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Report  
of the*

**Federal  
Trade  
Commission**

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FEDERAL TRADE COMMISSION - 1996

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1996 ANNUAL REPORT

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## COMMISSIONERS

**ROBERT PITOFSKY**  
**(4/95 -)**

Robert Pitofsky was sworn in as 54th Chairman of the Federal Trade Commission on April 12, 1995. At the time he was nominated by President Clinton to chair the Commission, Chairman Pitofsky was a Professor of Law at the Georgetown University Law Center and Of Counsel to the Washington, D.C., law firm of Arnold & Porter. He also has held positions at the Federal Trade Commission as a Commissioner (1978-1981) and as Director of the Bureau of Consumer Protection (1970-1973).

Chairman Pitofsky chaired the Defense Science Board Task Force on Antitrust Aspects of Defense Industry Downsizing in 1994. He has been a member of the Council of the Administrative Conference, the Board of Governors of the D.C. Bar Association, and the Council of the Antitrust Section of the American Bar Association. In addition, he has been Dean of the Georgetown University Law Center, a professor at New York University School of Law, and Visiting Professor of Law at Harvard Law School.

Chairman Pitofsky's publications include legal casebooks on both trade regulation and antitrust law. He received a B.A. degree from New York University and an L.L.B. from the Columbia School of Law.

**MARY L. AZCUENAGA**  
**(11/84 -)**

Mary L. Azcuenaga was sworn in as a member of the Federal Trade Commission on November 27, 1984. She was appointed by President Reagan for a term expiring September 26, 1991, and she was reappointed by President Bush for a second term, expiring September 26, 1998.

Before her appointment, Commissioner Azcuenaga spent more than 11 years on the legal staff of the Commission, during which she held several positions and gained experience in all aspects of the Commission's work. She has a varied litigation background, including both federal court and administrative litigation. She has substantial expertise in the field of antitrust, including extensive experience in merger litigation. In addition, she has a background in the field of consumer protection and administrative law and has experience in administration and management.

Immediately before assuming her present position, Commissioner Azcuenaga served as Assistant General Counsel for Legal Counsel of the Federal Trade Commission. Earlier, she served as Assistant to the General Counsel, as Assistant Director of the San Francisco Regional Office, as Assistant to the Executive Director, and as a litigation attorney in the Office of the General Counsel.



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Commissioner Azcuenaga is a graduate of Stanford University and the University of Chicago School of Law. She has been a member of the Administrative Conference of the United States and is a member of the Board of Trustees of the Food and Drug Law Institute and a member of the Board of Directors of the Girl Scout Council of the Nation's Capital. She is the author of numerous articles, speeches, and Commission opinions.

Commissioner Azcuenaga is a member of the bars of the District of Columbia and the State of California. She lives in Washington, D.C.

### **JANET D. STEIGER (8/89 -)**

Janet D. Steiger was sworn in as a member of the Federal Trade Commission on August 11, 1989. She was nominated by President Bush. Commissioner Steiger served as Chairman of the Commission from August 1989 until April 1995.

Commissioner Steiger was Chairman of the Postal Rate Commission, by appointment of President Reagan, from March 1982 to August 1989. She also chaired the Congressionally mandated three-year Commission to Assess Veterans' Education Policy (1987-1989), which reported to the 100th Congress. A Republican, she was nominated by President Carter, and confirmed by the Senate, as a Postal Rate Commissioner in 1980. In 1985, the Federally Employed Women of Washington awarded her the Outstanding Woman in Government Award for 1984.

A member of Phi Beta Kappa, Commissioner Steiger received her B.A. from Lawrence University in 1961 and did postgraduate study at the University of Reading in England and at the University of Wisconsin-Madison. She was a Fulbright Scholar, a Woodrow Wilson Scholar, and a member of the Lawrence Board of Trustees (1986-1989). Lawrence awarded her an honorary doctor of laws degree in 1992.

Before government service, Commissioner Steiger was cofounder of the WorkPlace, Inc., a Washington office-and-research facility. Born in Oshkosh, Wisconsin, Commissioner Steiger is the widow of Congressman William A. Steiger and the mother of their son, Bill.

### **ROSCOE B. STAREK, III (11/90 -)**

Roscoe B. Starek, III was sworn in as a member of the Federal Trade Commission on November 19, 1990. Prior to that time, Commissioner Starek held a number of positions in both the Legislative and Executive branches of the Federal Government. From January 1989 until he was sworn in by President Bush, Commissioner

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Starek was Deputy Assistant to the President and Deputy Director of Presidential Personnel at the White House. Immediately prior to joining the White House staff, Commissioner Starek worked on the Bush transition team as Deputy Director of Presidential Personnel. He served for seven years in several positions at the Department of State, most recently as Deputy Assistant Secretary for Policy and Counterterrorism.

From 1972 to 1982, Commissioner Starek worked on Capitol Hill and on the Ford White House staff. From 1976 to 1982, he worked for three Committees of the U.S. House of Representatives as Chief Minority Counsel to the House Select Committee on Narcotics Abuse and Control, Associate Counsel to the House Judiciary Committee, and a Counsel to the Minority of the House Select Committee on Intelligence. In 1975, Commissioner Starek was appointed to the White House staff as Assistant General Counsel to the Presidential Clemency Board. In 1974, Commissioner Starek was chosen by the Minority Members of the House Judiciary Committee to be a Counsel to the Impeachment Inquiry. During 1972 and 1973, he served on the staff of U.S. Senator Charles Percy of Illinois, first as a legislative assistant and thereafter as a Professional Staff Member to the Permanent Subcommittee on Investigations of the Senate Government Operations Committee.

Commissioner Starek graduated with an A.B. in political science from Syracuse University. He received a Juris Doctor degree from the Washington College of Law at American University. He is a member of the bar in Illinois and in the District of Columbia. Commissioner Starek is married to the former Mildred Jeannette Harllee. They have one daughter and reside in Alexandria, Virginia.

### **CHRISTINE A. VARNEY (10/94 -)**

Christine Varney was sworn in as a Commissioner of the Federal Trade Commission on October 14, 1994. She was nominated by President Clinton for a term that expired in September 1996.

Commissioner Varney formerly served as President Clinton's Cabinet Secretary and, as such, was the primary point of contact between the President and the 20 members of his Cabinet. Prior to joining the Clinton Administration, Commissioner Varney practiced law with the Washington, D.C., firm of Hogan & Hartson. Her representations included serving as Chief Counsel for the Clinton Campaign, General Counsel to the 1992 Presidential Inaugural Committee, and General Counsel to the Democratic National Committee.

## **Federal Trade Commission**

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Commissioner Varney is a 1977 graduate of the State University of New York in Albany and earned a Master's in Public Administration in 1978 from the Maxwell School at Syracuse University. In 1985, she earned a Juris Doctorate from the Georgetown University Law Center, where she was a Law Fellow. She also attended Trinity College in Dublin, Ireland.

Commissioner Varney is a member of the District of Columbia Bar, the New York State Bar, the American Bar Association, and the National Lawyers' Council. She is also a committeewoman on the ABA Standing Committee on Election Law.

Commissioner Varney was born in Washington, D.C., and was raised in Syracuse, New York. She is married to Thomas J. Graham and has two children.

### OVERVIEW

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. By eliminating acts or practices that are unfair or deceptive, the Commission seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions. Its efforts are generally directed toward stopping actions that restrict competition or threaten consumers' ability to exercise informed choice. The Commission also undertakes economic analysis to support its law enforcement efforts and to contribute to the policy deliberations of various federal, state, and local government bodies.

In addition to its statutory enforcement activities, the Commission supports Congressional mandates through cost-effective non-enforcement activities, such as consumer education. This report reviews the Commission's accomplishments in fiscal year 1996.

#### **COMPETITION MISSION**

The Competition Mission is based upon the fundamental premise of the antitrust laws that competition brings the best products and services at the lowest prices, spurs efficiency and innovation, and strengthens the U.S. economy. Unreasonable restraints on competition harm everyone, from consumers to businesses to workers. It is the Commission's job under its Competition Mission to ensure that markets function competitively by eliminating unreasonable competitive restraints, preventing anticompetitive mergers and acquisitions, and encouraging governmental reliance on market solutions.

#### ***Mission Focus***

Given the Commission's flat resources in the midst of a growing economy, the challenges to accomplishing this Mission are formidable. During fiscal year 1996, the Competition Mission focused its limited resources on bringing enforcement actions that make a positive difference in consumers' lives, minimizing the burden Commission actions place on business, and continuing to refine the agency's enforcement policies to account for dynamic changes in both the economy and antitrust analysis.

*Making a Difference in Consumers' Lives.*—The Competition Mission has focused its enforcement actions in markets and industries

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that matter most to consumers. In fiscal year 1996, more than 80 percent of the Mission's resources, measured by staff hours devoted to large cases, were at work in six key areas of the economy: health care, pharmaceuticals, information and technology, energy, consumer goods and services, and defense (where the consumer as taxpayer is the beneficiary). The agency's enforcement actions against proposed mergers in these key industries have made a difference. The Commission's actions:

- Prevented increases in health care costs paid by U.S. businesses for their employees. The Commission forced abandonment of the proposed merger of Rite Aid Corporation and Revco D.S., Inc., the nation's first and second largest retail drug store chains, when an investigation revealed that the merger would have a significant adverse impact on health care costs.
- Saved consumers nationwide as much as \$30 million annually for purchases of diltiazem, a drug used in the treatment of angina and hypertension. A Commission consent order required divestitures in the merger of Hoechst AG and Marion Merrell Dow, Inc., to ensure continued competition in the market for diltiazem as well as for other drugs used in treatments for tuberculosis and ulcerative colitis.
- Ensured for consumers and businesses the benefits of competitive prices for natural gas in the Salt Lake City area. Questar Corporation dropped its effort to acquire a 50-percent interest in Kern River Gas Transmission Company after the Commission authorized a preliminary injunction over concerns that Questar was trying to thwart the benefits of deregulation by buying its only competitor.
- Protected prices and program choice for viewers of cable television. Time Warner, Inc., and Turner Broadcasting System, Inc., both major players in the cable television industry, agreed to a major restructuring of their proposed merger in response to the Commission's concerns that, as originally structured, the merger could impede competition by other cable programmers, thus raising prices, and also could raise entry barriers for other forms of video delivery (for example, direct broadcast satellite).
- Helped to ensure that Americans get the most for their tax dollars by protecting competition in defense industries. After a Commission challenge, Lockheed Martin Corporation agreed to restructure its acquisition of Loral Corporation to prevent a loss

in competition in the markets for air traffic control systems, satellite systems, fighter aircrafts, and unmanned aerial vehicles.

Commission actions in nonmerger cases, although often less visible than faster paced merger reviews, also addressed anticompetitive conduct that threatened consumer welfare. The Commission's actions:

- Protected innovation and pricing in the computer industry. In *Dell Computer*, the Commission complaint alleged that Dell abused a computer industry standard-setting process in a way that threatened to prevent rival manufacturers from making use of an advance in technology and to raise their costs. A Commission consent order addressed these concerns by preventing Dell from abusing the standard-setting process. As the first federal law enforcement action against a firm for abuse of the standard-setting process, *Dell Computer* stands as an important precedent for maintaining the integrity and procompetitive possibilities of standard setting.
- Challenged practices that could drive up the price of toys. The Commission issued an administrative complaint against Toys R Us, alleging that the nation's number one toy retailer entered into agreements with manufacturers to prevent them from selling popular toys to warehouse clubs that would sell the toys more cheaply than Toys R Us.
- Opened up competition in the pricing of prescription drugs purchased through pharmacy benefit plans. In *Rx Care of Tennessee, Inc.*, the Commission's consent order strikes down the use of "most favored nation" clauses that discourage discounting and thus restrict price competition.

*Minimizing the Burden on Business.*—While the Commission looks out for consumers' interests, it attempts to do so with the least possible burden on business. Obviously, the Commission cannot avoid all burdens on business if it is to investigate and enforce the law. The agency constantly reassesses its policies and procedures, however, to see where it can streamline them or eliminate any unnecessary requirements. During fiscal year 1996, for example, the Commission:

- Exempted five classes of transactions from the Hart-Scott-Rodino (HSR) premerger notification reporting requirements that,

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experience had indicated, were unlikely to pose a threat to competition. These exemptions reduced by approximately 10 percent the number of reportable transactions.

- Decreased the rate of “second requests” for documents through use of a more thorough preliminary merger investigation, made possible by expediting the clearance process between the Commission and the Department of Justice to determine which of the two antitrust agencies would review a proposed merger, which gives staff more time to conduct a preliminary merger investigation. From fiscal year 1995 to fiscal year 1996, the percentage of Commission preliminary merger investigations in which second requests were issued dropped by a third, from 23 to 15 percent.
- Expedited administrative trial proceedings through adoption of a set of procedural rule changes. These changes, which will apply to all Commission actions, including those that involve competition issues, establish new and shorter deadlines, streamline discovery, and speed up trials.

*Forward-Looking Antitrust Enforcement.*—On the brink of the 21st century, the Commission is well aware of changes brought on by rapid technological development and increased globalization of the marketplace. The agency continues to refine its analysis to adapt to these changes and to structure the least intrusive enforcement that effectively protects free and competitive markets. During fiscal year 1996, the Commission:

- Exercised its special competence as a deliberative body to deal with complex competition issues and held 23 days of hearings (with testimony from 140 witnesses, including economic and legal scholars, business executives, consumer groups, state enforcement authorities, and foreign enforcement authorities) on changes in the global economy and the appropriate role of anti-trust enforcement and analysis. The staff report that followed includes an analysis of the debate and recommendations on how to implement the Competition Mission in light of these changes.
- Provided public guidance on competition in the fast-changing health care industry by issuing jointly with the Department of Justice the *1996 Statements of Antitrust Enforcement Policy in Health Care*.
- Considered the critical importance in merger analysis of “innovation markets,” or the competition between companies in

the research and development of new products that may not be available to consumers for more than a decade. For example, the consent agreement in the proposed merger of The Upjohn Company and Pharmacia Aktiebolag, made final in fiscal year 1996, required the divestiture of a chemotherapy drug still under development for colorectal cancer, the second most common form of cancer.

- Continued its commitment to work with state antitrust agencies to leverage antitrust resources. The Commission has engaged in several joint investigations with the states, enabling it to conduct thorough investigations with fewer Commission resources, and reducing the burden on business by allowing joint interviews and joint requests for documents and information.

### *Programs Under the Competition Mission*

The Commission implements its Competition Mission through three major program areas: the Hart-Scott-Rodino (HSR) Premerger Notification Program, the Mergers and Joint Ventures Program, and the Nonmerger Program.

#### *Premerger Notification Program*

Through its implementation and enforcement of the HSR Act, the Premerger Notification Program protects consumers from those mergers that are anticompetitive. Prior to enactment of the Act, mergers often were consummated and operations combined before the antitrust agencies learned of the transactions. It was then difficult, if not impossible, to “unscramble the eggs” and restore the benefits of a competitive market. The HSR Act requires entities that meet certain size requirements and that plan significant acquisitions to file notice with the Commission and the Antitrust Division of the Department of Justice. Consummation of the merger must be delayed for statutorily prescribed periods of time. The HSR Act thus allows the antitrust agencies to analyze and take action against anti-competitive mergers before the mergers actually take place.

The Program strives to minimize the burden on businesses that are required to comply with the HSR Act. To improve voluntary compliance, the Commission’s Premerger Office provides assistance to filers in understanding the Act’s requirements, primarily through responses to tens of thousands of telephone inquiries annually. As



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stated, the Commission, in cooperation with the Department of Justice, also adopted new rules during fiscal year 1996 to exempt certain kinds of transactions that are unlikely to have anticompetitive effects.

Fiscal year 1996 marked the 20th anniversary of the passage of the HSR Act. The Act has become an essential component of antitrust enforcement. In particular, the Commission's effective enforcement of the Act has made parties to mergers and acquisitions more certain of the timing of stages along the investigation path, enabling them to schedule business activities with greater confidence. Similarly, the Commission can make more reliable enforcement decisions because it has access to all relevant data concerning the competitive effect of a merger. This increased certainty has led to better decisions on both sides and has also led to a process that facilitates negotiated outcomes. In sum, the Premerger Program is an important example of efficient antitrust enforcement that protects the consumer's interest in a competitive market while minimizing costs to business.

### *Premerger Enforcement Activities*

During fiscal year 1996, the number of premerger filings increased for the fifth year in a row and totaled 3,087, marking the first time in the history of the Program that filings exceeded 3,000. This represents a 10-percent increase over the number reported during fiscal year 1995 and a 102-percent increase over the 1,529 filings recorded in fiscal year 1991.

The number of filings was at a record level even though the Commission, in an effort to eliminate filings on transactions that are unlikely to have a significant anticompetitive impact, adopted five new rules exempting certain types of transactions from the reporting and waiting period requirements. The new rules, which reduce the number of reportable transactions by an estimated 10 percent, cover transfers of goods or realty in the "ordinary course of business," the acquisition of oil and natural gas reserves valued at \$500 million or less, the acquisition of coal reserves valued at \$200 million or less, the acquisition of securities whose underlying value is represented solely by those kinds of exempt assets, and acquisitions by certain investors of rental real property.

Other premerger enforcement activities included responding to an estimated 40,000 phone calls seeking information concerning

reportability of transactions under the HSR Act and the details involved in completing and filing premerger forms.

The HSR Act can ensure swift and efficient review of proposed mergers only if the parties comply with the Act's requirements and provide complete information. When parties fail to comply with these requirements, the Act provides for the imposition of civil penalties. During fiscal year 1996, the Commission collected a record \$7.65 million in civil penalties after obtaining consent decrees for violations of the HSR Act. In these settlements:

- Sara Lee Corporation paid \$3.10 million, the single largest civil penalty ever for an HSR violation;
- Automatic Data Processing, Inc., paid \$2.97 million;
- Foodmaker, Inc., paid \$1.45 million; and
- Titan Wheel International, Inc., paid \$0.13 million.

### *Mergers and Joint Ventures Program*

The Mergers and Joint Ventures Program seeks to prevent mergers and acquisitions that are likely to harm competition and consumers. The Program also investigates interlocking directorates among competing firms that may have similar anticompetitive effects. The Program has three essential components:

- Detecting potentially harmful mergers before they occur by monitoring merger activity and screening all significant mergers, in conjunction with the Premerger Notification Program;
- Investigating those mergers that the screening process has targeted for further inquiry; and
- Taking appropriate action to prevent (or undo) those mergers or portions of mergers that, after investigation and analysis, appear likely to substantially lessen competition.

In the case of some mergers, the Commission can act to prevent harm to consumers and competition only by preventing the merger or, in rare cases, by undoing it. In many other cases, however, competition can be preserved by more narrowly tailored relief that still allows the overall merger or transaction to proceed. Determining the kind of relief necessary entails investigations that are designed to

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answer fundamental questions about the merger and the affected relevant product and geographic markets:

- Is the merger likely to result in a lessening of actual or potential competition, increase the market power of the merging firms, and lead to market dominance or a significant increase in the likelihood of collusion?
- Is the merger likely to increase barriers to entry or expansion or to foster interdependent conduct among firms?

To protect consumers from mergers that may substantially lessen competition, the most efficient and cost-effective strategy is to prevent mergers before they occur. The Commission has authority under Section 13(b) of the Federal Trade Commission Act to seek a preliminary injunction in federal district court to stop a merger, but more often, it resolves the competitive problem through consent agreements with the merging parties. In addition to injunctive relief, the Commission may rely on administrative remedial powers to restore competition lost as a result of a merger. In either case, the principal (though not exclusive) remedy is the prompt divestiture of assets that are sufficient to restore competition.

### *Merger and Joint Ventures Enforcement Activities*

During fiscal year 1996, Commission staff opened investigations on 55 transactions, including 18 initial-phase investigations (four of these were later converted to full phase) and 37 full-phase investigations. The Commission issued requests for additional information or documentary materials under the HSR Act (“second requests”) for 36 of these proposed transactions. Preliminary injunction cases were authorized in three transactions. Two of these transactions, *Questar/Kern River* and *Rite Aid/Revco* (both highlighted above), were subsequently abandoned. In the third transaction, the proposed merger of Butterworth Hospital and Blodgett Memorial Medical Center, a U.S. District Court denied the Commission’s motion for a preliminary injunction, but the case was subsequently appealed to the U.S. Court of Appeals for the Sixth Circuit and will be litigated in an administrative proceeding. Finally, parties abandoned four proposed mergers after the Commission issued second requests for information.

The Commission's merger investigations included a number of complex and significant transactions in the defense, health care, and telecommunications industries where Commission efforts helped protect competition in the midst of intense restructuring as a result of rapidly changing economic forces and technology. Notable examples include the merger between Time Warner, Inc., and Turner Broadcasting System, Inc., and the proposed, but later abandoned, merger between Rite Aid Corporation and Revco D.S.

During the year, the Commission also accepted for public comment 21 new consent agreements (of which 15 were also finalized during the year) in the following industries:

Health care . . . . .	4
Industrial applications . .	4
Defense industry . . . . .	4
Funeral homes . . . . .	3
Supermarkets and food .	3
Communications . . . . .	1
Oil and gas . . . . .	1
Manufacturing . . . . .	1

The Commission continued to improve the analysis of, and the remedies for, the anticompetitive effects of proposed mergers and made significant gains in achieving divestitures more quickly. During fiscal year 1996, the average time between the issuance of a final consent order and divestiture approval by the Commission was approximately 10 months, a decrease of 5 months from fiscal year 1995. Also, Competition Mission attorneys began participating in a joint task force in cooperation with Commission economists and Department of Justice staff to examine how the competitive analyses of mergers should take into account any probable cost savings from the merger.

Finally, the Commission continued its commitment to work with state antitrust agencies to coordinate antitrust enforcement. The Commission's regional offices have particularly close working relationships with state antitrust enforcers. Staff from both the regional offices and the Bureau of Competition conduct joint and parallel antitrust investigations with the states. Last year, the regional offices hosted four "Common Ground" conferences, bringing together representatives of state Attorneys General offices, several Commission regional offices, and the Department of Justice. The

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conferences were designed to discuss substantive antitrust issues and to explore areas where the state and federal agencies could work together to promote consumer welfare. Plans are underway for future conferences.

### *Nonmerger Program*

The Commission's Nonmerger Program includes three areas of potential anticompetitive conduct: horizontal restraints, distributional arrangements, and single firm violations. The Horizontal Restraints Program is directed at investigating collusive or other collaborative activities involving direct competitors that may harm consumers, such as price fixing. Such activities can harm consumers by raising prices and reducing the quality of available goods and services. Although some agreements among competitors, such as standard setting and the promulgation of legitimate ethical codes, can be procompetitive and even essential, such agreements also can be abused in a way that harms consumers.

