.S.C. §§ 41-58 (1994)).

<sup>2</sup> Act of March 21, 1938, ch. 49, § 3, 52 Stat. 111 (codified at 15 U.S.C. § 45(a)(1) (1994)).

<sup>3</sup> *Standard Oil Company v. United States*, 221 U.S. 1 (1911).

<sup>4</sup> 47 Cong. Rec. 2695 (1911).

<sup>5</sup> S. Rep. No. 1326, 62d Cong., 3d Sess. (1913).

<sup>6</sup> ABA Antitrust Section, Monograph No. 5, "The FTC as an Antitrust Enforcement Agency: The Role of Section 5 of the FTC Act in Antitrust Law," vol. 1, p. 9 (1981).

consumers' conduct or decisions with respect to the product at issue.<sup>7</sup> In August 1994, Congress amended Section 5 of the FTC Act to provide that an act or practice is *unfair* if the injury it causes or is likely to cause to consumers is: (1) substantial; (2) not outweighed by countervailing benefits to consumers or to competition; and (3) not reasonably avoidable by consumers themselves.<sup>8</sup>

Congress has also enacted, over time, a number of other statutes prescribing additional consumer protection enforcement responsibilities. Thus, for example, the Wheeler-Lea Act of 1938 gave the Commission specific authority to prevent false advertising of foods, drugs, and cosmetics, and Title II of the Magnuson-Moss Warranty - Federal Trade Commission Improvements Act (Magnuson-Moss Act)(effective in 1976) enlarged the Commission's jurisdiction to cover activities "affecting commerce" as well as "in commerce."<sup>9</sup> In addition, in the late 1960s and early 1970s, for example, a number of statutes substantially strengthened the Commission's enforcement presence in the credit area. These statutes include the Truth in Lending Act (effective in 1969), as amended by the Fair Credit Billing Act (effective in 1975); the Fair Credit Reporting Act (effective in 1971); the Equal Credit Opportunity Act (effective in 1975, and amended in 1977); the Fair Debt Collection Practices Act (effective in 1978); and the Consumer Leasing Act (effective in 1977).<sup>10</sup> With respect to tobacco products, the Public Health Cigarette Smoking Act of 1969, as amended in 1984, requires cigarette packages to bear one of four rotated health-related warnings, and requires the Commission to submit annual reports to Congress concerning the effectiveness of cigarette labeling, current practices and methods of cigarette advertising and promotion, and recommendations for legislation. The Comprehensive Smokeless Tobacco Health Education Act of 1986 further requires manufacturers, packagers, and importers of smokeless tobacco products to place one of

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<sup>7</sup> *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*, 970 F.2d 311 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 1254 (1993); *Removatron International Corporation, et al.*, 111 F.T.C. 206, 308-09 (1988) (*citing, e.g., Southwest Sunsites, Inc. v. FTC*, 785 F.2d 1431, 1436 (9th Cir.), *cert. denied*, 107 S. Ct. 109 (1986)); *International Harvester Co.*, 104 F.T.C. 949, 1056 (1984); *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 164-65 (1984); see generally *Federal Trade Commission Policy Statement on Deception, appended to Cliffdale Associates, Inc.*, 103 F.T.C. at 174 *et seq.*

<sup>8</sup> See Section 5(n) of the FTC Act, 15 U.S.C. § 45(n), *added by* The Federal Trade Commission Act Amendments of 1994, Pub. L. No. 103-312. The Commission previously relied on similar criteria to define the scope of its authority to prohibit unfair acts or practices pursuant to Section 5(a) of the FTC Act. See, e.g., *Orkin Exterminating Company, Inc.*, 108 F.T.C. 263, 362 (1986); *International Harvester Co.*, 104 F.T.C. 949, 1061 (1984); see generally *Federal Trade Commission Policy Statement on Unfairness, appended to International Harvester Co.*, 104 F.T.C. at 1070-76.

<sup>9</sup> The Magnuson-Moss Act also created specified procedures for the Commission to prescribe substantive rules for unfair or deceptive acts or practices; increased the Commission's authority to represent itself, under certain conditions, in federal court actions and before the Supreme Court; authorized civil penalty actions for knowing violations of rules and cease and desist orders respecting unfair or deceptive practices; and authorized suits for consumer redress under certain conditions.