The Distributional Restraints Program seeks to protect consumers from anticompetitive consequences that arise from certain vertical agreements among firms in the chain of distribution – from producers to distributors to retailers. An agreement on resale price between firms in a vertical relationship is an example of a distributional practice that has a harmful effect on consumers and is considered *per se* illegal. The Commission investigates distributional restraints carefully to avoid challenging vertical agreements that may benefit consumers.

The Single Firm Program seeks to prevent firms from creating or maintaining market power through conduct that is injurious to consumer welfare. A single firm with market power can use various anticompetitive practices to reduce output below the competitive level and to maintain supracompetitive prices, thereby injuring consumers and misallocating resources. While neither the existence of market power nor the attempt to gain market share is unlawful in itself, achieving market power by practices that exclude competition is unlawful. The principal challenge of the Single Firm Program is to distinguish anticompetitive conduct from conduct that merely constitutes vigorous competition. Conduct investigated under this Program that may be unlawful includes exclusive dealing arrangements, tying arrangements, and price and non-price predation – all of

which can have the effect of driving competitors from a market through means other than vigorous competition on merits.

### *Nonmerger Enforcement Activities*

Under the three nonmerger programs, the Commission opened 49 initial-phase investigations during fiscal year 1996. Five of these investigations were converted to full phase, along with two others that had been opened in earlier years.

The Commission accepted six consent agreements for public comment (with four of them made final during the year), finalized eight other consent agreements, and modified four others. The consent agreements accepted for public comment included:

- New Balance Athletic Shoe, Inc. (resale price maintenance on athletic shoes);
- Dell Computer Corporation (abuse of the standard-setting process in the computer industry to raise rivals' costs);
- RxCare of Tennessee, Inc. (agreements to impose "most favored nation" clauses resulting in restriction of price competition in sales of pharmacy services to pharmacy benefit plans);
- Precision Moulding Company, Inc. (unlawful invitation to fix prices on wood components for art frames); and
- Waterous Company and Hale Products, Inc. (exclusive dealing arrangements restricting competition in sale of fire engine pumps).

During fiscal year 1996, adjudicated decisions were issued in three significant nonmerger matters:

- In *International Association of Conference Interpreters et al.*, an administrative law judge issued an initial decision in favor of the Commission's allegations that the association had engaged in a decades-long collusive scheme to fix prices and to restrict other work practices.
- In *California Dental Association*, the Commission issued a final decision finding antitrust violations for restrictions against truthful, nondeceptive advertising involving the price, quality, and availability of dental services. The matter is on appeal to the U.S. Court of Appeals for the Ninth Circuit.

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- In *Harper & Row Publishers, Inc.*, the Commission dismissed complaints against six book publishers alleging violations of the Robinson-Patman Act involving various price and promotional practices.

In a fourth significant nonmerger matter, *Toys R Us*, the Commission issued an administrative complaint that will be litigated during fiscal year 1997.

On the policy front, the Commission took important steps in providing public guidance on competition in the fast-changing health care industry. In August, the Commission, jointly with the Department of Justice, issued the *1996 Statements of Antitrust Enforcement Policy in Health Care*. These revised statements emphasize that the same antitrust principles that govern other industries apply to health care providers and describe, based on the Commission's extensive experience in the area, how these basic principles are applied to the health care sector. The staff also issued five advisory opinions on proposed arrangements among health care providers.

### **CONSUMER PROTECTION MISSION**

The goal of the Consumer Protection Mission is to maintain a well-functioning marketplace that allows consumers to make informed purchase choices. In today's increasingly complex marketplace, the Mission is developing new and creative strategies to ensure the free flow of current and understandable information to consumers.

Evolving technologies are radically changing the way consumers learn about, buy, and pay for goods and services. An array of new media has supplemented television and print advertising, once the standard for reaching consumers. The Internet, pay-per-call telephone services, and program-length television commercials ("infomercials") are among the new methods sellers are using to reach consumers. In addition, consumers are more sophisticated. Not too long ago, they were interested in only price and quality. Today they are concerned with the health implications of the food they buy, the environmental implications of packaging and other product attributes, the potential loss of personal privacy resulting from the use of online communication, and the astounding growth in telemarketing and other types of consumer fraud.

### ***Mission Strategies***

The Consumer Protection Mission uses three primary strategies to achieve its goal:

- Protecting consumers from fraud, deception, and unfair practices in three priority areas – health, safety, and financial well-being;
- Identifying impacts on consumers of globalization and new technologies to build institutional expertise in these areas and to adapt consumer protection principles to correct practices that harm consumers and undermine these new markets; and
- Using creative approaches that are effective in protecting consumers and are not unduly burdensome for businesses.

The Mission implements these strategies through actions that involve both law enforcement and consumer education. Acting on the belief that the most effective consumer protection is education, the Mission is committed to alerting as many consumers as possible to fraud in the marketplace and educating consumers and businesses about their rights and responsibilities under Commission rules and regulations.

### *Overview of Activities*

Fighting fraud is one of the Commission's highest priorities; consumers are bilked out of billions of dollars a year. In fraud cases, the Commission files actions in federal district court to bring an immediate halt to ongoing business activities and freeze defendants' assets. The Commission then pursues court orders that permanently ban the fraudulent activities and provide refunds to consumers. In addition to targeting fraud, the Commission's law enforcement efforts focus on stopping deceptive or unfair practices that cause significant risk to consumer health, safety, and economic well-being. The Commission often uses internal administrative litigation to pursue nonfraud cases involving novel or complex legal issues, many challenging advertising claims.

The Commission also puts a high priority on consumer education – the first line of defense against fraud and deception. With each major enforcement initiative, the Commission launches an education campaign, using both traditional and new media to reach as many consumers as possible. In fiscal year 1996, the Commission distributed a record 4.1 million brochures. Almost all print materials are posted to the *ConsumerLine* section of the Commission's Web page ([www.ftc.gov](http://www.ftc.gov)); over 140,000 publications were accessed online



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during the year. A unique initiative of the Commission is the Partnership for Consumer Education, a national coalition of 84 businesses, trade associations, consumer groups, and government agencies that have committed to educate the public about telemarketing fraud. From January 1996, when the partnership was launched, through September 1996, this group disseminated 90 million fraud prevention messages.

The Mission's activities are supplemented by close federal-state coordination. Joint resources are targeted to issues that have a direct impact on consumers. Staff attorneys working on individual cases and sweeps – groups of related cases – coordinate with their colleagues in federal, state, and local consumer protection offices. During the fiscal year, the Commission led its state and federal partners in a series of law enforcement sweeps. The Commission brought over 200 cases against fraudulent operators, stopping fraud that cost consumers \$200 million – four times the Commission's annual budget for Consumer Protection matters. And for every case the Commission brought, its state and federal partners brought two more.

The Consumer Protection Mission is advanced by five law enforcement programs – Advertising Practices, Credit Practices, Enforcement, Marketing Practices, and Service Industry Practices; the Office of Consumer and Business Education; and the Commission's ten regional offices. Regional staff are responsible for a wide variety of significant consumer protection cases and are important contact points for state Attorneys General and other state and local consumer protection officials.

### *Advertising Practices Program*

The Advertising Practices Program promotes truthful, informational advertising, fair competition, and industry self-regulation. It issues guidelines to business on how to comply with Commission laws and policies in specific areas such as food and environmental marketing and advertising and how to advance national advertising policy. It brings law enforcement actions that focus on advertising claims with the potential for causing injury to consumers' health, safety, and economic well-being and the new advertising media and techniques spawned by the increasingly diverse, high-tech marketplace. It organizes public workshops and publishes reports that examine important and controversial consumer protection issues.

It also administers federal laws requiring health warnings on tobacco products.

Health and safety claims – claims that consumers often cannot judge for themselves – are a primary focus of this Program. Consumer interest in health and nutrition is very high, and the market has responded by introducing “healthier” food product lines and nutritional supplements. The Program scrutinizes food advertisements for false and misleading low-calorie and low-fat claims. Marketers of dietary supplements advertise and promote their products heavily as scientific evidence becomes available regarding the potential health benefits of various nutrients. The Program monitors advertising for this product category, focusing on unsubstantiated health and efficacy claims for supplements claiming, for example, to speed weight loss and build muscle or to lower serum cholesterol.

The marketing of over-the-counter (OTC) drugs also has significant impact on consumers’ health and safety. The Program challenges unsubstantiated claims of efficacy, superiority, and comparative safety in OTC drug advertising, including claims for analgesics, acne medications, and suntanning products. The increasing number of “switch” drugs, products previously available only by prescription but now allowed by the Food and Drug Administration (FDA) to be sold over-the-counter, also are of particular interest to the Commission since there can be significant economic benefit to consumers from these products.

In 1992, the Commission issued guidelines on environmental or “green” labeling and advertising claims. During fiscal year 1996, the Program conducted a formal review of the Guides, including holding a public workshop in which representatives from state and federal government, environmental groups, industry, and academia presented their views. Based on this review, the Commission determined that the Guides are effective in preventing deception and encouraging truthful claims. Also in this area, the Commission provides assistance to the U.S. Trade Representative on issues involving international environmental labeling regulations and programs conferring “eco-seals” to environmentally beneficial products.

New information technologies have had a significant impact on advertising. Infomercials, home shopping channels, catalogs, online shopping services, and other forms of nonretail, direct sales are a growing segment of the advertising market. The Program responded to this dramatic increase in advertising outlets through a media

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screening initiative, which works with advertising and media trade associations, such as the Cable Television Advertising Bureau, to educate the media on the importance of preventing fraudulent advertising by careful screening. As part of this initiative, and in conjunction with law enforcement actions, the Program is alerting media members that have carried advertising alleged to be deceptive by the Commission.

Expanded commercial use of the Internet is having a dramatic impact on consumers. The benefits of the free flow of information, both to consumers and industry, are great. The proliferation of readily available personal information, however, could jeopardize personal privacy and facilitate fraud and deception. In seeking to understand these and other issues, the Program, working with staff of the Credit Practices Program, convened a workshop in fiscal year 1996 to allow interested parties to express their views on privacy issues and online protections for consumer privacy. A subsequent report summarized the participants' diverse views and described private-sector efforts to address concerns about information privacy online.

Recognizing that children are a special audience, the Commission plays a leadership role in children's advertising and marketing issues. The Program focuses on deceptive and unfair advertising aimed at children in traditional media and on the Internet. For example, as part of the workshop and report examining consumer privacy in the online marketplace, the Program conducted a review of the information collected online from children. The Program also monitors tobacco and alcohol advertising to identify ads targeted to an underage audience, conducting law enforcement investigations where appropriate, and working with industry and health groups to encourage greater self-regulation in this area.

### *Credit Practices Program*

The Credit Practices Program enforces several federal credit statutes that affect more than 113 million consumers who hold over 900 million credit cards and many millions more who obtain credit through loans. In this age of borrowing, credit bureaus play a critical role in the ease and speed with which individuals are able to get credit. With files on over 190 million Americans, the major credit bureaus have a responsibility to ensure the accuracy and privacy of this personal and sensitive information.

In 1996, Congress passed comprehensive amendments to the Fair Credit Reporting Act (FCRA) that take effect in 1997. The amendments significantly expand coverage of the Act to those who furnish information to or obtain reports from consumer reporting agencies. The Program is responsible for educating consumers and businesses about the new rights and obligations established under this law. During the past year, the Program continued its enforcement of the current law, including litigation against one of the three major credit bureaus for its alleged violations of the FCRA by selling target marketing lists.

Credit identity fraud, where a criminal takes over a consumer's existing credit accounts or opens new credit accounts in the consumer's name, is a growing problem. The Program took the lead in this area by working with consumer and industry groups, including holding two workshops designed to promote consumer education and voluntary industry efforts at prevention and cure of this rapidly growing fraud.

Denial of credit access for reasons unrelated to creditworthiness continues to be a serious problem. The Equal Credit Opportunity Act, enforced by the Commission, requires lenders to judge individuals' creditworthiness by their financial condition and history, not by factors such as race, age, or national origin. The Program engages in enforcement activities designed to alert lenders subject to the Commission's jurisdiction that illegal lending discrimination is not tolerated.

The credit market breaks down when creditors fail to provide essential information or, worse, provide incorrect information. In its jurisdiction over millions of creditors, the Commission's role is to ensure that they provide accurate information, thereby allowing the marketplace to operate properly. The Truth-in-Lending and Consumer Leasing Acts require certain information about the total cost of the credit or lease to be placed in advertisements and given to consumers before transactions are consummated to allow for comparison shopping and fair competition among creditors. During fiscal year 1996, the Program, working with 23 state Attorneys General, concluded a major enforcement sweep of five major automobile manufacturers for their deceptive lease and credit advertisements. The proposed settlements, which became final in 1997, require the companies to provide clear, readable, and understandable cost information in their leases and, in two cases, credit advertisements. In addition, the Commission participated with the

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Federal Reserve Board, industry members, and consumer groups to develop consumer education on important leasing issues.

Default by a certain percentage of consumers is an inevitable consequence of granting credit. Creditors may take collection action in these cases or assign them to debt collectors. Under the Fair Debt Collection Practices Act, the Commission plays a critical role in clarifying proper collection tactics and prosecuting those who violate the law. The Program also makes it clear that creditors bear some responsibility for collectors' actions, when they are aware of the actions.

Finally, credit and other markets fail when merchants engage in unfair or deceptive trade practices. Given the importance of credit in individuals' lives, many of these illegal practices focus on credit issues. They include advance-fee loan fraud, phony gold cards, misuse of bank drafts, false advertising about secured credit cards, vacation scams, and credit repair.

The proliferation of readily available personal information on the Internet raises issues concerning personal privacy and possible fraud and deception. Working with the Advertising Practices Program, the Program convened a workshop to explore the full range of views about privacy in the online marketplace and the role of government in this rapidly evolving marketplace, and will continue to monitor developments in this fast-growing area. In addition, consumer deception on the Internet resulted in several law enforcement actions, many involving credit repair schemes.

### *Enforcement Program*

The Enforcement Program enforces Commission orders that cover a wide variety of products, services, and consumer protection issues. It also administers and enforces more than a dozen statutes and rules, covering such diverse areas as care labels on clothes, energy labels on appliances, efficiency ratings for home insulation, buyers' guides on used cars, octane ratings, mail and telephone order sales, door-to-door sales, and the receipt of unordered merchandise. The Program works to improve compliance with orders and rules, seeking significant penalties when appropriate, and working cooperatively to ensure future compliance by companies that have acted in good faith and committed only technical or inadvertent violations.

In fiscal year 1996, the Program obtained nearly \$4.7 million in civil penalties or disgorgement of ill-gotten gain to remedy violations

of orders and rules. This amount includes the largest civil penalty to date in a consumer protection matter – a major hearing aid manufacturer paid \$2.7 million to settle allegations of false and unsubstantiated claims for hearing aids. Other cases resulting in substantial penalties or disgorgement involved false low-fat claims for frozen yogurt, unsubstantiated low-cholesterol claims for eggs, misrepresentation of the performance of a toy, and unsubstantiated engine treatment claims.

The Program coordinated a Telemarketing Sales Rule sweep of office and cleaning supply fraud operations that targeted small businesses and not-for-profit organizations, such as churches, monasteries, and schools. The sweep encompassed 17 cases, 5 filed by the Commission and 12 brought by the U.S. Postal Inspection Service or state and local officials. Most of the targeted operations closed, and some paid substantial sums in consumer redress.

The Program has responsibility for the Commission's ongoing review of its standard for claims that products are "Made in USA." A key event in this review was a 1996 workshop that brought together industry representatives, labor union officials, consumer groups, state officials, and others to discuss consumer perception of "Made in USA" claims and how the movement toward a global economy should affect the Commission's standard.

A major project during fiscal year 1996 focused national attention on the issue of checkout scanner accuracy. The Program worked closely with the National Institute of Standards and Technology and the National Conference on Weights and Measures to train state and local officials and industry members in the use of inspection procedures designed to increase scanner accuracy. Price checks conducted in 300 stores in seven states did not suggest that federal enforcement actions were required, but did suggest the need for consumer and business education to focus attention on the issue. Following extensive discussions with government and industry officials, the Program worked with the Consumer and Business Education Office to create and distribute educational materials.

The Program plays a leading role in carrying out the Commission's commitment to reviewing all of its rules and guides, repealing those that are outdated or no longer necessary, and streamlining those that are retained. In fiscal year 1996, the Commission rescinded eight rules and two industry guides and revised an additional six rules and two guides. Since the initiation of the Commission's regulatory reform program in 1992, the

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Commission has rescinded 27 rules and guides and revised another 19. This total represents more than 50 percent of the rules and guides in effect in 1993.

In response to the North American Free Trade Agreement, the Commission also is seeking to revise its rules to harmonize with those of U.S. trading partners. The Program is working closely with government and industry groups striving to achieve harmonization. In fiscal year 1996, the Commission sought public comment on proposals to allow use of icons in lieu of words on care labels and to revise other textile labeling requirements in ways that will facilitate trade within North America. The Commission also amended the Appliance Labeling Rule to reduce manufacturer burdens in complying with all North American energy labeling requirements.

### *Marketing Practices Program*

The Marketing Practices Program works to stop fraud that consumers cannot readily detect and avoid on their own. The Program also targets economic harm caused by sellers who fail to provide consumers with the information necessary to prevent them from being deceived. Reflecting the variety, prevalence, and severity of consumer problems in the national economy, the Program focuses on deception and fraud in telemarketing and in the promotion and sale of business opportunities and franchises. To ensure that consumers have the information they need before paying for goods or services, the Program enforces the Franchise Rule (requiring franchisors to provide presale disclosure documents to prospective investors), the Pay-Per-Call Rule (requiring disclosure of cost and other material information to consumers who purchase information or entertainment through 900 numbers), the Funeral Rule (requiring disclosure of itemized cost and other information), and the Telemarketing Sales Rule (requiring material disclosures and prohibiting misrepresentations in telemarketing).

Economic fraud directed at consumers and small businesses is one of the most common consumer protection problems. The Program targets fraud that cannot be readily detected by most consumers or is aimed at vulnerable populations, like older consumers. Many perpetrators of this type of fraud use new technologies not yet understood by consumers or apply familiar technologies in new ways to confuse consumers, such as the Internet, new payment systems (such as 900 numbers and other innovative telecommunications

services), credit cards, electronic fund transfers, and demand drafts (bank transactions that deduct money from a consumer's checking account without a written instrument bearing the consumer's signature).

Fraudulent sale of franchises and of business and employment opportunities, often with the aid of telecommunications technology and electronic fund transfers, has become an area of special concern. These schemes often victimize consumers who invest severance pay, retirement savings, or all their assets in business opportunities that seem likely to pay off and provide economic security. Recent estimates suggest that tens of thousands of investors lose as much as \$500 million a year to franchise and business opportunity fraud.

In its continuing effort against this type of fraud, the Program launched "Project Buylines," a sweep against seven marketers of fraudulent business opportunities for 900-number lines. Investors are told all they have to do is advertise the pay-per-call programs recorded on the 900-number lines and take a portion of the revenues for themselves. This effort was a follow-up to the innovative and highly successful "Project Telesweep," which in fiscal year 1995 resulted in dozens of cases filed concurrently by the Commission, the Department of Justice, and state officials. Litigating the Telesweep cases to conclusion was also an important effort of franchise fraud and Franchise Rule enforcement in fiscal year 1996.

During the past year, a major effort of the Program was the design and coordination of federal-state enforcement of the Telemarketing Sales Rule (TSR), an important new tool in the battle against telemarketing fraud. The TSR became effective December 31, 1995, making illegal almost everything that fraudulent telemarketers do to separate consumers from their money. It also gives the 50 state Attorneys General the ability to go into federal district court and get injunctive orders that apply nationwide against fraudulent telemarketers. The enforcement effort included educating businesses and consumers about the new Rule; providing training on the Rule and federal court practice to the Commission's co-enforcers, the states; and designing, coordinating, and implementing a series of comprehensive enforcement sweeps, each of which focused on a particular type of telemarketing fraud or a particular practice outlawed by the TSR, such as credit repair scams, advance-fee loan scams, and deceptive prize-promotion scams. Close coordination with the states and other federal agencies with jurisdiction over telemarketing fraud was a key strategy in implementing the sweeps. This effort resulted



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in more than 100 TSR enforcement actions on the state and federal level, including 23 federal district court cases filed by the Commission and 7 filed by the U.S. Postal Inspection Service.

The Program also seeks to remedy consumer injury that occurs when sellers fail to provide important information to consumers. By enforcing the Funeral Rule, the Commission imposed sanctions on funeral providers who failed to give consumers information about choices and prices for all goods and services sold. A noteworthy development in Funeral Rule enforcement was the Commission's implementation, in conjunction with the National Funeral Directors' Association (NFDA), of an innovative industry training and certification program, the Funeral Rule Offenders Program (FROP), designed to bring identified noncomplying funeral homes into compliance without formal law enforcement action, thereby reducing the level of Commission resources needed to enforce the Rule.

FROP participants make a voluntary payment to the U.S. Treasury or the state in amounts lower than civil penalties might be assessed for the potential law violations identified and agree to enroll their personnel in NFDA's training program and submit to NFDA certification and business form review procedures. In fiscal year 1996, 26 funeral homes were offered FROP as an alternative to possible litigation. Twenty-three of the funeral homes accepted the offer and voluntarily entered FROP, making over \$114,000 in voluntary payments and receiving training in complying with the Funeral Rule. The 26 homes that were offered FROP were identified through efforts of the Commission and five state Attorneys General in regional sweeps that involved test-shopping funeral homes in Colorado, Illinois, Massachusetts, Ohio, and Oklahoma.

### *Service Industry Practices Program*

The Service Industry Practices Program addresses a variety of consumer frauds and market failures that impose substantial costs on consumers, including the fraudulent or misleading sale of non-traditional investments and health care and other services. The fraudulent telemarketing of investments and services causes billions of dollars of consumer injury every year. In the wake of recent law enforcement crackdowns on traditional prize-promotion and recovery room frauds, investment frauds have burgeoned. The Internet has become fertile ground for investment scams, and deregulation in the telecommunications industry continues to spawn numerous invest-

ment ventures designed to capitalize on purported new markets. False claims are made concerning the value and capabilities of the particular technologies being promoted, the profit to be derived, and the risk of investing.

During the past year, the Program attacked these and other frauds with a strong enforcement effort that included several law enforcement sweeps, conducted with federal and state criminal authorities, and intensified consumer education campaigns.

In “Operation Roadblock,” the Program partnered with 20 state securities regulators to bring 85 actions against sellers of “information superhighway” investments. This major crackdown was aimed at telemarketers who peddle fraudulent high-tech investments that cost consumers over \$250 million. This effort garnered enormous attention from the media, which in turn alerted consumers to the perils of high-tech scams. Indeed, consumer warnings were on the front page of *USA Today*.

“Operation Career Sweep” targeted scam artists who falsely promised to obtain jobs for consumers in exchange for upfront fees of up to several hundred dollars each. Working with federal and state partners, the Program brought seven cases and obtained more than \$1 million in refunds for thousands of consumers. A consumer education campaign to help job hunters avoid these schemes included brochures, consumer tip cards, and public service messages posted on the Internet.

The Program led “Project Scholar\$cam,” which focused on scams aimed at high school and college students seeking financial aid. The sweep, which stopped scams that cost some 100,000 consumers over \$15 million, was combined with a massive education campaign in which the Commission and the education community distributed over 800,000 bookmarks, posters, and flyers, and posted warnings at popular Internet Web sites.

The Program joined forces with states and the FBI, bringing civil cases in support of “Operation Senior Sentinel,” an enormous law enforcement effort that closed down sweepstakes, recovery rooms, and similar frauds that target older consumers. The Program and the FBI also conducted simultaneous actions against an allegedly fraudulent seller of “invention promotion” services, in which the Program obtained \$1 million in redress for consumers.

“Project Jackpot,” a federal-state effort targeting firms that fraudulently offer purportedly valuable prizes to consumers to induce them to purchase products, resulted in 56 enforcement actions against

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79 defendants in 17 states. Consumer education materials were developed and released in combination with this major law enforcement effort.

As part of its effort to combat telemarketing fraud, the Commission maintains a Telemarketing Database developed with the National Association of Attorneys General (NAAG). This database captures information from the National Fraud Information Center (a project of the National Consumers' League), which receives about 8,000 inquiries a month from consumers who believe they may have been subjected to a deceptive telemarketing sales pitch. The NAAG-FTC Telemarketing Complaint System contains information from over 60,000 complaints and grows at the rate of over 11,000 new complaints each year. In fiscal year 1996, this system was used by over 100 law enforcement agencies, including the FBI, the U.S. Postal Inspection Service, the Department of Justice, and 44 state Attorneys General. The complaint system helps agencies determine enforcement priorities, allowing them to target particular types of fraud and/or specific geographic areas. It is instrumental in providing witnesses in cases that are part of the coordinated enforcement sweeps by federal, state, and local agencies.

The marketing of health care services is estimated at \$1 trillion annually; as much as \$100 billion may be attributable to fraud. Victims of health care fraud frequently lack information to evaluate deceptive advertisements and are often reluctant to challenge health care professionals because of this information gap. Deception in the marketing of these goods and services not only adversely affects consumers' pocketbooks, but also may endanger their health. Some consumers may be led to purchase goods and services that do not perform as advertised and delay treatments or procedures that may be far more effective. The Program targets false and unsubstantiated therapeutic and efficacy claims for health care goods and services, and works jointly with other federal, state, and local agencies to address deceptive claims. Education efforts are combined with law enforcement to assist consumers and provide guidance to marketers.

During the past year, the Program pursued numerous innovative remedies in the accomplishment of its mission. These included sending a joint Commission/FDA staff advisory to over 37,000 ophthalmologists regarding impermissible claims for laser eye surgery, working with the Department of Justice to repatriate \$330,000 in funds from a defendant's Bahamian bank for redress to U.S. telemarketing victims, holding a health care conference in Dallas

to promote joint federal-state enforcement against health frauds, and negotiating a settlement that provided 1,000 energy-efficient windows to state agencies in Oregon and Washington as consumer redress.

### ***ECONOMIC ANALYSIS***

The Bureau of Economics provides economic support to the Commission's antitrust and consumer protection activities, advises the Commission and other government entities about the impact of government regulation on competition, and analyzes economic phenomena in the nation's industrial economy as they relate to antitrust and consumer protection.

The primary mission of the Commission is to enforce the antitrust and consumer protection laws. In fiscal year 1996, the Bureau continued to provide guidance and support to those activities.

In the antitrust area, economists offered advice on the economic merits of potential antitrust actions. Situations in which the marketplace performed reasonably well were distinguished from situations in which the market might be improved by Commission action. When enforcement actions were initiated, economists worked to integrate economic analysis into the proceeding, to provide expert testimony, and to devise remedies that would improve market competition.

In the consumer protection area, economists assessed the benefits and costs of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer-run effects on price, product variety, and overall consumer welfare.

Although the Commission is primarily an enforcement agency, it is also charged with analyzing data and publishing information about the nation's industries, markets, and business firms. Much of this work is undertaken by the Bureau of Economics. In fiscal year 1996, economists conducted studies on a broad array of topics in antitrust and consumer protection.

The Bureau of Economics also coordinates the Commission's Consumer and Competition Advocacy Program, which the agency uses to provide advice to federal, state, and other regulatory entities concerning the actual or potential economic impacts of existing and proposed trade regulations.

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### *Antitrust*

In the antitrust area, economists participated in all investigations of alleged antitrust violations and in the presentation of cases in support of complaints. Economists also advised the Commission on all proposed antitrust actions and provided economic expertise for matters in litigation. These activities consumed the bulk of the Bureau's resources assigned to directly support the Commission's antitrust responsibilities.

The Bureau also maintains a small research program in support of the Commission's antitrust activities. During the year, the Bureau released two studies: (1) *The Salt Producers' Discount Practices Before and After the Robinson-Patman Act and the FTC's Challenge to Them: The Morton and International Salt Cases* and (2) *The Effectiveness of Collusion Under Antitrust Immunity: The Case of Liner Shipping Conferences*.

Ongoing antitrust-related studies included (1) an examination of the effects of Commission divestiture orders, (2) a study of the price and output effects of franchise transfers and mergers in the carbonated soft drink bottling industry, (3) a descriptive study of the pharmaceutical industry, (4) a study of the effects of mergers and corporate downsizings on aggregate employment, (5) a study of the effects of the entry of generic drugs on the pricing and output of branded drugs, and (6) an empirical analysis of signal carriage for cable TV systems.

### *Consumer Protection*

In the consumer protection area, economists evaluated proposals for full-phase investigations, consent negotiations, consent settlements, and complaints. In addition, economists routinely provided day-to-day guidance on individual matters, provided litigation support services, and made policy recommendations directly to the Commission.

In addition to the Bureau's direct support for individual consumer protection case matters, staff economists worked on consumer protection topics of interest to the Commission. During fiscal year 1996, the Bureau released one study: *Disentangling Regulatory Policy: The Effects of State Regulations on Trucking Rates*. The Bureau also continued work on two other projects: (1) the effects of

advertising on the consumption of fats and cholesterol by U.S. consumers and (2) the content of advertising for oils and margarines.

### *Consumer and Competition Advocacy*

The interests of consumers are not always well represented in some legislative and regulatory forums. Consequently, laws or regulations are sometimes promulgated that harm consumers by restricting entry, limiting competition, chilling innovation, raising prices, or reducing the quality of goods and services. The goal of the Commission's advocacy activities is to limit such harm to consumers by informing appropriate governmental and self-regulatory bodies about the potential effects on consumers, both positive and negative, of proposed legislation, rules, or industry guides or codes. The advocacy program in the Bureau of Economics is the central source of planning, coordination, review, and information for the staff's work in this area. During fiscal year 1996, the Commission staff submitted 12 comments to federal agencies, such as the Federal Energy Regulatory Commission and the Federal Communications Commission, and various state agencies. Comment submissions covered subject areas such as electric utility mergers, economic claims about prescription drugs, allocation of video system capacity, and various occupational regulation issues, among others.

### **MANAGEMENT AND ADMINISTRATION**

#### *Budget and Finance*

During fiscal year 1996, the Division of Budget and Finance negotiated a cross-servicing agreement with the Department of the Interior for Commission personnel and payroll processing systems to be provided by the Department of the Interior's Administrative Service Center in Denver, Colorado, and worked with the Commission's Division of Personnel to implement those systems. The Commission's contribution to the agreement included the design and implementation of the Department of the Interior's first fully automated time and attendance payroll reporting system.

The Division of Budget and Finance managed the Commission's financial services, such as maintaining a general ledger accounting system; ensuring that effective financial policies and procedures are developed and maintained to support mission operations and to take full advantage of available technologies; issuing accurate and timely financial reports to program offices, the Department of the Treasury,

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and the Office of Management and Budget; and providing oversight of services received from the Administrative Service Center. The Division also carried out Commission-wide management programs for audit follow-up and reviewed and reported on internal controls. The Division planned and carried out the fiscal year 1996 budget, supported the fiscal year 1997 budget request through Congress, and developed the fiscal year 1998 budget request.

### ***Personnel***

In fiscal year 1996, the Division of Personnel managed the Commission's human resources activities, which included such services as recruitment, position classification, employee relations, performance management, and labor relations. During the year, the Division of Personnel continued working with Bureau/Office Directors in filling several key senior positions. The Division also provided valuable support to the agency's Partnership Council in implementing recommendations for improving the role of secretaries and making changes to the Commission's performance management system. Specifically, the Division of Personnel coordinated an array of seminars and training sessions geared toward maximizing the effectiveness of the agency's secretarial resource. Staff from the Division also played a key role in facilitating the Commission's transition to changes in the performance management system. These efforts included sponsoring training to foster increased managerial feedback to employees.

Also during fiscal year 1996, the Division of Personnel began utilizing the Department of the Interior's Payroll Personnel System for all payroll personnel activities. Agency managers now have the capability to generate requests for personnel actions and time and attendance records electronically through an integrated payroll personnel system.

### ***Procurement and General Services***

In addition to providing the day-to-day administrative support to the Commission, the Division of Procurement and General Services completed several significant initiatives during fiscal year 1996. These accomplishments included major contract awards for the following:

- Personal computers,
- Services of experts,
- Legal training,
- Court reporting services,
- Records management,
- Administrative support services for Eastern Europe, and
- Facility management services.

The Division submitted reports to the Federal Procurement Data Center and the Small Business Administration describing goals and accomplishments in the procurement area for the year. The Division also administered the Commission's credit card program for purchases, which accounted for over \$1 million.

Procurement and General Services completed several facility projects. These included renovating the Mail Management Center to accommodate X-ray equipment, remodeling offices on the sixth floor to obtain better utilization of office space, installing safety glass and fragment-retention film on the windows in the Child Care Center, and coordinating the relocation of regional offices with the General Services Administration.

### *Information and Technology Management*

At the beginning of fiscal year 1996, the Planning and Information program implemented a restructuring of its functions and staff. That restructuring was the result of an extensive analysis of the organizational structure and the methods of providing the products and services needed by the customers of the Commission's information and technology resources. The program was renamed the Office of Information and Technology Management (ITM) to more clearly reflect the scope of responsibilities of the organization.

The restructuring was designed to enhance ITM efforts to meet the overall goal of the program: increasing Commission productivity and effectiveness by helping agency programs and staff make use of information and technology to improve the quality and quantity of their work. The strategy for meeting that goal has four elements:

- Installing and maintaining the infrastructure of modern systems and other information resources that are necessary for the Commission's lawyers and economists to do their work,



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- Training and supporting Commission staff in the use of the infrastructure as effectively as possible,
- Working with program managers and staff to focus resources on the Commission's priority law enforcement and consumer/business education goals, and
- Coordinating and supporting a majority of the Commission's information retrieval and dissemination efforts.

### *New Organizational Structure*

In order to more effectively meet program goals, ITM was structured into eight teams. The Chief Information Officer Team provides overall management and direction to the program, as well as administrative support in all areas. The Commission's Chief Information Officer is the leader of this team and of the ITM program. The other teams, which provide products and services directly to ITM customers, include the following: Litigation and Customer Support, Library, Information Dissemination, Information Management, Software Development, Technology Operations, and Technology Development.

### *Customer-Directed Approach*

In general, the organization was refined to provide a closer link between the program and its customers and a more streamlined structure to improve communication and cooperation within the program. One of the most significant accomplishments of the year was the creation of the ITM Board of Directors. That group, made up of Bureau Directors, a Regional Director, and the Executive Director, met several times throughout the year to review ITM's proposals, issues, problems, and accomplishments. The Board provided invaluable assistance in ensuring that ITM concentrated on the products and services that were most important to the missions of the agency.

### *Management*

Overall, the budgets and resources of the entire program were combined into one to provide more effective and efficient formulation, execution, management, and oversight. At the major initiative level, ITM created a structure for each project that includes

a Commission sponsor, who is a senior manager from outside ITM and who has considerable knowledge about the initiative's subject matter; a project steering committee, composed of representatives from each organization that has a significant stake in the project, which helps to ensure that the project's scope and course are designed to achieve the needed results; an ITM sponsor, who coordinates the cooperation and communication between the ITM teams and the Commission organizations involved in the project; a technical project manager, who is responsible for planning and executing the project; and the project team, which is composed of staff from any ITM team that has some role in completion of the project. Each proposed major initiative is presented to the ITM Board of Directors for approval of the scope of the project and approval of the sponsors and manager. That approach ensures that each project that will consume significant resources falls within the priorities of ITM customers.

### *Products and Services*

In addition to the ongoing maintenance of basic information and technology services, ITM completed or made significant progress on the following major initiatives.

*Windows Desktop/Open Network Computing Project.*—ITM completed the project, which was begun in fiscal year 1995, to acquire and install the hardware and software required to meet Commission-wide staff needs for improved local area network (LAN) services, Windows-based software, direct access to Commission data resources in various media forms, and Internet access to the outside world. The upgrade was designed to provide the requisite amount of power and capacity at the desktop, at the server, and at the central computer to support future open-network, client/server computing for mission-critical systems, along with a graphical user interface and LAN-based Windows applications.

*Videoteleconferencing Services.*—ITM purchased, installed in both Headquarters' buildings and each of the 10 regional offices, and trained staff in the use of videoteleconferencing equipment, which permits staff to conduct face-to-face meetings when needed, without incurring travel expenses. The new service was used very successfully to provide training to regional staff and to receive regional involvement in important discussions held at Headquarters. This

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technology also provides the same type of service between individual regional offices.

*LANDOC Document Collection.*—The collection of documents that are available to Commission staff through the automated document storage system, LANDOC, grew to over 27,000 documents by the end of fiscal year 1996. In addition to increasing the number of documents from various collections of historical documents, including important documents issued by the Commission, ITM implemented procedures to ensure that newly issued documents are added to LANDOC as they are created.

*Internet Services.*—The success of the Commission's Internet site ([www.ftc.gov](http://www.ftc.gov)) continued in fiscal year 1996. As the number of customers who gained access to the site continued to increase, ITM and the Internet Steering Committee selected a contractor to redesign the Commission's Internet site to gather the benefits other, more mature sites have found. The result of the redesign will be a more intuitive structure that may attract more customers. During the year, procedures were implemented to ensure that both Commission news releases and underlying documents were available through the Internet soon after they were released to the public.

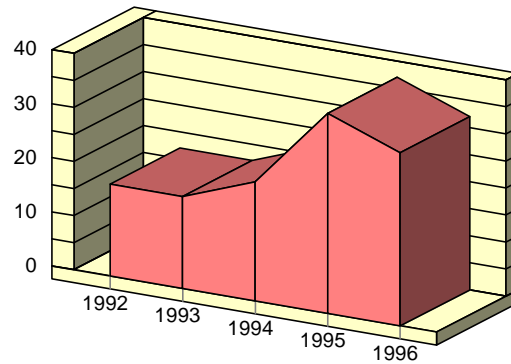
*Telemarketing Complaint System.*—In fiscal year 1996, ITM worked very closely with the Bureau of Consumer Protection to redesign the Telemarketing Complaint System. That system has been extremely important to the Commission on two major fronts. First, it captures information about problems and concerns that consumers have about the telemarketing practices of businesses throughout the country. That information is invaluable to the Bureau in identifying businesses that may be in violation of various statutes and rules. Second, because the system is available to law enforcement organizations at all levels of government, it is a powerful tool in the effort to coordinate enforcement of the law. The previous system was several years old and was based upon technological infrastructures that had become unwieldy or obsolete. In fiscal year 1996, a version of the new system, which uses current technology and is much easier to use, was made available to Commission staff. A very similar version will be made available to other users in 1997. Not only was the ultimate product successful, but the process used to produce the product, which followed the cooperative and structured approach ITM

is using on all major initiatives, proved successful. Both ITM and the Bureau agreed that the close working relationship that developed during the effort will help to make future developments easier and more effective.

*Matter Management System (MMS).*—The effort to replace the Commission's Management Information System (MIS) with a new application made significant progress in fiscal year 1996. ITM built upon the requirements analysis, completed in 1995, which determined the types of information and functional needs that the agency has for overall management of its activities, for historical purposes, for conducting law enforcement and administrative activities, and for integration with other agency automated information systems. Software was purchased to serve as the basis for the new application, which will be called the Matter Management System (MMS), and customization of that software was begun. By the end of the year, much of the customization was completed and the new system was made available for limited testing by staff from each major organization within the Commission. Implementation of the first phase of the new system, which includes virtually all of the functionality found in MIS, is scheduled for 1997.

**APPENDIX**

**PART II CONSENT ORDERS ISSUED  
COMPETITION MISSION**



**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product/Service
Columbia/HCA Healthcare Corporation	C3619	10/03/95	Horizontal Merger	Inpatient Hospital Services
Columbia/HCA Healthcare Corporation	C3627	11/24/95	Horizontal Merger	Psychiatric Hospital Services
Compagnie de Saint-Gobain	C3673	06/12/96	Horizontal Merger	Refractories and Hot Surface Igniters
Council of Fashion Designers of America, The	C3621	10/17/95	Horizontal Restraint	Fashion Modeling Services
Dell Computer Corporation	C3658	05/20/96	Attempt To Monopolize	Personal Computers
Devro International plc	C3650	04/03/96	Horizontal Merger	Collagen Sausage Casings
Federal News Service Group, Inc.	C3632	12/18/95	Horizontal Restraint	News Transcripts
Reuters America, Inc.	C3633	12/18/95		
First Data Corporation	C3635	01/16/96	Horizontal Merger	Money Wire Transfers
Hoechst AG	C3629	12/05/95	Horizontal Merger	Pharmaceuticals

**Part II Consent Orders Issued**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Hughes Danbury Optical Systems, Inc.	C3652	04/30/96	Horizontal Merger	Deformable Mirrors
Illinois Tool Works Inc.	C3651	04/23/96	Horizontal Merger	Industrial Power Equipment
Johnson & Johnson	C3645	03/19/96	Horizontal Merger	Surgical and Medical Instruments
Koninklijke Ahold NV	C3687	09/30/96	Horizontal Merger	Grocery Stores
Litton Industries, Inc.	C3656	05/07/96	Vertical Merger	Systems Engineering
Local Health System, Inc.	C3618	10/03/95	Horizontal Merger	Inpatient Hospital Services
Lockheed Martin Corporation	C3685	09/18/96	Horizontal Merger	Guided Missiles and Space Vehicles
Loewen Group Inc., The Loewen Group International Inc., The	C3678 C3677	07/30/96 07/30/96	Horizontal Merger	Funeral Homes
Mustad International Group NV	C3624	10/30/95	Horizontal Merger	Rolled Horseshoe Nails
New Balance Athletic Shoe, Inc.	921 0050	09/10/96	Vertical Price Fixing	Athletic Footwear
Phillips Petroleum Company	C3634	12/28/95	Horizontal Merger	Natural Gas Transmission
Port Washington Real Estate Board, Inc.	C3625	11/17/95	Horizontal Restraint	Multiple Listing Services
Praxair Inc.	C3648	04/01/96	Horizontal Merger	Industrial Gases
Precision Moulding Company, Inc.	C3682	09/03/96	Horizontal Restraint	Art Frames
Raytheon Company	C3681	09/03/96	Horizontal Merger	Communications Equipment
RxCare of Tennessee, Inc.	C3664	06/10/96	Horizontal Price Fixing	Pharmacy Network
Santa Clara County Motor Car Dealers Association	C3630	12/13/95	Boycott	New and Used Car Dealerships
Service Corporation International	C3646	03/21/96	Horizontal Merger	Funeral Homes and Cemeteries
Silicon Graphics, Inc.	C3626	11/14/95	Vertical Merger	Entertainment Graphics Software

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Title	Number	Action Date	Type of Matter	Product/Service
Stop & Shop Companies, Inc., The	C3649	04/02/96	Horizontal Merger	Grocery Stores
Summit Communications Group, Inc.	C3623	10/20/95	Horizontal Restraint	Cable Television Services
Upjohn Company, The	C3638	02/08/96	Horizontal Merger	Pharmaceuticals

### **COMPETITION MISSION (DETAIL)**

#### *Columbia/HCA Healthcare Corporation*

A consent order settled charges that Columbia/HCA's \$3 million merger with Healthtrust, Inc.—The Hospital Company would reduce hospital competition in six geographic markets in four states. The merger involves more than 280 hospitals nationwide and is the largest hospital merger in U.S. history. The order, designed to restore competition allegedly eliminated by the merger, requires the divestiture of seven hospitals: two in Florida, one each in Texas and Louisiana, and three in Utah, and termination of a hospital joint venture agreement in Florida.

#### *Columbia/HCA Healthcare Corporation*

Columbia/HCA agreed to settle charges that its acquisition of John Randolph Medical Center in Hopewell, Virginia, would increase the already high level of concentration in the provision of psychiatric hospital services in the Tri-Cities area of south-central Virginia (consisting of Petersburg, Colonial Heights, Hopewell, and surrounding counties) from 50 percent to more than 70 percent. The consent order requires Columbia/HCA to divest its Poplar Springs Hospital in Petersburg to a Commission-approved acquirer that will operate the facility in competition with Columbia/HCA.

#### *Compagnie de Saint-Gobain; Carborundum Company, The; Saint-Gobain/Norton Industrial Ceramics Corporation*

Compagnie de Saint-Gobain and its U.S. subsidiary, Saint-Gobain/Norton, agreed to settle antitrust concerns that the acquisition of The Carborundum Company from the British Petroleum Company would create a monopoly and raise prices for fused cast refractories

and silicon carbide refractory bricks, two products used in industrial furnaces, and hot surface igniters, used in home appliances. The consent order requires Saint-Gobain to divest businesses and associated assets in each of the markets to firms that will operate them in competition with Saint-Gobain.

*Council of Fashion Designers of America, The; 7th on Sixth, Inc.*

The Council of Fashion Designers and 7th on Sixth, two trade organizations that represent fashion designers and sponsor major fashion shows, agreed to settle allegations that they had negotiated the fees their fashion designer members would pay for modeling services. The consent order prohibits the two organizations from entering into any agreements that fix the prices, terms, or conditions of compensation for the provision of modeling services or modeling agency services.