<sup>10</sup> These statutes have been amended on a number of occasions; for example, all were amended in 1996.

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three statutorily prescribed health warning labels on their product packages and in advertisements, on a rotating basis; prohibits them from advertising smokeless tobacco products on radio and television; and empowers the Commission to enforce these provisions. In addition, the Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act—all enacted in 1939—address different aspects of textile fiber product labeling.

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.<sup>11</sup> 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 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 certain forms of price discrimination that may substantially lessen competition or tend to create a monopoly, and therefore threaten competition and consumer welfare; Section 3 of the Clayton Act, which proscribes certain types of tying and exclusive dealing arrangements; and Section 8 of the Clayton Act, which proscribes interlocking directorates and officers, with certain exceptions.

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, but also to secure permanent injunctions providing a variety of ancillary equitable relief, including consumer redress, disgorgement, freezes of defendants' assets, and the appointment of receivers to preserve defendants' assets for later consumer redress and disgorgement

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<sup>11</sup> 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).



efforts. The Commission has also used its enforcement tools to reach the assets of, and proscribe practices used by, fraudulent operators themselves, as well as entities that have aided and abetted fraudulent operators.

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.

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## Development of the FTC's Strategic Plan

The Federal Trade Commission's Strategic Plan was developed in fiscal year 1996 and early fiscal year 1997. The Plan represents the cooperative work of the entire Commission, reflecting input from the Commissioners, Bureau management, agency staff, and others affected by or interested in Commission activities (stakeholders<sup>1</sup>).

Agency staff began the development of the strategic plan with a series of Commission-wide training sessions open to all who work at the Commission. As follow-up, there were several focus groups with randomly-selected staff, managers, and Commission-level advisors. Participants in the focus groups were asked for their views on the agency's vision, mission, and goals, and for their thoughts on various issues that might be addressed in the context of implementing the GPRA.

A Senior Management Team (SMT) consisting of the managers of all significant program and support operations within the FTC then prepared initial drafts of the agency's vision, mission, and goals statements for review by the Commissioners. The Commissioners authorized distribution of a letter to a wide variety of external stakeholders asking for their views on the agency's draft statements of vision, mission, and goals. (See List of Primary External Stakeholders, page A-44.) The Commission's letter solicited stakeholder views on how best to include in the Commission's Strategic Plan those activities most important to each stakeholder and how to measure the agency's performance in ways that would reasonably accurately reflect relevant results.

Concurrently, senior FTC management worked with FTC staff to develop draft strategic and performance plans for the Commission's consideration. Staff and management focused first on material to be covered by internal performance plans, which laid the foundation for the development of a five-year strategic plan for the agency. This approach was used to ensure that the agency's strategic plan would be linked with its performance plans in logical and straightforward ways.

The draft strategic plan is being forwarded to OMB and to the appropriate members of Congress and their staff for review and consultation. The draft strategic plan also is being made available to everyone within the FTC and to primary external stakeholders for comment.<sup>2</sup> The five-year strategic plan detailed herein will be finalized after the Commission has consulted with Congressional representatives and has received and considered the comments of the agency's internal and external stakeholders.

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<sup>1</sup> Primary external stakeholders include representatives from the Executive Office of the President, Congressional Committees, other federal agencies, state and local enforcers, consumer groups, business and industry, and bar groups. See List of Primary External Stakeholders, page A-44.

<sup>2</sup> A draft of the agency's strategic plan is being posted on both the agency's Internet web site and the agency's internal web site.