*Dell Computer Corporation*

Dell, a leading U.S. manufacturer of personal computers, agreed to settle charges that it restricted competition and undermined the standard-setting process in the personal computer industry by threatening to exercise previously undisclosed patent rights against computer manufacturers adopting the computer local bus design standard set by the Video Electronics Standards Association (VESA). This VL-bus mechanism transfers information or instructions between the computer's central processing unit and the computer's peripheral devices, such as a hard disk drive, a video display terminal, or a modem. According to the complaint, Dell, sitting as a member on VESA's Local Bus Committee (established to adopt and approve the VL-bus standard setting process), repeatedly certified to VESA that it possessed no other exclusive rights, patents, trademarks, or copyrights that conflicted with the proposed VL-bus standard. The complaint further alleged that after VESA adopted the standard, Dell sought to enforce its patent against companies planning to follow the standard. Under the consent order, Dell cannot enforce its VL-bus standard patent rights against computer manufacturers using the VL-bus.



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### *Devro International plc; Devro, Inc.*

Devro agreed to settle charges that its acquisition of Teepak International, Inc., would reduce competition by combining the nation's two top producers of collagen sausage casings. Under terms of the consent order designed to replace competition, Devro is required to divest the assets it uses to produce collagen sausage casings for sale in the United States and Canada within three months. The Commission approved the sale of the assets to Nitta Gelatin, Inc., of Japan.

### *Federal News Service Group, Inc.; Reuters America, Inc.; Cortes W. Randell*

Federal News Service Group, its president, Cortes W. Randell, and Reuters agreed to settle charges that they entered into market allocation agreements that ended competition between the two largest U.S. sellers of fast-turnaround verbatim news transcripts of Congressional hearings, news conferences, speeches, and other news events. Under terms of the two consent orders, the parties are prohibited from engaging in activities that restrict competition, including the formulation of market allocation agreements with competitors to divide customers and fix the resale prices of transcripts.

### *First Data Corporation*

First Data agreed to settle antitrust charges stemming from its merger with First Financial Management Corporation. The complaint issued with the consent order alleged that the \$6.7 billion merger could create a monopoly and lead to higher prices for consumer money wire transfer services through the consolidation of the only two companies offering these services in the United States. In an attempt to restore competition to the market, the consent order requires First Data to divest either its own MoneyGram business or First Financial's Western Union business to an entity that will operate the business in competition with the merged company.

### *Hoechst AG*

Hoechst agreed to settle charges that its \$7.1 billion merger with Marion Merrell Dow, Inc., would create the world's third largest

pharmaceutical company and substantially reduce competition for four drugs: (1) diltiazem, a hypertension and cardiac drug, (2) drugs used to treat intermittent claudication, severe leg cramps caused by arteriosclerosis, (3) oral dosage forms of mesalamine, used to treat inflammatory bowel disease, and (4) rifadin, used to treat tuberculosis. The Commission permitted the merger (the new firm is known as Hoechst Marion Roussel, Inc.), and the consent order required Hoechst to restore competition in the research and development of the drugs named in the complaint through the divestiture of specific assets and through the accomplishment of prescribed steps designed to restore competition to the market.

*Hughes Danbury Optical Systems, Inc.;*  
*General Motors Corporation; Hughes Electronics Corporation*

Hughes Danbury, Hughes Electronics, and their parent company, General Motors, agreed to settle allegations that the acquisition of the Itek Optical Systems Division of Litton Industries, Inc., could either raise prices or reduce the technology and quality for deformable mirrors, an optic system component that allows the Air Force's anti-missile system's Airborne Laser program to correct for distortions in the atmosphere. According to the complaint issued with the consent order, the Air Force awarded two team contracts to develop the concept design: The Boeing Company/Lockheed Martin Corporation team and the Rockwell International Corporation/Hughes team. The complaint further alleged that Itek and Xinetics Inc. are the only two firms that design and manufacture deformable mirrors. Itek is under an exclusive contract with the Boeing team; Xinetics is under contract with the Rockwell/Hughes team. As a result of the acquisition, Itek would be in a position to supply mirrors to both teams. The consent order requires the dissolution of an exclusivity provision in the Xinetics contract, thereby ensuring that the Boeing team has a source for the deformable mirrors other than Itek, once Itek is owned by Hughes Danbury.

*Illinois Tool Works Inc.*

Illinois Tool Works agreed to settle antitrust concerns that its proposed acquisition of Hobart Brothers Company would eliminate an aggressive competitor in the market for both industrial power sources and industrial engine drives used to generate power for arc welding systems, used to join metal for industrial applications. The

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consent order permitted the acquisition but required the divestiture of Hobart's industrial power sources and engine drive assets to Prestolite Electric Incorporated or to another Commission-approved acquirer.

### *Johnson & Johnson*

Johnson & Johnson agreed to settle charges that its acquisition of Cordis Corporation would reduce competition and raise prices in the market for cranial shunts used in the treatment of hydrocephalus. According to the complaint issued with the consent order, the merger would result in the two firms' controlling over 85 percent of the market for neuroscience products and interventional cardiology products in the United States. The consent order requires Johnson & Johnson to divest the Cordis Neuroscience Business.

### *Koninklijke Ahold NV; Ahold U.S.A., Inc.*

Ahold U.S.A. and its parent company, Koninklijke Ahold, agreed to settle charges that the acquisition of The Stop & Shop Companies, Inc., would substantially reduce supermarket competition in 14 communities in New England. Terms of the consent order require Ahold to divest 30 supermarkets within one month to pre-identified buyers who would operate the stores in competition with Ahold's "Edwards" supermarket chain. In addition, the order requires Ahold to provide the Commission with prior notice for ten years of plans to acquire any supermarket in the areas named in the complaint.

### *Litton Industries, Inc.*

Litton agreed to settle charges that its acquisition of PRC Inc. would be anticompetitive. According to the complaint, Litton is one of two defense contractors that manufacture Aegis destroyers for the Navy. The complaint further alleged that PRC is the only systems engineering and technical assistance (SETA) contractor for the Aegis program. According to the Commission, entry by a new company into this market is unlikely and sensitive information gained through the acquisition could give Litton a competitive advantage and could result in increased prices for the Aegis program. The consent order requires Litton to divest a systems engineering and technical assistance contract for the Navy's Aegis destroyer program.

### *Local Health System, Inc.; Blue Water Health Services Corp.;*

*Mercy Health Services*

A consent order with Local Health System, Blue Water Health, and Mercy Health settled charges over the proposed merger of Port Huron Hospital and Mercy Hospital–Port Huron, the two largest hospitals in St. Clair County, Michigan. The order prohibits the merger and requires the parties to obtain Commission approval for three years before acquiring certain assets in any acute care hospital facility in Greater Port Huron, Michigan (consisting of Port Huron, Marysville, Kimball Township, Port Huron Township, and Fort Gratiot).

*Lockheed Martin Corporation*

Lockheed Martin agreed to settle allegations that its proposed acquisition of Loral Corporation would reduce competition in the markets for air traffic control systems, commercial low earth orbit satellites, military tactical fighter aircraft, and unmanned aerial vehicles. The consent order requires Lockheed Martin to divest its systems engineering and technical services contract with the Federal Aviation Administration and prohibits the sharing of sensitive information concerning competitors' products between the two firms.

*Loewen Group Inc., The; Loewen Group International Inc., The*

Two separate consent orders settled charges relating to the acquisitions of certain funeral homes and cemeteries by The Loewen Group and its wholly owned subsidiary, The Loewen Group International. The complaint issued against Loewen Group challenged the proposed acquisition of the Heritage Family Funeral Services, Inc., a chain of funeral homes in the tri-state area of Virginia, Tennessee, and North Carolina, on grounds that, if consummated, the acquisition would eliminate competition between the firms and create a monopoly in the three areas. A second complaint challenged two Loewen Group International acquisitions in Texas – Garza Memorial Funeral Home in Brownsville and Thomae-Garza Funeral Directors, Inc., in the Harlingen/San Benito area of Cameron County – alleging that the likelihood of collusion would be increased in both markets due to the elimination of competition between the firms. Both orders require the two firms to divest funeral homes to acquirers pre-approved by the Commission.

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### *Mustad International Group NV; Mustad Connecticut, Inc.*

Mustad agreed to settle charges that through the acquisitions of Capewell Manufacturing Company, Cooper Horseshoe Nail Co., Ltd., Emcoclavos S.A., and Sterward Engineering Company, Ltd., it gained an illegal monopoly in the sale of rolled horseshoe nails in the United States. According to the complaint issued with the consent order, after the acquisitions, Mustad raised prices as much as 50 to 75 percent as a result of its market position. The order, designed to re-establish a viable competitor in the United States, requires Mustad to divest specified assets relating to the horseshoe nail-making business to a Commission-approved acquirer.

### *New Balance Athletic Shoe, Inc.*

New Balance agreed to settle charges that it fixed and controlled the resale prices of its shoes in an effort to raise retail prices for its athletic footwear. According to the complaint issued with the consent order, New Balance entered into pricing agreements with some of its retailers to raise prices, to maintain certain price levels, and to discontinue sales of New Balance products at discounted prices. The complaint further alleged that New Balance threatened to terminate shipments of its products, among other things, whenever a retailer refused to enter into a pricing agreement. The provisions of the consent order prohibit the company from engaging in any of the alleged pricing practices set out in the complaint.

### *Phillips Petroleum Company; Enron Corporation*

Phillips and Enron agreed to settle charges that Phillips' proposed acquisition of certain natural gas pipeline systems owned by Enron would eliminate competition for natural gas transportation in the Texas and Oklahoma Panhandle region. The final consent order requires Phillips to modify the purchase agreement to exclude 830 specified miles of pipe and related gas-gathering assets of Enron within the Panhandle. The order also requires Phillips and Enron, for ten years, to notify the Commission before acquiring or selling certain pipeline assets in the region.

*Port Washington Real Estate Board, Inc.*

A consent order settled charges that the Port Washington Real Estate Board of Port Washington, New York, injured consumers by unreasonably restraining competition among real estate brokers and homeowners through its rules governing membership, advertising, and listings of residential real estate. The order prohibits the Board from a variety of practices that impose restrictions on brokers and property owners in listing and selling real estate in the area.

*Praxair Inc.*

Praxair, the largest U.S. supplier of industrial gases, agreed to divest four gas production plants to settle charges that its acquisition of CBI Industries, Inc., would increase the likelihood of collusion and raise prices for industrial atmospheric gases (nitrogen, oxygen, and argon) in northern and southern California, eastern Connecticut, western Wisconsin, and southern Minnesota. The consent order requires Praxair to divest CBI's atmospheric gas production facilities in Vacaville and Irwindale, California; Bozrah, Connecticut; and Madison, Wisconsin.

*Precision Moulding Company, Inc.*

Precision Moulding agreed to settle charges that it attempted to fix prices in the market for stretcher bars used to construct frames for artists' canvases. The complaint issued with the consent order alleged that representatives of Precision Moulding invited a new competitor in the industry to raise its prices – suggesting that the competitor's prices were too low. The complaint also alleged that the invitation, if accepted, would constitute an agreement to restrain trade in violation of the federal antitrust laws. The consent order prohibits Precision Moulding from engaging in pricing practices that induce competitors to conspire to fix, raise, or maintain prices.

*Raytheon Company*

A consent order settled charges that Raytheon's acquisition of Chrysler Technologies Holding, Inc., reduced competition for the U.S. Navy's future procurement of the Submarine High Data Rate (HDR) satellite communications system for use in Navy submarines. According to the complaint, Raytheon, through its Electronic Systems

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Division, and GTE Corporation submitted competing proposals to develop the Submarine HDR program. Chrysler Technologies, as a second-tier subcontractor to GTE, supplies antenna/terminal controls, a component of the submarine HDR system. The merger of the two firms would give Raytheon access to competitively sensitive information concerning GTE's overall proposal. The consent order requires Raytheon to erect an information "firewall" to prohibit the exchange of sensitive information concerning the Submarine HDR system prior to the completion of the competitive procurement.

### *RxCare of Tennessee, Inc.; Tennessee Pharmacists Association*

A consent order settled charges that RxCare and Tennessee Pharmacists restricted pharmacy price competition through the use of a "most favored nation" clause in RxCare's contracts with independent pharmacies in Tennessee. The clause required that if a prescription network pharmacy accepts a prescription reimbursement rate lower than the RxCare rate, the pharmacy must accept the lower rate for all RxCare business in which it participates. According to the complaint, the clause discouraged the pharmacies from discounting prices and thereby limited price competition among them in their dealing with pharmacy benefits managers and third-party payers, such as health benefits plans. The consent order requires RxCare to remove the clause from existing contracts.

### *Santa Clara County Motor Car Dealers Association*

A consent order settled charges that the Santa Clara County Motor Car Dealers Association orchestrated an advertising boycott by its auto dealer members against the San Jose *Mercury News* after the newspaper ran an article telling consumers how to analyze new car factory invoices. The order prohibits the Association from entering into a boycott or any concerted refusal to deal with any newspaper, periodical, television station, or radio station.

### *Service Corporation International*

Service Corporation International agreed to settle charges that its acquisition of Gibraltar Mausoleum Corporation would substantially reduce competition for funerals and cemetery services in certain areas of Texas and Florida. The consent order permitted the parties to complete the acquisition but required Service Corporation Inter-

national to divest seven properties in Amarillo, Texas, and Brevard and Lee Counties, Florida.

*Silicon Graphics, Inc.*

Silicon Graphics agreed to settle charges that its acquisition of Alias Research, Inc., and Wavefront Technologies, Inc., two of the world's three leading entertainment graphics software firms, would substantially reduce competition, raise prices, and reduce innovation in the production of sophisticated computer-based graphics used in the movie industry and other entertainment industries. The consent order requires Silicon Graphics to take specific steps to ensure that other companies could develop and sell entertainment graphics software in a competitive market place.

*Stop & Shop Companies, Inc., The; SSC Associates, L.P.*

The Stop & Shop Companies agreed to settle charges that its merger with Purity Supreme, Inc., would substantially reduce supermarket competition, lead to higher prices, and lower the quality of service in several Massachusetts areas (the Boston metropolitan area, Cape Cod, the South Shore area, Bedford, and Brockton). The consent order requires the divestiture of 17 stores in the five areas to entities that would operate them in competition with the merged firm's remaining area stores.

*Summit Communications Group, Inc.;*  
*Wometco Cable TV (seven companies)*

Summit, a wholly owned subsidiary of Time Warner, and seven Wometco companies agreed to settle charges that they illegally agreed to allocate among themselves the customers they would serve in Cobb County, Georgia, an area where their local cable systems overlap. According to the complaint accompanying the consent order, the allocation of customers deprives consumers of choices on quality and price made available through competition. The consent order prohibits Summit and Wometco from engaging in the allocation of customers and markets in 14 Georgia counties where they offer cable service.



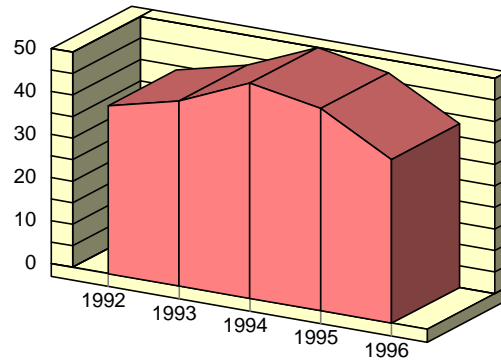
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### *Upjohn Company, The; Pharmacia Aktiebolag*

A consent order settled antitrust concerns stemming from the \$13.9 billion merger of Upjohn Company and Pharmacia Aktiebolag. The order, designed to preserve competition in the research and development of drugs used in the treatment of colorectal cancer, requires the divestiture of Pharmacia's topoisomerase I inhibitors to a Commission-approved buyer.

**PART II CONSENT ORDERS ISSUED  
CONSUMER PROTECTION MISSION**



**CONSUMER PROTECTION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product/Service
Amoco Oil Company	C3655	05/07/96	Unsubstantiated Gasoline Claims	Gasoline
Azrak-Hamway International, Inc.	C3653	05/02/96	Deceptive Advertising of Product Performance	Remco Toys; Advertising for Remco Toys
Starwood Advertising, Inc.	C3654	05/02/96		
BBDO Worldwide, Inc.	C3637	01/24/96	Deceptive Caloric/Nutritional Claims	Advertising for Häagen-Dazs Frozen Yogurt
Benckiser Consumer Products, Inc.	C3659	05/22/96	Misrepresented Proceeds Claims	Household Cleaning Products
Blenheim Expositions, Inc.	C3633	12/22/95	Misrepresented Success and Earnings Rates	Franchise Trade Shows
Budget Rent A Car Systems, Inc.	C3674	06/17/96	Failed to Disclose Rental Contract Obligations	Car Rentals
Cancer Treatment Centers of America, Inc.	C3662	05/31/96	Unsubstantiated Survivorship Rate	Medical Treatments for Cancer
Dannon Company, Inc., The	C3643	03/18/96	Deceptive Caloric/Nutritional Claims	Frozen Yogurt
Diet Workshop, Inc., The	C3663	06/03/96	Unsubstantiated Weight-Loss/Maintenance Claims	Weight-Loss Programs

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Title	Number	Action Date	Type of Matter	Product/Service
DMC Publishing Group (Timothy R. Bean, d/b/a)	C3665	06/10/96	Unsubstantiated Earnings Claims	Internet Work-at-Home Business Opportunity
Duram Rubber Products	C3640	02/12/96	Unsubstantiated Usage Claims	Emergency Escape Mask
Enterprising Solutions (Brian Coryat, d/b/a)	C3666	06/10/96	Deceptive Advertising of Credit Rights and Remedies	Internet Credit Repair Programs
Excel Communications (Robert Serviss, d/b/a)	C3669	06/12/96	Unsubstantiated Earnings Claims	Internet Work-at-Home Business Opportunity
Ford Motor Company Young & Rubicam, Inc.	C3679 C3680	08/22/96 08/22/96	Unsubstantiated Performance Claims	Automobile Air Filter Systems; Advertising for Ford Automobiles
Genetus Alexandria, Inc.	C3639	02/09/96	Misrepresented Success Rate	Impotence Treatment
Good News Products, Inc.	C3642	02/22/96	Deceptive Health/Nutritional Claims	Eggs, Egg Products
J. Walter Thompson USA, Inc.	C3622	10/20/95	Unsubstantiated Survey about Weight-Loss Claims	Advertising for Jenny Craig Weight-Loss Program
Johnson & Collins Research, Inc.	C3661	05/31/96	Unsubstantiated Weight-Loss Claims	Diet and Exercise Products for Teen Girls
Johnson & Johnson Consumer Products, Inc.	C3636	01/18/96	Unsubstantiated Health-Related Benefit Claims	Spermicidal Lubricant
Jordan, McGrath, Case & Taylor, Inc.	C3684	09/18/96	Unsubstantiated Performance Claims	Advertising for Doan's Pills (Over-the-Counter Analgesics)
Live-Lee Productions, Inc.	C3620	10/10/95	Unsubstantiated Health/Performance Claims	Vitamin and Stop-Smoking Sprays
Mama Tish's Italian Specialities, Inc.	C3644	03/19/96	Misrepresented Caloric/Nutritional Claims	Flavored Ice Cup Dessert
May Department Stores Company, The	C3676	07/09/96	Unfair Credit Practices and Truth-in-Lending Act Violations	Charge Accounts at Retail Stores
Momentum (Lyle R. Larson, d/b/a)	C3672	06/12/96	Deceptive Advertising of Credit Rights and Remedies	Internet Credit Repair Services

Title	Number	Action Date	Type of Matter	Product/Service
Mrs. Fields Cookies, Inc.	C3657	05/13/96	Misrepresented Health/ Nutritional Claims	Low-Fat Cookies and Baked Goods
N.W. Ayer & Son, Inc.	C3660	05/31/96	Deceptive Health/ Nutritional Claims	Advertising for Eggland's Best Eggs
NBDC Credit Resource Publishing (Rick A. Rahim, d/b/a)	C3671	06/12/96	Deceptive Advertising of Credit Rights and Remedies	Internet Credit Repair Services
NordicTrack, Inc.	C3675	06/17/96	Unsubstantiated Weight- Loss/Maintenance Claims	Exercise Equipment
Safe Brands Corporation	C3647	03/26/96	Unsubstantiated Safety/ Environmental Claims	Automobile Antifreeze
Simplex Services (Martha Clark, d/b/a)	C3667	06/10/96	Deceptive Advertising of Credit Rights/Remedies	Internet Credit Repair Services
Starr Communications (Sherman G. Smith, d/b/a)	C3668	06/12/96	Unsubstantiated Earnings Claims	Internet Tracer/Locator Business Opportunity
Third Option Laboratories, Inc.	C3628	11/29/95	Unsubstantiated Health- Related Benefit Claims	Health Juice Drink
WLAR Co.	C3641	02/21/96	Unsubstantiated Weight- Loss Claims	Diet and Exercise Products for Teen Girls
Wolverine Capital (Randolf D. Albertson, d/b/a)	C3670	06/12/96	Deceptive Advertising Claims	Internet Grant Assistance Programs
Zygon International, Inc.	C3686	09/24/96	Unsubstantiated Performance Claims and Failure to Refund	Mail-Order Merchandise

**CONSUMER PROTECTION** *Amoco Oil Company*  
**MISSION (DETAIL)**

Amoco Oil settled allegations that its advertising campaign for “crystal clear” Amoco Ultimate gasoline included unsubstantiated claims. The Commission alleged that the company failed to have adequate substantiation for its claims that Amoco Ultimate gasoline delivers superior engine performance and environmental benefits because it is refined more than competitors’ brands and that the gasoline’s clear color demonstrates its superiority. Under the terms

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of the consent order, Amoco Oil will not make any claim about performance or environmental benefits for any of its gasolines without first having scientific evidence to back the claim up.

*Azrak-Hamway International, Inc.; Starwood Advertising, Inc.; Marvin Azrak; Ezra Hamway; Les Towne*

Two separate consent orders settled allegations that Azrak-Hamway, a toy manufacturer, Starwood Advertising, Inc., its advertising agency, and their principals engaged in deceptive advertising of a line of toy vehicles marketed by Azrak-Hamway's Remco Toys Division. The Commission alleged that television advertising for the toys showed performance capabilities that the toys do not actually have and that the packaging was also deceptive. Both orders prohibit the use of deceptive demonstrations and other misrepresentations. In addition, the Azrak-Hamway order requires the company to offer full refunds to consumers who bought the toy vehicles and to notify television stations that ran the ads, advising them of the Commission's action and of the availability of guidelines used by many industry members to screen children's advertising.

*BBDO Worldwide, Inc.*

BBDO Worldwide advertising agency agreed to settle Commission allegations of engaging in deceptive practices in connection with its role in developing certain advertisements for Häagen-Dazs frozen yogurt products. The advertisements claimed that all Häagen-Dazs frozen yogurt and frozen yogurt bars are low in fat; however, the Commission alleged that those claims are false for many items in each product line. The consent order prohibits BBDO Worldwide from misrepresenting the amount of fat, saturated fat, cholesterol, or calories in frozen yogurt, frozen sorbet, and ice cream products.

*Benckiser Consumer Products, Inc.*

Benckiser agreed to settle allegations that it made false and misleading claims about the donation of proceeds from the sale of its EarthRite line of household cleaning products. Benckiser claimed that a portion of its proceeds would be donated to nonprofit environmental groups, but, according to the Commission's complaint, the company has not donated any money to such groups since it began

selling the products in 1992. The consent order prohibits the company from making similar misleading claims for any of its cleaning products. The order also requires Benckiser, if it says it donates some portion of its revenue to an organization, to clearly and prominently disclose the method of determining the amount of the donation.

*Blenheim Expositions, Inc.*

Blenheim Expositions, a company that produces franchise trade shows and expositions, agreed to settle Commission allegations that it misrepresented the results of a Gallup Poll featuring franchise success and earning rates, in advertisements promoting the International Franchise Association Expo. The consent order prohibits Blenheim from misrepresenting survey results or making unsubstantiated earnings and success rate claims in promoting franchise shows. It also requires Blenheim to distribute consumer education information about purchasing a franchise at the shows it promotes for the next five years.

*Budget Rent A Car Systems, Inc.*

Budget agreed to settle allegations that it engaged in deceptive practices when it failed to disclose potential charges to its rental car customers. Customers who returned their rental cars with significant damage and who had not purchased a “loss damage waiver” were charged several thousand dollars more than the cost of repairs. The Commission alleged that Budget sought to collect “loss of turnback” fees, the amount of money Budget lost because it could not sell the damaged vehicles back to the manufacturer at a price higher than retail. The consent order requires Budget to pay \$75,000 in consumer redress. In addition, if Budget intends to charge customers for these fees in the future, it must clearly disclose in rental contracts and reservation systems that consumers are liable for costs in excess of the actual cost of repairs to damaged vehicles.

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*Cancer Treatment Centers of America, Inc.;*  
*Memorial Medical Center and Cancer Institute, Inc.;*  
*Midwestern Regional Medical Center, Inc.*

Cancer Treatment Centers and two affiliated hospitals agreed to settle Commission allegations that they made false and unsubstantiated claims in advertising and promoting their cancer treatments. The respondents also allegedly failed to substantiate a claim that their five-year survivorship rate ranked among the highest recorded for cancer patients. The consent order requires the respondents to have competent and reliable evidence to substantiate future claims regarding the success or efficacy of their cancer treatments and to ensure that testimonials they use do not misrepresent the typical experience of their patients.

*Dannon Company, Inc., The*

Dannon agreed to settle allegations that it made false or misleading nutritional claims for its Pure Indulgence line of frozen yogurt, by representing that some flavors of the yogurt were low in fat and calories when they were not. The consent order prohibits Dannon from misrepresenting the existence or amount of fat, saturated fat, cholesterol, or calories in any frozen food product in the future. In addition, the company is required to pay \$150,000 in disgorgement to the U.S. Treasury.

*Diet Workshop, Inc., The; Diet Workshop of Boston, Inc., The*

The Diet Workshop, a franchisor of weight-loss plans and products, and the Diet Workshop of Boston, the owner of its company-operated territories, settled allegations that they made unsubstantiated weight-loss and weight-maintenance claims and used consumer testimonials deceptively. The consent order prohibits the respondents from misrepresenting the performance of any weight-loss program and requires them to have reliable scientific evidence to substantiate claims about achieving or maintaining weight loss, or the rate at which the loss can be expected to occur. The order also requires disclosure statements in certain advertising and bars the misleading use of testimonials.

*DMC Publishing Group (Timothy R. Bean, d/b/a)*

Timothy Bean, doing business as DMC Publishing Group, settled allegations of deceptive marketing on the Internet. The Commission alleged that Bean made false earnings claims in advertising for his program to operate a home-based publishing and printing business. The consent order requires him to have evidence to back up earnings and sales claims for any business opportunity he markets.

*Duram Rubber Products;  
Frank A. Latronica, Jr (d/b/a Life Safety Products)*

Duram Rubber Products and Frank Latronica settled allegations that they falsely represented that the Duram Emergency Escape Mask would protect wearers from lethal gases associated with fires for up to 20 minutes. The consent order requires the respondents to notify prior purchasers that the mask does not filter out carbon monoxide and to disclose that fact on package labels and in certain advertisements.

*Enterprising Solutions (Brian Coryat, d/b/a)*

Brian Coryat, doing business as Enterprising Solutions, settled allegations that he made unsubstantiated advertising claims on the Internet regarding his credit repair program. The Commission charged that Coryat falsely advertised that consumers could use his credit repair kit to remove negative but accurate and up-to-date information from their credit reports and that he made false and unsubstantiated claims about the earnings potential of those who purchased his Credit Repair Agency business. The consent order prohibits Coryat from misrepresenting any right or remedy consumers have under the Fair Credit Reporting Act and requires him to have evidence to back up earnings or sales claims for any business opportunity he markets.

*Excel Communications (Robert Serviss, d/b/a)*

Robert Serviss, doing business as Excel Communications, settled allegations that he promoted a work-at-home opportunity on the Internet using false and unsubstantiated earnings claims. The consent order prohibits Serviss from misrepresenting the income, earnings, or sales from any business opportunity and prohibits any claims about



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past, present, or future earnings or income unless there is reliable evidence to substantiate such claims.

*Ford Motor Company; Young & Rubicam, Inc.*

Two separate consent orders settled allegations that Ford and its advertising agency made false claims about the extent to which Ford's MicronAir Filtration System can remove air pollutants from its automobile passenger cabins. The Commission alleged that, although the system filters out particles above a certain size, it has no effect on very fine particles or gaseous pollutants such as hydrocarbons, carbon monoxide, and nitrogen oxides. The orders prohibit the respondents from making broad claims of pollution removal for this or any similar system and require them to have substantiation for other claims about air filter efficacy.

*Genetus Alexandria, Inc.;*  
*Galen Medical Centers, Ltd. (successor to Genetus);*  
*George Oprean; Linda Huffman Oprean*

A clinic and its operators agreed to settle allegations that they made misleading claims in connection with their impotence treatment. The Commission alleged that Genetus falsely represented that a physician would examine, diagnose, and treat every patient, that the treatment was unqualifiedly safe, and that the treatment would arrest each patient's impotence. The respondents also allegedly billed insurance companies for medical tests that were not performed. The consent order prohibits the respondents from misrepresenting the nature or extent of a physician's participation in any treatment, the safety or efficacy of any procedure, and the extent to which a treatment is covered by a patient's medical insurance.

*Good News Products, Inc.*

The Commission gave final approval to a consent order with Good News Products regarding allegedly false representations that its eggs were significantly lower in fat than ordinary eggs, that they would increase blood cholesterol levels less than ordinary eggs, and that they would have a positive effect on risk factors for heart disease. The order prohibits misrepresentations regarding the nutrient content

of eggs or products containing egg yolks and requires scientific substantiation for health claims about such products.

*J. Walter Thompson USA, Inc.*

The Commission approved a consent order with J. Walter Thompson, settling allegations that the company engaged in deceptive practices in connection with advertising it created for the Jenny Craig Weight Loss Program. The Commission alleged that the company lacked substantiation for advertising claims that nine out of ten Jenny Craig clients would recommend the program to a friend. Under the order, J. Walter Thompson must have evidence to substantiate claims that any weight-loss program is endorsed by any person, group, or other entity, and the company is prohibited from misrepresenting the existence or results of any study or survey in connection with any diet-related food, weight-loss or fitness programs or equipment.

*Johnson & Collins Research, Inc.; Gregor A. von Ehrenfels*

The Commission gave final approval to a consent order settling allegations that Johnson & Collins Research and its owner used deceptive advertising of purported weight-loss and body-shaping products in magazines directed toward teenage girls. The products consisted primarily of booklets containing advice on dieting and exercise. The order requires the respondents to clearly disclose that what they are selling are booklets or pamphlets, prohibits them from making unsubstantiated representations regarding the effects of any weight-loss program, and requires them to disclose that weight loss requires dieting, increased exercise, or both.

*Johnson & Johnson Consumer Products, Inc.*

The Commission approved a consent order with Johnson & Johnson Consumer Products settling allegations that its advertising campaign for a spermicidal lubricant contained misleading and unsubstantiated claims about condom failure, touting the lubricant as “condom insurance” to protect against unwanted pregnancy and sexually transmitted diseases. Under the order, Johnson & Johnson Consumer Products, its parent corporation, and all other Johnson & Johnson subsidiaries are prohibited from misrepresenting the results of any study concerning over-the-counter products relating to human

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reproduction, contraception, or sexually transmitted diseases. In addition, they are required to have competent and reliable scientific evidence for claims about the efficacy and health-related benefits of any personal lubricant or spermicide they advertise.

### *Jordan, McGrath, Case & Taylor, Inc.*

Jordan, McGrath, Case & Taylor, an advertising firm, settled allegations in connection with its role in advertising for Doan's Pills. According to the Commission, the advertisements made unsubstantiated claims that Doan's Pills are better than competing over-the-counter analgesics in relieving back pain. The consent order requires the company to have competent and reliable scientific evidence to support any claims regarding the efficacy, safety, benefits, or performance of any over-the-counter internal analgesic. The Commission also issued an administrative complaint against the marketers of Doan's Pills (*see – Ciba-Geigy Corporation, page 64*).

### *Live-Lee Productions, Inc.; Ruta Lee*

The Commission gave final approval to a consent order with Ruta Lee and her production company, Live-Lee Productions, settling allegations that advertising claims she made for three vitamin sprays and a stop-smoking spray were unsubstantiated. Lee made the claims on television's Home Shopping Club, commercial programming carried on the Home Shopping Network. Under the order, Lee and Live-Lee Productions are required to have competent and reliable scientific evidence for claims about a food or drug's effect on the user's health or about the performance of smoking-cessation products or programs. A separate order was approved for the Home Shopping Network (*see – page 66*).

### *Mama Tish's Italian Specialties, Inc.*

The Commission approved a consent order with Mama Tish's settling allegations that the company misrepresented the calorie content of its flavored ice cup desserts. The consent order prohibits Mama Tish's from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product.

*May Department Stores Company, The*

The May Department Stores Company (May Company) agreed to settle allegations that, in converting its Thalhimier's customers' charge accounts to Hecht's accounts, it transferred obsolete derogatory information to the new accounts. The Commission also alleged that the conversion process led to inaccurate reporting of payments, resulting in some cases of unwarranted collection efforts, and that May Company issued unsolicited credit cards. The consent order requires May Company to follow reasonable procedures to ensure the accuracy of information it provides to credit bureaus, to remove incorrectly reported information, and to cease collection activity of disputed charges. In addition, the order prohibits May Company from issuing unrequested credit cards.

*Momentum (Lyle R. Larson, d/b/a)*

Lyle Larson, doing business as Momentum, agreed to settle allegations that he falsely advertised on the Internet that consumers could use his "legal" program to remove negative but accurate and up-to-date information from their credit reports. The consent order prohibits Larson from misrepresenting any right or remedy consumers have under the Fair Credit Reporting Act and requires him to disclose in advertising for credit repair products that misrepresenting one's Social Security number or certain other information may be a federal crime.

*Mrs. Fields Cookies, Inc.*

The Commission approved a consent order with Mrs. Fields, settling allegations that advertising and promotional materials touting a cookie line as "low fat" were false and misleading for two cookies in the line. Under the order, Mrs. Fields agreed not to misrepresent the amount of fat, saturated fat, cholesterol, or calories in any bakery food products.

*N.W. Ayer & Son, Inc. (d/b/a NW Ayer, Inc.)*

N.W. Ayer & Son, doing business as NW Ayer, agreed to settle allegations concerning its role in creating advertising for Eggland's Best eggs that allegedly conveyed deceptive claims regarding the

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effect of the eggs on blood cholesterol. The consent order prohibits the company from misrepresenting the amount of cholesterol, fat, saturated fat, or any other fatty acid with regard to eggs and dairy, meat, or poultry products. It also requires NW Ayer to have competent and reliable scientific evidence to back up any claims that such products have any health benefit.

### *NBDC Credit Resource Publishing (Rick A. Rahim, d/b/a)*

Rick Rahim, doing business as NBDC Credit Resource Publishing, settled allegations that he falsely advertised on the Internet that his credit repair program is legal, although it advises consumers to misrepresent their Social Security numbers in order to obtain a new credit identity. The consent order prohibits Rahim from misrepresenting the legality of any credit repair product he advertises and requires him to disclose in advertisements for these products that misrepresenting one's Social Security number or certain other information may be a federal crime.

### *NordicTrack, Inc.*

NordicTrack agreed to settle allegations that it made false and unsubstantiated claims for weight loss and weight maintenance in advertising its cross-country ski exercise machine. The Commission alleged that NordicTrack overstated success rates, based on studies that excluded all but a highly selected group of purchasers. The consent order requires NordicTrack to have competent and reliable evidence to support weight-loss, weight-maintenance, and related claims for any exercise equipment it sells.

### *Safe Brands Corporation; ARCO Chemical Company; Warren Distribution, Inc.*

The Commission approved a consent order with Safe Brands, its parent company, Warren Distribution, and ARCO, settling allegations that they made unsubstantiated advertising claims about the safety of Sierra antifreeze, its environmental benefits, and its ability to protect vehicle engines. Safe Brands is the manufacturer of Sierra antifreeze, and ARCO supplies the principal ingredient, propylene glycol. Under the order, the companies are prohibited from making unsubstantiated

claims and are required to put a statement on Sierra antifreeze containers cautioning consumers that it may be harmful if swallowed.

*Simplex Services (Martha Clark, d/b/a)*

Martha Clark, doing business as Simplex Services, settled allegations that she used deceptive advertising on the Internet in connection with her credit repair program. The Commission alleged that Clark made false claims in advertising the Guaranteed Credit Doctor program by stating that consumers could remove negative items from their credit reports, even if the information was accurate and up-to-date. The consent order prohibits the respondent from misrepresenting any right or remedy consumers have under the Fair Credit Reporting Act, including their ability to remove adverse information from a credit report.

*Starr Communications (Sherman G. Smith, d/b/a)*

Sherman Smith, doing business as Starr Communications, agreed to settle allegations that he made false and unsubstantiated earnings claims in his Internet advertising for the “U.S. Government Tracer Business Program,” which purportedly would show consumers how to make money tracking down people due refunds after they had paid off their mortgages. The consent order requires Smith to have substantiation for profits, earnings, or sales claims for any business opportunity he markets.

*Third Option Laboratories, Inc.; Susan McWilliams Bolton;  
Danny Bishop McWilliams; William J. McWilliams*

The Commission approved a consent order with Third Option and its principals, marketers of a fruit beverage, “Jogging in a Jug,” settling allegations that they made numerous false health claims for the drink. The order prohibits the respondents from making unsubstantiated claims about this beverage or any similar product and requires them to have competent and reliable scientific evidence to support any representation they make about the performance, safety, efficacy, or benefits of any food, dietary supplement, or drug they market in the future. In addition, the respondents are required to notify certain previous purchasers, advising them of the Com-

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mission's allegations, and to pay \$480,000, which will be used for refunds to consumers or disgorged to the U.S. Treasury.

*WLAR Co.; Michael K. Craig*

The Commission accepted a final consent order with WLAR Co. and its owner regarding the alleged deceptive advertising of weight-loss and body-shaping booklets in magazine advertising directed at teenage girls. The order prohibits false or unsubstantiated weight-loss-related claims for any weight-loss product and requires the respondents to disclose in future ads that the "product" being advertised consists solely of booklets or pamphlets.

*Wolverine Capital (Randolf D. Albertson, d/b/a)*

Randolf Albertson, doing business as Wolverine Capital, settled Commission allegations that he made false or unsubstantiated advertising claims on the Internet. Albertson's advertising touted "Free Cash Grants by Mail" and offered, for a fee, to match consumers with private foundations likely to give them money for business, education, and other purposes. The respondent represented that the majority of his clients were approved for cash grants, a claim that the Commission alleged is false and unsubstantiated. The consent order prohibits Albertson from making similar claims and from misrepresenting the services or assistance he provides in obtaining any financial products or services.

*Zygon International, Inc.; Dane Spotts*

The Commission accepted a final consent order with Zygon, a national mail-order catalog marketer, and its owner, settling allegations that they used deceptive practices in the advertising and sale of several products. The respondents agreed to pay up to \$195,000 in refunds under terms of the order, to resolve allegations that the company made a number of unsubstantiated claims and failed to honor its money-back guarantee policy for its products. The order also requires that Zygon and Dane Spotts have competent and reliable substantiation for any claims about the performance, benefits, efficacy, or safety of any product or service they market, and requires them to honor any refund policy they advertise.

**PART III ADMINISTRATIVE COMPLAINTS  
COMPETITION MISSION**

*COMPETITION MISSION (SUMMARY)*

Title	Number	Action Date	Type of Matter	Product/Service
Toys R Us, Inc.	D9278	05/22/96	Horizontal Price Fixing	Children's Games and Toys

**COMPETITION MISSION** *Toys R Us, Inc.*  
**(DETAIL)**

The Commission issued an administrative complaint charging that Toys R Us, the nation's largest toy retailer, used its market power to keep toy prices higher and reduce toy outlet choices for consumers. The complaint alleged that Toys R Us extracted agreements from toy manufacturers to (1) stop selling certain toys to warehouse clubs, (2) put toys into more expensive combination packages, and (3) tell Toys R Us in advance what items they planned to sell to the clubs. The complaint further alleged that as a result of these practices, consumers could not obtain lower priced toys from clubs and could not compare prices easily.



**PART III ADMINISTRATIVE COMPLAINTS  
CONSUMER PROTECTION MISSION**

**CONSUMER PROTECTION MISSION (SUMMARY)**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Ciba-Geigy Corporation	D9279	06/21/96	Unsubstantiated Health Claims	Doan's Pills (Over-the-Counter Analgesics)
Exxon Corporation	D9281	09/11/96	Unsubstantiated Performance Claims	Gasoline
Quaker State-Slick 50, Inc.	D9280	07/12/96	Unsubstantiated Performance Claims	Automotive Engine Treatment

**CONSUMER PROTECTION  
MISSION (DETAIL)**

*Ciba-Geigy Corporation; Ciba Self-Medication, Inc.*

The Commission issued an administrative complaint alleging that Ciba-Geigy and Ciba Self-Medication, marketers of Doan's Pills, did not have evidence to back up advertising claims that this pain reliever was more effective in relieving back pain than other over-the-counter analgesics. The Commission is seeking an order that will prohibit the respondents from making such claims without reliable scientific evidence and that may require corrective advertising. The advertising agency for Doan's Pills reached a separate settlement with the Commission in connection with its role in some of the challenged advertising (*see – Jordan, McGrath, Case & Taylor, Inc., page 57*).

*Exxon Corporation*

The Commission issued an administrative complaint alleging that Exxon misled consumers by making unsubstantiated advertising claims for its gasoline. The advertisements allegedly claimed that switching to Exxon gasolines generally – or to Exxon 93 Supreme specifically – would make engines cleaner and would significantly reduce automobile maintenance costs. According to the Commission, Exxon failed to substantiate these claims. The Commission is seeking an order to require the company to have scientific support for future claims about the benefits of its gasolines.

*Quaker State-Slick 50, Inc.; Slick 50 Corp.;  
Slick 50 Management, Inc.; Slick 50 Products Corp.*

The Commission issued an administrative complaint alleging that Quaker State and three subsidiaries made false and unsubstantiated claims in advertising for Slick 50, the best selling automobile engine treatment in the United States. The advertisements claimed that Slick 50 improved engine performance, reduced engine wear, lengthened engine life, and provided a host of other benefits compared with motor oil alone. The Commission is seeking an order to prohibit future misrepresentations and to require that claims be backed by competent and reliable evidence.

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### PART III CONSENT ORDERS ISSUED CONSUMER PROTECTION MISSION

#### CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product/Service
Home Shopping Network, Inc.	D9272	09/26/96	Unsubstantiated Health Claims	Vitamin and Stop-Smoking Sprays
National Dietary Research, Inc.	D9263	11/07/95	Unsubstantiated Health Claims	Weight-Loss Products and Programs

**CONSUMER PROTECTION MISSION (DETAIL)** *Home Shopping Network, Inc.; Home Shopping Club, Inc.; HSN Lifeway Health Products, Inc.*

Home Shopping Network and two of its subsidiaries settled allegations of deceptive advertising for four mouth sprays – three vitamin sprays and a stop-smoking spray. The sprays were promoted and sold via interactive television shopping programs. According to the Commission, the respondents made a number of health-related claims for the sprays without evidence to support them. Under the consent order, the respondents must secure scientific evidence to back up claims that any food, supplement, or drug can treat a disease or affect a function of the body. A separate settlement was made with the actress who made the claims on television and her production company (*see – Live-Lee Productions, Inc., page 58*).

*National Dietary Research, Inc.; William H. Morris Company, The; William H. Morris*

The Commission approved a consent order with two companies and their owner, settling allegations that they made false and unsubstantiated claims for two products purported to promote weight loss and reduce cholesterol. Under the order, the respondents are required to pay \$100,000, to be used for consumer refunds if practical or to be deposited in the U.S. Treasury. The order also prohibits the respondents from making false or unsubstantiated claims about their products and programs in the future, including claims about weight

loss or health benefits, dietary constituents, test results, and testimonials.

**INITIAL DECISIONS  
CONSUMER PROTECTION MISSION**

**CONSUMER PROTECTION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product/Service
RustEvader Corporation	D9274	05/24/96	Unsubstantiated Conditional Warranty Claims	Automobile Electronic Corrosion-Control Product

**CONSUMER PROTECTION MISSION (DETAIL)** *RustEvader Corporation (a/k/a Rust Evader Corporation, d/b/a REC Technologies);  
David F. McCready*

An Administrative Law Judge issued an initial decision prohibiting RustEvader and its president from using the names “Rust Evader” or “Rust Buster” for a purported electronic corrosion-control device for automobiles that the judge said is not effective in substantially reducing corrosion, despite the company’s advertising campaign to the contrary. The Commission alleged that RustEvader made false claims about this product and about a demonstration and studies regarding its efficacy. The judge’s decision prohibits RustEvader from using the two brand names, from misrepresenting the performance, efficacy, or attributes of any automotive product, and from conditioning warranty coverage on the purchase of certain brand-named or trade-named products or services.