## Consumer Protection Mission

### Joint Federal/State Anti-Fraud Law Enforcement Efforts

Anti-Fraud Effort "Sweep"	FTC Cases	Federal/State Cases	Total Cases
<b>Fiscal Year 1995</b>			
Project Telesweep	34	20	54
Recovery Rooms	6	0	6
<b>Fiscal Year 1996</b>			
Project Roadblock	8	77	85
Operation Senior Sentinel	5	0	5
Operation Loan Shark	6	8	14
Operation Copycat	5	12	17
Operation Payback	4	11	15
Operation Jackpot	8	48	56
Project Career Sweep	7	0	7
Project Scholar\$cam	6	1	7
Internet/Credit Repair	9	0	9
Project BuyLines	7	0	7
<b>Fiscal Year 1997</b>			
Operation Missed Fortune	11	98	109
<b>Total</b>	<b>116</b>	<b>275</b>	<b>391</b>

**The FTC led a series of federal/state coordinated law enforcement efforts called "sweeps". For every case the FTC brought, state and federal partners brought two more.**

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## Key Components

The Federal Trade Commission (FTC) is composed of seven major organizations:<sup>1</sup>

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. The current Chairman is Robert Pitofsky, and the Commissioners are: Sheila F. Anthony, Mozelle W. Thompson, and Orson Swindle.

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. That marketplace competition will in turn help 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 variety of consumer protection laws enacted by Congress, as well as trade regulation rules issued by the Commission. As is true of the Bureau of Competition, its actions include individual company investigations, administrative and federal court litigation, and consumer and business education. Both bureaus also contribute 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 and the Executive Branch with economic analyses of various aspects of the American industrial economy, when requested.

Office of the General Counsel: This office is the Commission's chief legal officer and adviser. Its principal responsibilities are to represent the Commission in court, provide legal counsel to the Commission, its operating bureaus, and other offices, and exercise certain delegated authorities.

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<sup>1</sup> The FTC also includes these staff offices: Administrative Law Judges; Congressional Relations; Inspector General; Policy Planning; Public Affairs; and Office of the Secretary.

Regional Offices: Comprised of offices in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Los Angeles, New York, San Francisco, and Seattle. Their program activities are coordinated through the Bureaus of Competition (30%) and Consumer Protection (70%). These offices conduct investigations and litigation, provide advice to state and local officials on the competitive implications of improved 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.

Office of the Executive Director: The FTC's chief operating officer and manager, responsible for such administrative matters as budget, personnel, and information management, as well as overall FTC program and policy execution. This office also handles all initial requests for information under the Freedom of Information Act. Although enforcement activities are cleared through appropriate bureaus, the Commission's regional offices operate under the general management of this office.

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## **List of Primary External Stakeholders**

### **Chairmen and Ranking Members of the following Congressional Committees**

#### Senate Committee on Appropriations

Chairman: Ted Stevens

Staff Contact: Al McDermott, Senior Counsel

Ranking Minority Member: Robert C. Byrd

Staff Contact: Richard D'Amato, Counsel to The Minority

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

Chairman: Judd Gregg

Staff Contact: Paddy Link, Professional Staff Member

Ranking Minority Member: Ernest F. Hollings

Staff Contact: Scott Gudes, Clerk to The Minority

#### House Committee on Appropriations

Chairman: Bob Livingston

Staff Contact: James Dyer, Staff Director

Ranking Minority Member: David Obey

Staff Contact: Patricia Schlueter, Staff Assistant

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

Chairman: Harold Rogers

Staff Contact: James Kulikowski, Staff Assistant

Ranking Minority Member: Alan B. Mollohan

Staff Contact: Therese McAuliffe, Staff Assistant to The Minority

#### Senate Judiciary Committee

Chairman: Orrin G. Hatch

Staff Contact: Bob Lockwood, Counsel

Ranking Minority Member: Patrick L. Leahy

Staff Contact: Beryll Howell, Senior Counsel

#### Senate Subcommittee on Antitrust, Business Rights, and Competition

Chairman: Mike DeWine

Staff Contact: Nick Wise, Chief Counsel

Ranking Minority Member: Herb Kohl

Staff Contact: John Leibowitz

#### House Judiciary Committee

Chairman: Henry J. Hyde

Staff Contact: Diana Schacht, Deputy Staff Director/Counsel

Ranking Minority Member: John Conyers, Jr.