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### FINAL ORDERS COMPETITION MISSION

#### COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product/Service
California Dental Association	D9259	03/26/96	Horizontal Restraints	Dental Services
Harper & Row Publishers, Inc.	D9217	09/10/96	Distributional Arrangements	Book Publishing
Hearst Corporation, The	D9219	09/10/96		
Macmillan, Inc.	D9218	09/10/96		
Putnam Berkley Group, Inc., The	D9220	09/10/96		
Random House, Inc.	D9222	09/10/96		
Simon & Schuster, Inc.	D9221	09/10/96		

#### COMPETITION MISSION (DETAIL) *California Dental Association*

A Commission decision upheld an administrative complaint that alleged that the California Dental Association interfered with its members' use of truthful and nondeceptive advertising to promote the price, quality, and availability of dental services. The order, which upholds the 1995 initial decision of an Administrative Law Judge, prohibits such practices in the future and requires the Association to update its Code of Ethics to remove any language that does not agree with the provisions of the order. The order, however, does not prohibit the Association from enacting ethical guidelines to regulate false and misleading advertising of dental services or members' solicitation of patients vulnerable to undue influence.

*Harper & Row Publishers, Inc.; Hearst Corporation, The; Macmillan, Inc.; Putnam Berkley Group, Inc., The; Random House, Inc.; Simon & Schuster, Inc.*

The Commission dismissed separate administrative complaints against six book publishers, ruling that changes in the book distribution industry have corrected the alleged price discrimination practices specified in the 1988 complaints. The complaints had charged that the publishers used unfair methods of competition by

engaging in discriminatory pricing practices and services in the sale of trade books and mass-market paperbacks.

**FINAL ORDERS  
CONSUMER PROTECTION MISSION**

***CONSUMER PROTECTION MISSION (SUMMARY)***

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Dillard Department Stores, Inc.	D9269	03/07/96	Truth-in-Lending Regulation Z	Credit Card Use in Retail Stores

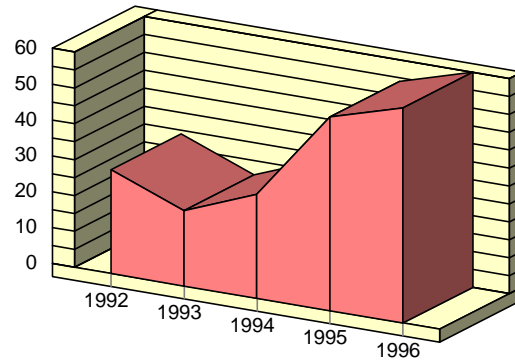
***CONSUMER PROTECTION MISSION (DETAIL)***

*Dillard Department Stores, Inc.*

The Commission dismissed its complaint against Dillard, ending a case in which it had alleged that Dillard made it unreasonably difficult for consumers to remove unauthorized charges from their charge card bills. The Commission dismissed the complaint in light of a standard recently issued by the Federal Reserve Board, which deals with investigating claims of unauthorized credit card use. The Commission stated that because the new standard appears to differ from the standard reflected in the complaint, it would not be in the public interest to continue the case.

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### COMPLAINTS FILED IN DISTRICT COURT CONSUMER PROTECTION MISSION



#### CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product/Service
Ad-Com International, Inc.	X960041	03/01/96	Franchise Rule	900-Number Business Venture
American Business Supplies, Inc.	X960074	06/26/96	Telemarketing Sales Rule	Office Supplies
American Exchange Group, Inc.	X960080	07/22/96	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
American Inventors Corporation	X960028	10/24/95	Investment Fraud	Invention Promotions
Amstar Finance Corporation	X960055	06/05/96	Advance-Fee Loan Fraud	Consumer Finance
Bell Connections, Inc.	X960030	01/23/96	Investment Fraud	Paging License Services
Best Marketing, Inc.	X960077	07/12/96	Prize-Promotion Fraud	Specialty Merchandise
Bureau 2000 International, Inc.	X960042	03/07/96	Franchise Rule	900-Number Business Venture
Career Assistance Planning, Inc.	X960089	08/27/96	Scholarship Fraud	Scholarship Search Services/Finance
Career Information Services, Inc.	X960058	06/14/96	Job Placement Fraud	Employment Services

**Complaints Filed in District Court**

**Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Careers, Inc.	X960072	06/12/96	Job Placement Fraud	Employment Services
Christopher Ebere Nwaigwe	X960091	08/28/96	Scholarship Fraud	Scholarship Search Services/Finance
College Assistance Services, Inc.	X960093	08/27/96	Scholarship Fraud	Scholarship Search Services/Finance
Commercial Electrical Supply, Inc.	X960097	06/26/96	Telemarketing Sales Rule	Office Supplies
Direct Link, Inc.	X960065	06/20/96	Job Placement Fraud	Employment Services
Diversified Marketing Service Corporation	X960025	03/12/96	Telemarketing Sales Rule	Magazine Subscription Sales
EDJ Telecommunications, Inc., d/b/a International Marketing	X960006	11/28/95	Telemarketing Sales Rule	Prize Promotion
Empress Corporation, d/b/a American Publishers Exchange, Inc.	X960008	12/05/95	Telemarketing Fraud	Magazine Subscription Prize Promotion
Falcon Crest Communications, Inc.	X960016	11/29/95	Investment Fraud	Mobile Radio and Paging License Services
Family Publishers Clearing Center	X960090	07/15/96	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
Financial Freedom Report, Inc.	X960056	06/04/96	Investment Fraud	Home-Based Business Opportunity
Fortuna Alliance, LLC	X960059	05/23/96	Investment Fraud	Internet Pyramid Scheme
Genesis One Corporation	X960038	03/04/96	Franchise Rule	900-Number Business Venture
Glendale Associates (Patricia Esme Popp, d/b/a)	X960084	06/07/96	Telemarketing Sales Rule and Advance-Fee Loan Fraud	Consumer Finance
Global E	X960075	06/05/96	Advance-Fee Loan Fraud	Consumer Finance
Gold Leaf Publishing & Distributing Company, Inc. (William Szabo, d/b/a)	X960044	03/01/96	Franchise Rule	900-Number Business Venture
Ideal Concepts, Inc.	X960002	12/05/96	Telemarketing Fraud	Prize Promotion



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Title	Number	Action Date	Type of Matter	Product/Service
Ideal Credit Referral Services, Ltd.	X960063	06/05/96	Telemarketing Sales Rule and Advance-Fee Loan Fraud	Consumer Finance
Incentive International	X960099	07/18/96	Cross-Border Telemarketing Fraud	Prize Promotion
Infinity Multimedia, Inc.	X960073	06/24/96	Franchise Rule	Display Rack Business Opportunity
Innovative Telemedia, Inc.	X960027	03/04/96	Investment Fraud	900-Number Business Opportunity
Intelinet Data Services	X960067	06/12/96	Job Placement Fraud	Employment Services
J.C. Penney	X960110	09/24/96	Equal Credit Opportunity Act	Retail Consumer Credit
J.P. Meyers Company, Inc.	X960045	03/07/96	Franchise Rule	900-Number Business Venture
Law Center, The	X960069	04/10/96	Telemarketing Sales Rule	Credit Repair
Linc II, Inc.	X960083	06/14/96	Job Placement Fraud	Employment Services
Marketing Response Group, Inc.	X960036	01/18/96	Direct-Mail Fraud	Direct-Mail Vacation, Prize, and Land Sale Promotion
Metro Data, Inc.	X960112	06/14/96	Job Placement Fraud	Employment Services
Michael P. McGowan	X960076	07/01/96	Telemarketing Sales Rule	Office Supplies
Micom Corporation	X960024	01/23/96	Investment Fraud	Mobile Radio and Paging License Services
Multinet Marketing, LLC	X960081	07/17/96	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
National Business Distributors Company, Inc.	X960087	06/26/96	Telemarketing Sales Rule	Office Supplies
National Talent Associates Inc.	X950060	06/04/96	Order Violation	Talent Brokerage Services
Network Communications Group, Ltd.	X960119	01/26/96	Investment Fraud	Mobile Radio and Paging License Services

**Complaints Filed in District Court****Appendix**

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Oasis Southwest, Inc.	X960079	07/15/96	Telemarketing Sales Rule	Prize Promotion – “Say No to Drugs” Materials
Omega Promotions, Inc.	X960118	06/14/96	Job Placement Fraud	Employment Services
O’Neill, Incorporated	X960100	09/27/96	Order Violation	Wetsuits
Pioneer Communications of Nevada, Inc.	X960043	03/01/96	Franchise Rule	900-Number Business Venture
Publishers Award Bureau	X960098	07/15/96	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
Silver State Western Publishing, Inc., d/b/a Prime Time Marketing	X960053	05/15/96	Telemarketing Sales Rule	Prize Promotion – “Say No to Drugs” Materials
Sparta Chem, Inc.	X960071	07/01/96	Telemarketing Sales Rule	Office Supplies
Student Aid Incorporated	X960115	08/27/96	Scholarship Fraud	Scholarship Search Services/Finance
Student Assistance Services, Inc.	X960120	08/27/96	Scholarship Fraud	Scholarship Search Services/Finance
Telecommunications Protection Agency, Inc.	X960085	07/17/96	Telemarketing Sales Rule	Prize Promotion “Recovery Room”
Tower Cleaning Systems, Inc.	X960122	08/23/96	Franchise Rule	Commercial Janitorial Cleaning Franchises
Universal Credit Corporation (Gabrielle Ellis and Mark Thomas Ellis, d/b/a)	X960048	02/07/96	Misrepresentations and Deceptive Advertising	Credit Repair
USA Channel Systems, Inc.	X960017	01/23/96	Investment Fraud	Paging License Services
USA Credit Services, Inc.	X960068	04/10/96	Telemarketing Sales Rule	Credit Repair
Worldwide Wallcoverings & Blinds, Inc.	X960096	09/23/96	Mail/Telephone Order Merchandise Rule	Wallpaper and Window Coverings

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**CONSUMER PROTECTION MISSION (DETAIL)** *Ad-Com International, Inc.; Anthony Catalano; Lorraine Corrales*

The Commission filed a complaint alleging that Ad-Com and corporate officers Anthony Catalano and Lorraine Corrales violated the Franchise Rule by failing to give investors required pre-purchase information. The defendants sold business ventures consisting of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*American Business Supplies, Inc.; Interstate Office Systems, Inc.; Nationwide Office Products, Inc.; Michael Chierico*

The Commission filed a complaint alleging that the defendants, office supply telemarketers, violated the Telemarketing Sales Rule by telephoning small businesses and nonprofit organizations, using deceptive means to get the name and address of a person to list on invoices, and sending unordered office supplies and invoices charging inflated prices. When victims of the scheme complained or tried to return the goods, they were allegedly harassed or charged substantial “restocking” or shipping fees. The Commission is seeking permanent injunctive relief and consumer redress.

*American Exchange Group, Inc.; Todd Bishop; William S. Kelly*

The Commission filed a complaint alleging that American Exchange, a telemarketer, falsely promised consumers that they would receive valuable awards or gifts if they purchased magazine subscriptions or other items and falsely told them that the awards would be worth more than the cost of the purchases. The complaint also alleged that the defendants violated the Telemarketing Sales Rule by failing to disclose that no purchase was required to enter the promotion or to win a prize. The Commission is asking the court for a permanent injunction and consumer redress.

*American Inventors Corporation (AIC);  
American Institute for Research and Development, Inc. (AIRD);  
Ronald Boulerice; John Hoime; John L. Samson*

The Commission filed a complaint alleging that the defendants ran a deceptive invention promotion scheme that bilked consumers nationwide out of thousands of dollars each over a 20-year span. The complaint alleged that the firms and their principal officers made a variety of false claims and failed to disclose key information in the course of inducing consumers to purchase patenting and marketing services. A federal district court issued a preliminary injunction, which requires the defendants to make certain disclosures to their customers as to success rates and earnings, continues a freeze on the defendants' assets, prohibits them from making misrepresentations, and orders them not to destroy documents, pending the outcome of a trial.

*Amstar Finance Corporation; Amstar Investment Corporation;  
Bibekanand Satpathy*

The Commission filed a complaint alleging that the defendants used deceptive credit practices in offering advance-fee loans. The defendants offer market brokerage services for business loans and venture capital to consumers for advance fees averaging \$3,000. The Commission is seeking a permanent injunction and consumer redress.

*Bell Connections, Inc.;*  
*Michael Berman (d/b/a Discount Filing Services);*  
*Donald Lee Dayer; Jimmie Justus; Erwin Allen Strauss*

The Commission is seeking a permanent injunction for four individuals and two related companies that offered application preparation services for paging licenses available through the Federal Communications Commission (FCC), which regulates the radio frequencies used by pagers. According to the Commission complaint, the defendants charged consumers ten or more times the FCC charges for the application process and made a number of false statements, including that paging licenses were profitable investments, that buyers could lease or sell their licenses to existing paging systems, and that the fees Bell charged were to cover work required by the

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FCC such as engineering studies. FCC regulations prohibit applicants from obtaining licenses for profitable resale.

*Best Marketing, Inc.; Edward H. Hexter (a/k/a David D. Best)*

The Commission filed a complaint alleging that Best Marketing and its president/director deceptively telemarketed to small businesses, telling them that they would win a premium if they ordered certain speciality items and representing that the premiums were worth more than the cost of the orders. In fact, the complaint alleged, the prizes the businesses received were worth less than what they paid for the purchases; in addition, the defendants failed to disclose that no purchase was required to win a prize. The Commission is seeking a court order for permanent injunctive relief and consumer redress.

*Bureau 2000 International, Inc.; Malibu Media, Inc.;  
Krystee Carr; Dave Ryder*

The Commission filed a complaint alleging that Bureau 2000, Malibu Media, and their corporate officers violated the Franchise Rule by failing to give investors required pre-purchase information. The defendants sold business ventures consisting of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*Career Assistance Planning, Inc. (d/b/a College Assistance Planning,  
College Assistance Program, and C.A.P.);  
David Chaim Levy; Donna M. Levy (a/k/a Donna Holleger);  
Becky Burch Settles*

The Commission filed a complaint alleging that the defendants offered fraudulent scholarship search services. According to the complaint, the defendants supplied lists of unsuitable or expired scholarships or no lists at all, misrepresented or did not honor their refund policy, and debited consumers' bank or credit accounts without authorization. The Commission obtained a temporary restraining order and is seeking a court order permanently barring the

defendants from similar schemes and requiring them to give refunds to their customers.

*Career Information Services, Inc.; CIS Associates, Inc.; William Phillips; David Lee Smith*

The Commission obtained a court order freezing more than \$2 million in corporate and individual assets pursuant to a preliminary injunction against Career Information Services, its successor CIS Associates, and two corporate officers. The Commission complaint alleged that the defendants ran a deceptive job services scheme, which included misleading classified ads and nondisclosure of charges for 900-number telephone calls. The injunction prohibits the defendants from making false or misleading statements in connection with providing employment advisory services and requires them to disclose the cost of any pay-per-call service they offer, as required by the 900-Number Rule. The Commission is seeking a permanent injunction and consumer redress.

*Careers, Inc. (d/b/a Career Marketing Services, Inc., Jobtech, Professional Model and Talent, Inc., and United Careers, Inc.); Daniel T. Faulkner; Nicholas S. Mancino*

The Commission filed a complaint alleging that Careers and two of its officers deceptively marketed employment services for airline jobs nationwide. The Commission said that the company led consumers to believe that it was affiliated with one or more airlines and had special access to job openings, and that for an upfront fee of \$135, they would soon be employed in their chosen geographic areas. However, the Commission alleged that few, if any, consumers obtained jobs in their chosen areas. A proposed settlement of these allegations would prohibit the defendants from making false or misleading statements in connection with offering employment services and would require payment of \$350,000 in redress.

*Christopher Ebere Nwaigwe (a/k/a Christopher Maige, Michael Morge, and Michael Norge)*

The Commission filed a complaint alleging that Christopher Nwaigwe, operating under a variety of personal and business names such as “National Scholarship Program,” offered fraudulent

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scholarship search services. According to the complaint, the defendant supplied lists of unsuitable or expired scholarships or no lists at all. The Commission obtained a temporary restraining order and is seeking a court order permanently barring the defendant from similar schemes and requiring him to give refunds to his customers.

*College Assistance Services, Inc.; Conni Canella; Linda Love*

The Commission filed a complaint alleging that the defendants falsely represented themselves as a scholarship clearinghouse and charged an upfront fee, guaranteeing that students would receive scholarships worth at least \$1,000. According to the complaint, the defendants supplied a list of college aid sources that included contests, loans, and programs with expired deadlines. In addition, the defendants did not give refunds unless students complied with certain conditions. The Commission obtained a temporary restraining order and is seeking a permanent injunction and consumer redress.

*Commercial Electrical Supply, Inc.; Michael C. Spence  
(d/b/a American Industrial Supplies, Commercial Distributors,  
Crown Electrical Supply, and Kemtech Industries)*

The Commission filed a complaint alleging that Commercial Electrical and Michael Spence (doing business under a number of names) violated the Telemarketing Sales Rule. According to the complaint, the defendants telephoned small businesses and nonprofit organizations and then sent unordered supplies, followed by invoices charging inflated prices. When victims of the scheme complained, they were allegedly harassed, and when they tried to return the goods, they were charged substantial “restocking” or shipping fees. The Commission obtained a temporary restraining order and an asset freeze. The Commission is seeking permanent injunctive relief and consumer redress.

*Direct Link, Inc.; Suzanne Bannister*

The Commission filed a complaint alleging that Direct Link and its president engaged in the fraudulent marketing of employment services. According to the complaint, the defendants falsely advertised available jobs and charged consumers upfront fees, but few if any consumers received the job placement assistance promised.

The Commission is seeking a court order permanently barring the challenged practices and ordering the defendants to pay redress for injured consumers.

*Diversified Marketing Service Corporation;*  
*Magazine Club Billing Service, Inc.;*  
*National Marketing Service, Inc.;*  
*Neighborhood Periodical Corporation (NPC) of the Midwest, Inc.;*  
*C.H. Kuykendall; H.G. Kuykendall, Jr.; H.G. Kuykendall, Sr.*

The Commission filed a complaint alleging that Diversified, three related companies, and their officers violated the Telemarketing Sales Rule by debiting consumers' checking accounts for packages of magazine subscriptions without the consumers' authorization or even knowledge in some instances. The defendants placed unsolicited calls to consumers and obtained bank account numbers, allegedly using a variety of misrepresentations, including false claims about the costs of the subscriptions. The Commission is seeking permanent injunctive relief and consumer redress or disgorgement.

*EDJ Telecommunications, Inc. (d/b/a International Marketing);*  
*Judy L. Burr (a/k/a Judith L. Burr); David L. Ramos*

The Commission filed a complaint alleging that EDJ Telecommunications and its officers orchestrated a telemarketing scheme involving the fraudulent promotion of prizes. According to the Commission, the defendants promised consumers valuable prizes if they purchased certain merchandise, but the prizes were never delivered or were worth a fraction of their claimed value. A proposed settlement also filed in court includes a permanent injunction and requires payment of \$377,000 in consumer redress.

*Empress Corporation (d/b/a American Publishers Exchange, Inc.);*  
*Scott Cooke*

The Commission filed a complaint alleging that Empress and Scott Cooke used deceptive sales practices and misrepresentations in telemarketing magazine subscriptions. According to the Commission, the company promised consumers valuable prizes or awards that were never delivered or were worth a fraction of their claimed



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value. The Commission is seeking permanent injunctive relief and consumer redress or disgorgement.

*Falcon Crest Communications, Inc.;*  
*Republic Communications Corp.; Joseph Caridi; Joel H. Cohen;*  
*Nicholas DeRico (a/k/a Nicholas Vasti); Jordan Drew;*  
*Gary Paperman (a/k/a Gary Perry)*

A federal district court temporarily halted the deceptive sales practices and froze the assets of Falcon Crest, its principals and salesmen, for selling bogus brokerage services to consumers holding federal paging and mobile radio licenses. According to the Commission complaint, the defendants represented themselves to clients as experienced and highly successful license brokers and charged upfront, nonrefundable fees, but delivered few, if any, offers to buy or lease the licenses consumers held. The defendants also include Falcon Crest's parent company, Republic Communications. The Commission is seeking a permanent injunction and consumer redress.

*Family Publishers Clearing Center (d/b/a American Publisher Clearing Center and American Publishers Clearing Center);*  
*American Enterprise List, Inc. (d/b/a Warner List and Warner Lists, Inc.);*  
*Kenneth Caparoni; Philip Katz; Sheldon Katz; Michael Weiss*

The Commission filed a complaint alleging that Family Publishers and related companies solicit consumers, telling them that they are "guaranteed to win" seemingly valuable prizes; however, when consumers call to claim the prizes, they are told they must pay several hundred dollars for magazine subscriptions to be eligible. In addition, the complaint alleged that the company misrepresented the nature and value of its prizes and failed to disclose that no purchase was required to enter the promotion or to win a prize. The Commission is seeking a permanent injunction against the companies and their principals and redress for consumers.

*Financial Freedom Report, Inc.;*  
*American Home Business Association, Inc.; Elevā, Inc.;*  
*FFR Marketing, Inc.; FreeCom Communications, Inc.;*  
*Silent SalesForce, Inc.; Annette S. Brazell; Robert V. Brazell;*  
*Dana P. Gull; Don S. Gull; Kelly Haroldsen; Mark O. Haroldsen*

The Commission filed a complaint alleging that these six companies and six individuals, who were officers, directors, and/or shareholders in some or all of the companies, misrepresented the earnings potential to consumers who purchased their “starter kits” for home businesses such as selling distressed merchandise, T-shirts, or vitamins. According to the complaint, the defendants used program-length television commercials, mailings, and seminars to induce consumers to purchase the starter kits by making claims that each of the business ventures was a proven money-maker. The Commission has asked the court to order a permanent halt to the alleged misrepresentations and an asset freeze to preserve funds for consumer redress.

*Fortuna Alliance, LLC; Augustine Delgado; Monique Delgado;*  
*Donald R. Grant; Gail Oliver; Libby Gustine Welch*

In its largest law enforcement action against fraud on the Internet, the Commission filed a complaint alleging that Fortuna promoted a hard-core investment fraud scheme, which was actually a pyramid scheme. Advertising over the Internet through their World Wide Web page, the defendants promised participants in the scheme a \$5,000-per-month return on a \$250 investment and encouraged multiple investments. The Commission obtained a court order temporarily halting the scheme, freezing the defendants’ assets, and appointing a receiver. The Commission is seeking an order permanently halting these activities and providing redress for consumers.

*Genesis One Corporation (d/b/a Bureau One);*  
*Alex Bass; Rose Kistorian*

The Commission filed a complaint alleging that Genesis One, doing business as Bureau One, and its corporate officers violated the Franchise Rule by failing to give investors required pre-purchase information and by making false earnings claims. The defendants sold business ventures consisting of investments in pay-per-call

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information or entertainment programs that consumers access by calling 900-numbers. The Commission won a temporary restraining order and is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*Glendale Associates; Crown Credit Services; Star Financial Services (Patricia Esme Popp, d/b/a all three businesses)*

The Commission filed a complaint alleging that Patricia Popp, operating under three business names, violated the Telemarketing Sales Rule by offering advance-fee loans. The defendant markets debt-consolidation, business, automobile, and residential loans. The Commission is seeking a permanent injunction and consumer redress.

*Global E; Alexander & Associates; CMS; Interstate, Inc.; MAG Group; Net Sales; Adelino Calvo, Jr.; Robert R. Silvers; Tod A. Silvers (a/k/a Tod Alexander)*

The Commission filed a complaint alleging that three individuals, operating as Global E and under five other business names, marketed credit cards for advance fees in violation of the Telemarketing Sales Rule. The Commission is seeking a permanent injunction and consumer redress.

*Gold Leaf Publishing & Distributing Company, Inc. (William Szabo, d/b/a)*

The Commission filed a complaint alleging that William Szabo, doing business as Gold Leaf, violated the Franchise Rule by failing to give investors required pre-purchase information and by making false earnings claims. The defendant sold business ventures consisting of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar Szabo from similar deceptive practices in the future.

*Ideal Concepts, Inc.; Michael Garganese*

The Commission filed a complaint alleging that Ideal Concepts and its president used a deceptive prize-promotion scheme in telemarketing to consumers nationwide, many of them senior citizens. In the scheme, consumers received unsolicited telephone calls telling them that they had been selected to receive valuable prizes or awards if they purchased certain merchandise. According to the complaint, the prizes or awards were never delivered or were worth a fraction of their claimed value. The Commission is seeking permanent injunctive relief and consumer redress or disgorgement.

*Ideal Credit Referral Services, Ltd.; CAF Phone Systems; Direct Telemarketing, Inc.; Elite Credit Referral Services, Ltd.; New Consolidated Consultants, Inc.; Universal Client Services, Inc.; Cindy W. Forde (a/k/a Cindy Williams); Stephen Mark Fraser; Donald Patrick Hugh; Dion William Lockhart; Karl Morris; David Wayne Panella; Enghieberth (Bert) Smith; Maria Tilotta Smith*

The Commission filed a complaint alleging that six companies and eight individuals, operating out of Canada, violated the Telemarketing Sales Rule by marketing advance-fee loans. This case marks the first time the Commission has sued a foreign telemarketing “boiler room.” The Commission is seeking a permanent injunction and consumer redress, and the Province of British Columbia has initiated law enforcement proceedings against the same defendants.

*Incentive International (9013-0980 Quebec Inc., d/b/a Incentive International, Incentives International, and Pegasus Industries); Joshua Baazov; Ofer Baazov*

The Commission filed a complaint against this Canadian firm and two principals, alleging that Incentive International engages in cross-border telemarketing fraud, calling senior citizens in the United States and telling them they have won valuable prizes. In fact, according to the Commission complaint, consumers receive premiums worth a fraction of the hundreds or thousands of dollars they spend on purchases from the company. The company allegedly also fails to disclose the odds of winning each potential prize and the fact that no purchase is required to win a prize. The Commission is seeking a permanent injunction and consumer redress.

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*Infinity Multimedia, Inc.; Quality Marketing Associates, Inc.;  
William B. Chappie (a/k/a William Bruno Chapple,  
Chappie Czaplewski, William Brono Czaplewski, Ken Olson,  
and Bill Stack);  
Joseph A. Wentz*

The Commission filed a complaint against two companies and two individuals, alleging that they made false earnings claims and used other deceptive practices in selling their prepackaged distributorships, in violation of the Franchise Rule. The Commission subsequently negotiated an agreement that includes consumer redress with three of the four defendants, who marketed CD-ROM display rack businesses. The allegations against the individual defendant Chappie are still pending. The Commission took over the defendants' World Wide Web page to provide information about the case to consumers who access the page.

*Innovative Telemedia, Inc.;  
Frederick O. Buckley (a/k/a Westy Monroe)*

The Commission filed a complaint alleging that Innovative Telemedia and its officer made false earnings claims about the businesses they sold and failed to pay investors the agreed-on portion of revenues. The business ventures consisted of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission won a temporary restraining order and is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*Intelinet Data Services; Stratified Advertising and Marketing, Inc.;  
Patrick Donaghy; Thomas F. Frontera; Robin L. Murphy*

The Commission filed a complaint alleging that Intelinet, also doing business as Stratified, and three company officers engaged in the fraudulent marketing of employment services. According to the complaint, the defendants falsely advertised available government jobs and charged consumers upfront fees, but few if any consumers received the job placement assistance promised. The Commission is

seeking a court order permanently barring the challenged practices and ordering the defendants to pay redress to injured consumers.

*J.C. Penney*

The Commission filed a settlement with J.C. Penney, one of the largest retail store chains in the country, that requires payment of a \$225,000 civil penalty to settle allegations that it violated consumers' rights to receive written notice of the reasons for a denial of credit. The Commission alleged that when Penney denied consumers' credit applications, it either failed to explain the reasons at all or gave the wrong reasons. Under the proposed settlement, Penney would also be required to give consumers who were denied credit in the past a written statement of the correct reasons for denial and to comply with federal laws requiring such explanation in the future. The consent decree requires the court's approval to become binding.

*J.P. Meyers Company, Inc.; Joseph Shapiro*

The Commission filed a complaint alleging that J.P. Meyers and its officer violated the Franchise Rule, which requires franchisors to give potential buyers certain pre-purchase information. The defendants sold business ventures consisting of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*Law Center, The; Consumer Law Center, The;  
Walter D. Channels; James Martin Coose*

The Law Center and The Consumer Law Center are two names under which Walter Channels and James Coose have done credit repair business. The Commission filed a complaint alleging that the defendants violated the credit repair provision of the Telemarketing Sales Rule by saying that their services as a law firm would force credit bureaus to remove negative or bad credit. In fact, federal law allows credit bureaus to report all truthful information, including negative information, for seven years. The Commission is seeking permanent injunctive relief and redress for consumers.

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*Linc II, Inc.; Joel Ancelowitz (a/k/a Jim Manti); Betty Busler*

The Commission filed a complaint alleging that Linc II and two individuals ran a fraudulent job placement service. According to the allegations, the defendants solicited consumers through advertisements in newspapers and falsely claimed that they had access to a nationwide “hidden” job market and could obtain job interviews for clients, but few if any clients received job listings, interviews, or jobs themselves. In fact, the complaint said that the clients did not even receive rejection slips from potential employers, leaving them uncertain as to whether the defendants did anything to market their job skills. The Commission is seeking a permanent injunction.

*Marketing Response Group, Inc.;*  
*Marketing Response Group and Laser Company, Inc.;*  
*Palm Harbor Holdings, Inc.; Pete-Nik Holdings, Inc.;*  
*Service Bureau International, Inc.;*  
*William S. Kilichowski; Peter J. Porcelli, Jr.*

The Commission filed a complaint against Marketing Response and its officers and affiliates for allegedly acting with numerous telemarketers nationwide to defraud consumers with direct-mail promotions that falsely promised quick land sales, guaranteed awards, and free vacations. According to the complaint, Marketing Response devised the promotions, created the standard mail pieces, selected the mailing lists, and printed, addressed, and mailed the deceptive solicitations on behalf of its client telemarketers. The Commission is seeking injunctive relief and funds for consumer redress.

*Metro Data, Inc. (a/k/a Metro Dade);*  
*Dennis R. Bell; Marilyn Naylor Koblasz; Cassandra Stone*

The Commission filed a complaint against Metro, its president, and two other principals, alleging that they engaged in the fraudulent marketing of employment services. According to the Commission, the defendants charged consumers upfront fees but provided lists of companies that were not hiring or were out of business. The Commission is seeking a court order permanently barring the challenged practices and ordering the defendants to pay redress to injured consumers.

*Michael P. McGowan (a/k/a Michael McGovern, d/b/a Industrial Chemical, Inc., Med-Amna First Aide, Med-Amna First Aide Care, National Safety, National Safety Supply, and National Safety & Supply); Amna Medical Products Corp. (d/b/a Amna Medical, Med-Amna, Med-Amna First Aide, and Med-Amna First Aide Care); Industrial Chemical Corporation (d/b/a Industrial Chemical, Inc.)*

The Commission filed a complaint alleging that the defendants, office supply telemarketers, violated the Telemarketing Sales Rule by sending unordered supplies to small businesses and nonprofit organizations, followed by invoices charging inflated prices. When victims complained or tried to return the goods, they were allegedly harassed and charged substantial “restocking” or shipping fees. The Commission is seeking a permanent injunction and consumer redress.

*Micom Corporation; Joseph M. Viggiano; Lawrence Williams*

The Commission filed a complaint alleging that Micom and two principals offered deceptive application services for specialized mobile radio and paging licenses issued by the Federal Communications Commission (FCC). The complaint alleged that the company misrepresented the value of the licenses and that some consumers did not receive either their licenses or refunds of the fees paid. The Commission is seeking an injunction.

*Multinet Marketing, LLC; American Family Sweepstakes, LLC; American Readers Service, Inc.; World Class Vacations, Inc.; Clarence Jack Servaes; Jack Michael Servaes*

The Commission filed a complaint against four companies and two of their principals, alleging that Multinet Marketing solicits consumers, telling them that they have won prizes; however, when consumers call to claim the prizes, the telemarketers request credit card numbers to charge between \$300 and \$600 for “major” prizes, other promotional items, and magazine subscriptions. In addition, Multinet Marketing allegedly misrepresents the value of the prizes it awards. Further, according to the complaint, American Readers Service sponsors the Multinet Marketing prize promotion and provides customer and credit card services, in violation of the



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Telemarketing Sales Rule. The Commission is seeking a permanent injunction and consumer redress.

*National Business Distributors Company, Inc.;*  
*Deborah L. Azari; Raphael Ralph Azari*

The Commission filed a complaint alleging that the defendants violated the Telemarketing Sales Rule by engaging in misrepresentations and fraudulent practices in connection with telephone sales of office supplies. According to the complaint, the defendants sent unordered merchandise to small businesses and nonprofit organizations and billed at inflated prices. Victims who complained or tried to return the supplies were harassed and charged substantial “restocking” and shipping fees. The Commission seeks permanent injunctive relief and consumer redress.

*National Talent Associates, Inc.; Jerome P. Ashfield*

The Commission filed a complaint alleging that National Talent Associates and its president misrepresented their ability to place children in high-paying modeling and acting jobs and violated a 1975 order that barred them from doing so. The Commission has asked for civil penalties of up to \$10,000 for each violation of the previous order and a requirement that the defendants post a performance bond before resuming work in the talent brokerage business.

*Network Communications Group, Ltd.;*  
*Alliance Communications, Inc.; Joseph Messina; Oliver Porter*

The Commission filed a complaint alleging that the defendants misrepresented their offering of application services for specialized mobile radio and paging licenses issued by the Federal Communications Commission (FCC). The defendants allegedly misrepresented that consumers would receive FCC licenses through their services and misrepresented the investment value of the licenses. The Commission is seeking permanent injunctive relief.

*Oasis Southwest, Inc.; Ray Jojola; Michael A. Portalatin*

The Commission filed a complaint alleging that Oasis Southwest, a telemarketer, and two principals conducted a fraudulent prize

promotion. The complaint alleged that Oasis Southwest promised consumers that they would receive an award if they purchased “Say No to Drugs” paraphernalia and that the award would be worth more than the purchase cost. However, the awards consumers received, if any, were allegedly not worth more than what the consumers paid. In addition, the complaint alleged that the defendants violated the Telemarketing Sales Rule by failing to disclose that no purchase was required to enter the promotion or to win a prize. The Commission is seeking a permanent injunction and consumer redress.

*Omega Promotions, Inc.; Regency Services, Inc.;*  
*Richard Devon Grant; Lisa Phillips (a/k/a Lisa Warnock Grant,*  
*Lisa Marie Warnock, and Lisa Phillips Warnock);*  
*Michael Warnock*

The Commission filed a complaint alleging that Omega, Regency, and their corporate officers engaged in the fraudulent telemarketing of employment services. According to the complaint, the defendants conducted multiple operations promoting job openings, charging advance fees, and debiting consumers’ bank accounts without authorization. The Commission is seeking a court order permanently barring the challenged practices and ordering the defendants to pay redress to injured consumers.

*O’Neill, Incorporated*

The Commission filed a complaint and a consent decree against O’Neill, the largest seller of wetsuits in the United States. The company agreed to settle allegations that it failed to accurately list the fiber content of its garments, in violation of federal law and a previous consent order. According to the complaint, in 1992 the Commission issued a consent order settling allegations that O’Neill violated the Textile Fiber Products Identification Act by mislabeling certain wetsuits. Since that time, the company has sold thousands of wetsuits labeled as 100 percent nylon bonded to neoprene, even though they also contained polyester bonded to neoprene. The proposed settlement requires payment of a \$10,000 civil penalty and permanently bars O’Neill from future violations of the order.

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*Pioneer Communications of Nevada, Inc.;*  
*Glen E. Burke; Mike Luther*

The Commission filed a complaint alleging that Pioneer and its officers violated the Franchise Rule by failing to give investors required pre-purchase information. The defendants sold business ventures consisting of investments in pay-per-call information or entertainment programs that consumers access by calling 900-numbers. The Commission is seeking a court order that would include consumer redress or disgorgement of illegal profits to the U.S. Treasury and that would bar the defendants from similar deceptive practices in the future.

*Publishers Award Bureau;*  
*Marc Duboise; Gerald E. LaFrance; Kenneth E. Nelson*

The Commission filed a complaint alleging that Publishers Award Bureau sends solicitations to consumers telling them that they are “guaranteed to win” seemingly valuable prizes; however, when consumers call to claim their prizes, they are told they must pay several hundred dollars for magazine subscriptions to be eligible. In addition, according to the complaint, the prizes actually won are of little value. The complaint also alleged that the company violated the Telemarketing Sales Rule by failing to disclose that no purchase was required to enter the promotion or to win a prize. The Commission is seeking a permanent injunction and consumer redress.

*Silver State Western Publishing, Inc. (d/b/a Prime Time Marketing  
and Prime Time Publishing);*  
*John A. Pieri*

The Commission filed a complaint alleging that Silver State, doing business as Prime Time, and principal John Pieri violated the Telemarketing Sales Rule in connection with a “Say No to Drugs” program. The complaint alleged that the defendants enticed consumers into purchasing materials or magazine subscriptions by telling them they would receive “extremely valuable” prizes or awards in exchange for their purchases, which was a misrepresentation. The court ordered a temporary halt to the allegedly deceptive prize-promotion solicitation scheme. The Commission is seeking permanent injunctive relief and redress for injured consumers.

*Sparta Chem, Inc.; Dennis J. Saccurato (d/b/a Compu-Kleen, Inc.)*

The Commission filed a complaint alleging that the defendants, office supply telemarketers, violated the Telemarketing Sales Rule by sending unordered supplies to small businesses and nonprofit organizations, followed by invoices charging inflated prices. When victims complained or tried to return the goods, they were allegedly harassed and charged substantial “restocking” or shipping fees. The Commission is seeking a permanent injunction and consumer redress.

*Student Aid Incorporated;  
Adel Kovaleva; Adel Tager; Raimma Tagiev*

The Commission filed a complaint alleging that the defendants falsely represented their ability to help students obtain scholarships or grants. According to the complaint, the defendants told consumers that they could obtain at least \$1,000 in scholarships or grants, but provided lists of unsuitable or expired scholarships and grants. They also required students to provide rejection letters from each source to get promised refunds and debited consumers’ checking accounts without authorization. The Commission obtained a temporary restraining order and is seeking a permanent injunction and consumer redress.

*Student Assistance Services, Inc.; Student Financial Services, Inc.;  
Fred Markowitz; Donald McGovern*

The Commission filed a complaint alleging that the defendants offered fraudulent scholarship search services for an upfront fee and guaranteed to refund the fee if students did not get a scholarship or grant. According to the complaint, the defendants provided lists of unsuitable and expired scholarships or no lists at all and did not honor their refund policy. The Commission obtained a temporary restraining order and is seeking a court order permanently barring the defendants from similar schemes and requiring them to give refunds to their customers.

*Telecommunications Protection Agency, Inc.;*  
*Charles Fulton; Jennifer Fulton*

## **Federal Trade Commission**

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The Commission filed a complaint alleging that Telecommunications Protection and its principals violated the Telemarketing Sales Rule. According to the complaint, Telecommunications Protection claimed that, for an upfront fee of \$5,000 or more, it would assist consumers in recovering money that they had lost in previous telemarketing schemes. In fact, the complaint alleged that, in most if not all instances, the money was not recovered. The Commission is seeking a permanent injunction and consumer redress.

*Tower Cleaning Systems, Inc.; David A. Gansky*

The Commission filed a complaint against Tower, which has commercial janitorial cleaning franchises in 11 states, alleging that the company and its president violated the Franchise Rule. The complaint alleged that the defendants made inflated earnings claims, did not give required pre-purchase information to potential franchisees, and refused to make refunds as promised in its contracts. In a consent decree filed with the complaint, Tower agreed to pay \$50,000, which will be used for consumer redress or disgorged to the U.S. Treasury. The proposed decree would prohibit the defendants from such violations of the Rule in the future.

*Universal Credit Corporation  
(Gabrielle Ellis and Mark Thomas Ellis, d/b/a)*

A federal district court ordered a temporary halt to an allegedly deceptive “credit repair” scheme run by two individuals doing business as Universal Credit. The order followed a Commission complaint alleging that the defendants falsely represented that they could remove negative information from consumers’ credit files, even when the information was accurate. The complaint also alleged that the defendants made unauthorized withdrawals from consumers’ checking accounts and falsely implied that they had posted a bond to cover money-back guarantees. The Commission is seeking a court order permanently prohibiting the deceptive practices and requiring a monetary payment to be used for refunds for consumers.

*USA Channel Systems, Inc.; Two-Way Systems, Inc.;*  
*Charles Bernard Bayne (d/b/a Page 8, as co-partner);*  
*Rick Havil (d/b/a Page 8, as co-partner)*

The Commission filed a complaint alleging that two companies, both jointly run by two individuals, ran a fraudulent application mill for federal paging licenses. According to the complaint, the defendants misrepresented the lease or resale value of the licenses, the number of licenses available in a given geographical area, and the income or profit that consumers could realize from purchasing the licenses. The Commission is seeking a permanent injunction and monetary relief.

*USA Credit Services, Inc.; Steven Spence*

The Commission obtained a temporary restraining order and an asset freeze against USA Credit and its president, Steven Spence. The Commission filed a complaint alleging that Spence violated the Telemarketing Sales Rule by making false claims about his credit repair service. According to the complaint, Spence claimed that he could remove negative information from consumers' credit reports even if the information was accurate and timely. In addition, Spence allegedly violated the Rule by seeking an upfront fee for his services. The Commission is seeking permanent injunctive relief and consumer redress.

*Worldwide Wallcoverings & Blinds, Inc.;  
Martha Kazak; Bruce Sears*

The Commission obtained a federal court order temporarily halting the operations of Worldwide, a company that advertised discount wallpaper and window blinds and promised delivery within two or three days. The Commission filed a complaint alleging that Worldwide defrauded thousands of customers by, in many instances, simply taking their money and not shipping any merchandise at all. According to the complaint, the company obtained millions of dollars through this massive fraud, which prompted record numbers of complaints to Better Business Bureaus and the Illinois Attorney General's office. The Commission asked the court to issue a permanent injunction against Worldwide and its principal officers and to provide for a consumer redress fund.

## Federal Trade Commission

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### PRELIMINARY INJUNCTIONS COMPETITION MISSION

#### COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product/Service
Blodgett Memorial Medical Center	951 0126	01/19/96	Horizontal Merger	Inpatient Hospital Services
Questar Corporation	961 0001	12/27/95	Horizontal Merger	Natural Gas Transmission
Rite Aid Corporation	961 0020	04/17/96	Horizontal Merger	Drug Stores

#### COMPETITION MISSION (DETAIL) *Blodgett Memorial Medical Center; Butterworth Hospital*

The Commission filed a motion for a preliminary injunction to block the proposed merger of Blodgett Memorial Medical Center and Butterworth Hospital, the two largest hospitals in Grand Rapids, Michigan, alleging that the merger would substantially reduce competition for general acute care inpatient hospital services in the area. On September 26, 1996, the U.S. District Court for the Western District of Michigan, Southern Division, denied the Commission's request for an injunction. The Commission has appealed the denial of the request for an injunction to the U.S. Court of Appeals for the Sixth Circuit.

#### *Questar Corporation*

Questar abandoned its plans to acquire a 50-percent ownership interest in Kern River Gas Transmission Company after the Commission filed a motion in federal district court for a preliminary injunction to bar the transaction. According to the complaint, the consummation of the acquisition would give Questar control over the transmission of natural gas to industrial customers in the Salt Lake City area, which would reduce competition between the two firms and lead to higher prices. The court dismissed the case without prejudice.

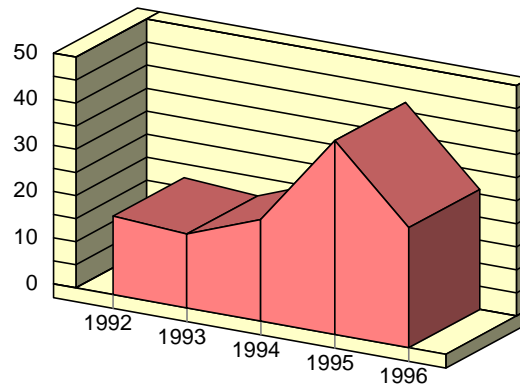
*Rite Aid Corporation; Revco D.S., Inc.*

Rite Aid abandoned its proposed \$1.8 billion acquisition of Revco after the Commission voted to seek a preliminary injunction in federal court to block the transaction. The Commission was set to charge that the merger of the two largest retail drug store chains in the United States would substantially reduce competition for prescription drugs sold in retail pharmacy outlets in numerous geographic areas. Rite Aid withdrew its tender offer before the Commission could file its motion in court.