Staff Contact: Perry Apelbaum, General Counsel



Senate Committee on Small Business

Chairman: Christopher Bond

Staff Contact: Susan McMillan, Professional Staff Member

Ranking Minority Member: John F. Kerry

Staff Contact: Greg Rothschild, Legis, Counsel

House Committee on Small Business

Chairman: James M. Talent

Staff Contact: Harry Katrichis, Chief Counsel

Ranking Minority Member: Mark Souder

Staff Contact: Dean Saga, Professional Staff Member to The Minority

House Committee on Government Reform and Oversight

Chairman: Dan Burton

Staff Contact: Kevin Binger, Staff Director

Ranking Minority Member: Henry A. Waxman

Staff Contact: Philip Schiliro, Staff Director

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

Chairman: David McIntosh

Staff Contact: Milred Webber, Staff Director

Ranking Minority Member: Bernard Sanders

Staff Contact: Cynthia Weglarz, Legis, Counsel

Senate Committee on Governmental Affairs

Chairman: Fred Thompson

Staff Contact: Hannah Sistare, Staff Director/Counsel

Ranking Minority Member: John Glenn

Staff Contact: Leonard Weiss, Staff Director

House Committee on Commerce

Chairman: Tom Bliley

Staff Contact: Hugh Halpern, Counsel

Ranking Minority Member: John D. Dingell

Staff Contact: Bruce Gwinn, Counsel to The Minority

House Subcommittee on Telecommunications, Trade and Consumer Protection

Chairman: W.J. Tauzin

Staff Contact: Monica Azare, Legis Assistant

Ranking Minority Member: Edward J. Markey

Staff Contact: Colin Crowell, Legis Assistant

Senate Committee on Commerce, Science, and Transportation

Chairman: John McCain

Staff Contact: Lance Bultena, Counsel

Ranking Minority Member: Ernest F. Hollings



Staff Contact: Moses Boyd, Professional Staff Member

Senate Subcommittee on Consumer Affairs, Foreign Commerce and Tourism

Chairman: John Ashcroft  
Staff Contact: Lori Sharpe, Legis Assistant  
Ranking Minority Member: John B. Breaux  
Staff Contact: Mark Ashby, Legis Counsel

Senate Committee on Banking, Housing, and Urban Affairs

Chairman: Alfonse M. D'Amato  
Staff Contact: Laura Unger, Counsel  
Ranking Minority Member: Paul S. Sarbanes  
Staff Contact: Andrew Lowenthal, Counsel to The Minority

Senate Subcommittee on Financial Institutions and Regulatory Relief

Chairman: Lauch Faircloth  
Staff Contact: Jim Hyland, Staff Director  
Ranking Minority Member: Richard Bryan  
Staff Contact: Andrew Vermilye, Legal Director

Senate Subcommittee on Financial Services and Technology

Chairman: Robert F. Bennett  
Staff Contact: Robert CreSanti, Staff Director  
Ranking Minority Member: Barbara Boxer  
Staff Contact: Karen Day, Legal Assistant

House Committee on Banking and Financial Services

Chairman: Jim Leach  
Staff Contact: Laurie Schaffer, Assistant Staff Director  
Ranking Minority Member: Henry B. Gonzalez  
Staff Contact: Amy Friend, Counsel to The Minority

House Subcommittee on Financial Institutions and Consumer Credit

Chairman: Marge Roukema  
Staff Contact: Stephen Johnson, Counsel  
Ranking Minority Member: Bruce F. Vento  
Staff Contact: Kirsten Johnson, Professional Staff Member

**Federal and State Agencies**

Office of the Vice President (National Performance Review)  
Office of Management and Budget  
Council of Economic Advisers  
National Economic Council  
National Association of Attorneys General  
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 Products Safety Commission  
Federal Communications Commission  
Federal Reserve Board  
Small Business Administration

**Private Organizations**

ABA Antitrust Section  
American Advertising Federation  
American Association of Retired Persons  
Association of American Advertising Agencies  
Association of National Advertisers  
Business Roundtable  
Center for Media Education  
Center for Science in the Public Interest  
Consumer Federation of America  
Consumers Union  
Direct Marketing Association  
Federal Bar Association  
Interactive Services Association  
National Association of Consumer Affairs  
National Association of Manufacturers  
National Consumers League  
National Federation of Independent Businesses  
National Fraud Information Center  
North American Securities Administrators Association  
Public Voice for Food and Health Safety  
U.S. Chamber of Commerce