## Federal Trade Commission

### PERMANENT INJUNCTIONS CONSUMER PROTECTION MISSION



### CONSUMER PROTECTION MISSION (SUMMARY)

Title <sup>1</sup>	Number	Action Date	Type of Matter	Product/Service
Acme Vending Company	X950095	02/28/96	Franchise Rule	Vending Machine Business Opportunity
(Allied Snax, Inc.) James L. Roche	X960123	05/24/96	Franchise Rule	Snack Food Business Opportunity
Allstate Business Consultants Group, Inc.	X950061	08/30/96	Franchise Rule	Vending Machine Business Opportunity
(American Vending Group, Inc.) Kenneth Sterling	X950083	05/21/96	Franchise Rule	Display Rack Business Opportunity
Building Inspector of America, Inc., The	X940061	06/17/96	Franchise Rule	Home Inspection Service Franchises
Cambridge Exchange, Ltd., The	X930047	02/08/96	Investment Fraud	Artwork
Diamond Rug and Carpet Mills, Inc.	X960003	12/12/95	Textile Fiber Product Identification Act	Carpets
Georgetown Galleries, Inc.	X960010	11/29/95	Investment Fraud	Art Prints
Giving You Credit, Inc.	X960101	04/12/96	Telemarketing Sales Rule and Fair Credit Reporting Act	Credit Repair

## Permanent Injunctions

## Appendix

Title <sup>1</sup>	Number	Action Date	Type of Matter	Product/Service
Infinity Corporation (Makiko Kato, d/b/a)	X950097	03/14/96	Franchise Rule	Medical Billing Service Business Opportunity
Ivory Jack's Trading Company, Inc. Northwest Tribal Art, Inc.	X960052 X960052	05/08/96 05/08/96	Authenticity Fraud	Artwork – Native American Style
(Meridian Capital Management, Inc.) Angelo DeLon	X950060	04/25/96	Telemarketing Fraud	Investment Scheme “Recovery Room”
North East Telecommunications, Ltd.	X960082	09/20/96	Investment Fraud	Paging License Services
Nu-Idea Technologies, Inc. T. Randall Bridges James R. Davis	X950079 X950079 X950079	04/12/96 04/12/96 04/12/96	Franchise Rule	Vending Machine Business Opportunity
Ray Williams Funeral Home, Inc.	X960019	01/12/96	Funeral Rule	Funeral Services
(Second Income, Inc.) Glenn Rosofsky	X950073	11/27/95	Franchise Rule	Vending Machine Business Opportunity
Showcase Distributing, Inc.	X950054	07/08/96	Franchise Rule	Vending Machine Business Opportunity
Surface Science Corporation	X950100	02/14/96	Franchise Rule	Engine Lubricant Business Opportunity
(Telecommunications of America, Inc.) Robert Diehl	X950050	03/14/96	Franchise Rule	Pay Telephone Business Opportunity
United States Business Bureau, Inc. Reuben Borja Paul Kalomeris William Robert O'Rourke	X950062 X950062 X950062	03/26/96 03/26/96 03/26/96	Telemarketing Fraud	“Better Business Bureau” Scheme
Yasik Funeral Home – Stanley S. Yasik, Inc.	X960035	05/10/96	Funeral Rule	Funeral Services

<sup>1</sup>A company name shown in parentheses is for identification of the case only; the company is not a defendant in the item shown in the table.

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**CONSUMER PROTECTION** *Acme Vending Company; Peter K. Smith*  
**MISSION (DETAIL)**

As part of a nationwide crackdown by federal and state regulators on business opportunity fraud, the Commission announced a settlement with Acme Vending and Peter Smith, marketers of snack and soft drink vending machine franchises. The settlement requires that the defendants comply with the Franchise Rule and prohibits them from making false or misleading statements when offering any franchise or business opportunity in the future.

*(Allied Snax, Inc.)*  
*James L. Roche*

James Roche, individually and as an officer and director of Allied Snax, a now-defunct company, settled allegations that he misrepresented earnings claims and other aspects of his snack food distributorship programs. In addition, he agreed to settle allegations that he violated the Franchise Rule by failing to provide prospective franchisees with documentation required by the Rule. The settlement permanently bans Roche from promoting or selling any franchise or business venture.

*Allstate Business Consultants Group, Inc.;*  
*Enrico Pace; Edward Wong*

Allstate Business Consultants, its president, and its CEO agreed to permanently discontinue their marketing and sale of franchises for candy vending machines. They also agreed to post a \$1.5 million bond for protection of their customers before engaging in future telemarketing activities. The ban and bond were included in an agreement settling allegations that the defendants made false claims about the earnings potential and other aspects of their business opportunities and also used false references to induce consumers to purchase the franchises, in violation of the Franchise Rule.

*(American Vending Group, Inc.)*  
*Kenneth Sterling*

The Commission settled with Kenneth Sterling, president of American Vending, alleging that the company violated the Franchise Rule in its sale of display rack vending opportunities for gourmet

coffees, by failing to provide critical pre-purchase information to potential buyers and making exaggerated earnings claims. The consent decree prohibits Sterling from violating the Rule and from making false statements or misrepresenting material aspects of any business venture he offers.

*Building Inspector of America, Inc., The*

The Building Inspector, which offered franchises for home inspection services, settled allegations that it failed to disclose to potential purchasers the litigation and bankruptcy history of the company and two of its officers. The Commission also alleged that the company made unsubstantiated claims about the earnings franchise buyers could expect, among other violations of the Franchise Rule. The settlement bars The Building Inspector from future violations of the Rule. In separate settlements, three of the company officers agreed to pay civil penalties (*see – page III*).

*Cambridge Exchange, Ltd., The; Wellington Art, Ltd., Inc.;*  
*Samuel Stier; Steven Stier*

Two companies and two individuals settled allegations that they participated in a deceptive scheme to telemarket animation cels and other artworks to consumers nationwide. The Commission alleged that the defendants solicited consumers to purchase artworks by misrepresenting the investment value and profit potential of the art and also ran a deceptive prize-promotion scheme in which the artwork won was worth less than the “shipping and handling” fees consumers had to pay. The settlement prohibits the defendants from making false claims about the value or investment profit potential of any artwork or other item in the future.

*Diamond Rug and Carpet Mills, Inc.*

An investigation by the Commission and the Department of Justice revealed numerous instances in which Diamond apparently falsely labeled the fiber content and weight of its carpets, both of which are critical to carpet wear and cost. The investigation led to a guilty plea by the company to criminal violations of the Textile Act and a criminal fine of \$100,000. In addition, the company signed a consent decree settling allegations of civil violations of the same

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statute. The consent decree requires the company to comply with the Textile Act in the future and to set up a control system to ensure proper fiber identification and prohibits it from misrepresenting the fiber weight of carpets it manufactures and distributes.

*Georgetown Galleries, Inc. (Unique Selling Propositions, Inc., d/b/a);  
Richard Spring*

Unique Selling Propositions, doing business as Georgetown Galleries, and its owner settled allegations that they misrepresented the investment value of the antiquarian art prints they sold. Under the settlement, Richard Spring and his company are barred from misrepresenting the investment value of the prints they sell and are required to disclose that buying artwork as an investment is high risk.

*Giving You Credit, Inc.; Clear Your Credit, Inc.;  
Partners in Vision International, Inc.;  
Keith Berggren; Lois Symington; Paul Symington*

The Commission alleged that the three companies and their principal officers developed a multi-level marketing plan to sell credit repair services through representatives who earned commissions on their sales and bonuses for recruiting new sales representatives. According to the complaint, one tactic the defendants used was to falsely claim that the Fair Credit Reporting Act requires deletion of an entire negative entry if it is not 100 percent accurate. The defendants settled the allegations under a consent decree that prohibits them from engaging in similar practices and requires them to cease collection efforts.

*Infinity Corporation (Makiko Kato, d/b/a); Gregory Duvall*

The Commission approved a settlement with Makiko Kato, doing business as Infinity, and principal Gregory Duvall. The company offers business opportunities to provide medical billing services using Infinity software. The settlement requires that the defendants comply with the Franchise Rule and prohibits them from making false or misleading statements when offering any franchise or business opportunity in the future.

*Ivory Jack's Trading Company, Inc.; Northwest Tribal Art, Inc.;  
Ngoc Q. Ly; Kurt L. Tripp*

Two companies and their owners settled Commission allegations that they falsely represented that Native-American-style carvings they offered for sale were authentic Native-made artwork. As part of the settlement, the defendants are prohibited from misrepresenting that their artwork is made by Native Americans and are required to follow procedures to prevent such misrepresentations at the retail level for products they offer at wholesale. In addition, the two individual defendants are each required to pay \$20,000 as disgorgement.

*(Meridian Capital Management, Inc.)  
Angelo DeLon*

Angelo DeLon settled allegations stemming from his participation in an allegedly deceptive telemarketing scheme, run by Meridian Capital, that purported to recover money consumers had lost to telemarketing investment fraud. Under the terms of the settlement, DeLon is permanently prohibited from engaging in misrepresentations regarding any material aspect of telemarketing or recovery room services and is required to post a \$50,000 bond before engaging in telemarketing or assisting others engaged in telemarketing.

*North East Telecommunications, Ltd.; Strategies Telecom, Inc.;  
Tannen Advertising, Inc.; Daniel L. Coutinho; Mark R. Goldstein  
(a/k/a Steve Collins, Steven Roberts, and Steve Rogers);  
Dilraj Mathauda (a/k/a Roger Ford);  
Anthony Vandeputte (a/k/a Ron Stewart)*

The Commission negotiated a settlement with Strategies Telecom, which was part of a common enterprise that offered investments in paging licenses issued by the Federal Communications Commission (FCC). According to the Commission, the defendants (including three companies and four individuals who were executives or managers of the companies) misrepresented a number of facts, including that the licenses were valuable investments, that the fee charged was for studies required by the FCC, and that North East would assist clients in marketing their licenses. In addition, the defendants falsely represented that North East was a member of trade associations that deal with the FCC and its regulations. The

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settlement with Strategies Telecom prohibits the company from making the challenged false claims. Charges against the other defendants are pending.

*Nu-Idea Technologies, Inc.; Film Centers of America, Inc.;  
Mr. Popcorn, Inc.; T. Randall Bridges;  
James R. Davis (a/k/a Ron Davis); Joseph Gilmore*

The Commission reached three settlements with Nu-Idea, two related firms, and three principals, who sold vending machine business ventures. The Commission alleged that the defendants violated the Franchise Rule by failing to give potential buyers required disclosures and documentation of evidence supporting earnings claims. The settlements bar future violations of the Rule.

*Ray Williams Funeral Home, Inc.;  
David L. Northern, Jr.; Sarah C. Northern; Jeffrey L. Rhodes*

Ray Williams Funeral Home and its corporate officers settled allegations that they violated the Funeral Rule by failing to give test shoppers a required general price list. The Rule is designed to ensure that consumers know they can purchase only the goods and services they want or need. The consent decree prohibits future violations of the Rule.

*(Second Income, Inc., d/b/a Creative Promotions  
and Silver Shots, Inc.)  
Glenn Rosofsky*

The Commission negotiated a settlement with an individual named in the business opportunity fraud case against Second Income. The Commission alleged that Glenn Rosofsky enticed consumers nationwide into purchasing coin-operated game vending machines as business opportunities by making false claims about potential earnings, profitable locations, and compliance with state licensing laws. The Commission also alleged that the defendant violated the Franchise Rule by failing to provide required disclosure documents to prospective franchisees. The settlement prohibits Rosofsky from making deceptive claims about any business opportunity and from violating the Franchise Rule in the future. It also requires him to post a \$1 million performance bond for the protection of future customers.

*Showcase Distributing, Inc.; Dale Merritt (d/b/a VC Network)*

Showcase Distributing and Dale Merritt, also doing business as VC Network, settled allegations that they violated the Franchise Rule by misrepresenting the earnings potential of business opportunities featuring vending machines for gourmet popcorn and other products. The settlement bars them from misrepresenting future business opportunities and requires them to comply with the Franchise Rule. Merritt is also required to post a performance bond of \$200,000 if he wishes to engage in the sale or promotion of any franchise or business venture in the next ten years.

*Surface Science Corporation; David J. Kriel*

The Commission approved an agreement with Surface Science and its president, settling allegations of business opportunity fraud. The company was attempting to market business opportunities for the right to sell Megalon engine lubricant, which purportedly guaranteed against engine wear. The settlement requires that the defendants comply with the Franchise Rule and prohibits them from making false or misleading statements when offering any franchise or business opportunity. This was the first franchise case in which the Commission was able to act before any actual sales were made and, thus, before any consumers lost their investments.

*(Telecommunications of America, Inc.)**Robert Diehl*

The Commission obtained a settlement with one of the corporate officers of Telecommunications of America, a company charged with business opportunity fraud involving pay telephone business ventures. Under the settlement, Robert Diehl must comply with the Franchise Rule in the future, which requires that certain documentation be given to prospective buyers, and he is prohibited from making false or misleading statements when offering any franchise or business opportunity. Additional settlements require two other officers to pay consumer redress (*see – page 135*).



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*United States Business Bureau, Inc.*  
*(d/b/a National Business Bureau)*  
*Reuben Sierra Borja (a/k/a R.B. Borja and Reuben Sierra);*  
*Paul Kalomeris (a/k/a Andrew North);*  
*William Robert O'Rourke (a/k/a Billy Ray, R.C. Reinhold,*  
*Billy Ray Roark, Bill Roberts, Andrew Joseph Rourke,*  
*Terrence Michael Rourke, and William Rourke)*

The Commission reached agreements with United States Business Bureau and three of its officers, settling allegations that they ran a fraudulent “better business bureau” that consumers could call for information on business opportunity marketers. Some of the businesses covered by the sham better business bureau were targeted in other cases brought by the Commission as part of the same nationwide crackdown. The settlements prohibit the officers from falsely implying that they are affiliated with a Better Business Bureau or with the government.

*Yasik Funeral Home – Stanley S. Yasik, Inc.;*  
*Joseph S. Yasik; Stanley J. Yasik, Jr.*

Yasik Funeral Home and two corporate officers settled allegations that they violated the Funeral Rule in failing to give test shoppers the required general price list of goods and services. The consent decree prohibits the defendants from violating the Rule in the future.

**CIVIL PENALTY ACTIONS  
COMPETITION MISSION**

***COMPETITION MISSION (SUMMARY)***

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
Automatic Data Processing, Inc.	951 0113	03/27/96	Premerger Notification	Salvage Yard Information Systems
Federated Department Stores, Inc.	931 0140	12/09/95	Distributional Arrangements	Retail Department Stores
Foodmaker, Inc.	941 0056	08/26/96	Premerger Notification	Restaurants
Sara Lee Corporation	921 0023	02/09/96	Premerger Notification	Shoe Care Products
Titan Wheel International, Inc.	941 0110	05/10/96	Premerger Notification	Tires and Inner Tubes

***COMPETITION MISSION (DETAIL)*** *Automatic Data Processing, Inc.; AutoInfo Inc.; Orion Management Corp.*

Automatic Data Processing agreed to pay \$2.97 million in civil penalties to settle charges that it failed to include key competitive documents in a premerger filing for its acquisition of AutoInfo. The civil penalty settlement is the third largest ever obtained for a violation of the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976 and is also the largest ever obtained under charges for failure to submit documents required by item 4(c) of the Notification and Report Form. The complaint and consent judgment were filed in the U.S. District Court for the District of Columbia by Commission attorneys acting as special attorneys to the U.S. Attorney General.

*Federated Department Stores, Inc.*

One of the country's largest operators of department stores agreed to settle charges that it violated a 1979 consent order prohibiting it from interfering with the entry of a competitor into a shopping mall in which it operates a store. The complaint charged that Federated threatened to block another tenant from buying a department store in a Florence, Kentucky, mall where Federated operates a Lazarus

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department store. Under terms of the consent judgment, Federated agreed to pay \$250,000 in civil penalties.

### *Foodmaker, Inc.; Chi-Chi's, Inc.*

Foodmaker paid \$1.45 million in civil penalties to settle charges that its Chi-Chi's subsidiary failed to comply with the notification and filing requirements under the HSR Act before it acquired Consul, Inc., operator of 26 Chi-Chi's franchises. The complaint was filed in the U.S. District Court for the District of Columbia by Commission attorneys acting as special attorneys to the U.S. Attorney General.

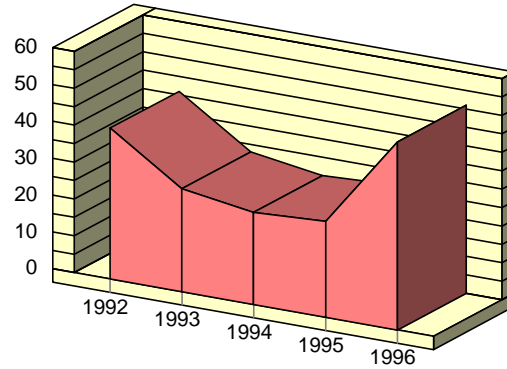
### *Sara Lee Corporation*

Sara Lee agreed to pay \$3.1 million, the largest civil penalty ever imposed under the HSR Act, for allegedly failing to notify federal antitrust agencies before acquiring the shoe care products assets of Reckitt & Colman plc. The complaint was filed in the U.S. District Court for the District of Columbia by Commission attorneys serving as special attorneys to the U.S. Attorney General. A consent order, finalized in 1994, required divestiture of the Griffin and Esquire brands of shoe polish in settlement of charges that the acquisition could create a monopoly in the U.S. market for shoe care products.

### *Titan Wheel International, Inc.; Pirelli Armstrong Tire Corporation*

Titan Wheel International agreed to pay a \$130,000 civil penalty to settle charges that it acquired a Pirelli Armstrong plant in Des Moines before notifying the two federal antitrust agencies and observing the statutory waiting period. According to the complaint, the parties transferred control of the Pirelli Armstrong assets three days before filing notification under the HSR Act with the Commission and the Department of Justice. The complaint and proposed consent judgment were filed in the U.S. District Court for the District of Columbia by Commission attorneys acting as special attorneys to the U.S. Attorney General.

**CIVIL PENALTY ACTIONS  
CONSUMER PROTECTION MISSION**



**CONSUMER PROTECTION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product/Service
A.H. Peters Funeral Home of Grosse Pointe, Inc.	X960013	12/21/95	Funeral Rule	Funeral Services
All Snax, Inc.	X960121	09/27/96	Franchise Rule	Display Rack Business Opportunity
Allied Bond & Collection Agency, Inc.	X960117	02/16/96	Fair Debt Collection Practices Act	Debt Collection
American Direct Marketing, Inc.	X960040	03/28/96	Mail/Telephone Order Merchandise Rule	Mail-Order Merchandise
America's Radio Transmitter, Ltd.	X950084	05/24/96	Franchise Rule	Radio Transmitter Business Opportunity
Beeson Funeral Home, Inc.	X960054	06/06/96	Funeral Rule	Funeral Services
(Building Inspector of America, Inc., The) Lawrence Finkelstone Beverly Tisei Ralph Tisei	X940061 X940061 X940061	10/25/95 04/03/96 06/19/96	Franchise Rule	Home Inspection Service Franchises
Chynoweth Corporation, d/b/a IS International	X960092	07/25/96	Fair Debt Collection Practices Act and Fair Credit Reporting Act	Debt Collection, Tenant Screening
Dahlberg, Inc.	X940021	11/22/95	Order Violation	Hearing Aids

## Federal Trade Commission

Title	Number	Action Date	Type of Matter	Product/Service
Daniels & Hutchison Funeral Homes (Robert C. Hutchinson, Jr., d/b/a) House of Wright Mortuary, Inc. J. Llewellyn Bell Memorial Chapel, Inc. John F. Yasik, Inc.	X960031 X960032 X960033 X960034	05/10/96 05/10/96 05/10/96 05/10/96	Funeral Rule	Funeral Services
Doctors Eyecare Center, Inc.	X960061	06/25/96	Prescription Release Rule	Eyeglasses and Eye Examinations
Double Z Manufacturing, Inc.	X960046	04/04/96	Care Labeling Rule	Women's Apparel
Eggland's Best, Inc.	X960029	03/14/96	Order Violation	Eggs
Eton Derma Laboratories	X960001	08/06/96	Order Violation	Acne Treatment
Family Memorial Funeral Home of Yazoo City, Inc. Glenwood Funeral Homes, Inc. Gregory Funeral Home, Inc. Robbins Funeral Home (Yolande T. Robbins, d/b/a) Stricklin-King Funeral Home, Inc. W.H. Jefferson Funeral Home Williams Funeral Service (Matthew Williams, Jr., d/b/a)	X960105 X960102 X960104 X960106 X960103 X960107 X960108	09/11/96 09/11/96 09/11/96 09/11/96 09/11/96 09/11/96 09/11/96	Funeral Rule	Funeral Services
Firstlight Entertainment, Inc.	X950096	03/14/96	Franchise Rule	Display Rack Business Opportunity
G & L Financial Services, Inc., d/b/a Goldman & Levine	X960066	06/04/96	Fair Debt Collection Practices Act	Debt Collection
Glass Funeral Home, Inc. M.H.I. Group, Inc. Mark Curry's Funeral Home, Inc. Thomas Aikens, Inc.	X960020 X960018 X960014 X960021	01/16/96 02/12/96 01/22/96 01/18/96	Funeral Rule	Funeral Services
Global Gumballs, Inc.	X950085	06/04/96	Franchise Rule	Vending Machine Business Opportunity
Hasbro, Inc.	X960088	08/20/96	Order Violation	Toys
Island Automated Medical Services, Inc.	X950098	08/21/96	Franchise Rule	Medical Billing Service Business Opportunity
J.C. Pro Wear, Inc.	X940045	11/08/95	Franchise Rule	Sports Apparel Franchise

## Civil Penalty Actions

## Appendix

Title	Number	Action Date	Type of Matter	Product/Service
Laura Ashley, Inc.	X960086	08/13/96	Care Labeling Rule	Women's and Children's Apparel
Lewis & Ribbs Mortuary, Inc.	X960116	06/12/96	Funeral Rule	Funeral Services
Li'l Snacks, Inc.	X950101	05/08/96	Franchise Rule	Vending Machine Business Opportunity
Modern Management Systems, Inc.	X950088	04/29/96	Franchise Rule	Vending Machine Business Opportunity
National Tech Systems, Inc.	X950090	06/25/96	Franchise Rule	Display Rack Business Opportunity
Nibblers, Inc.	X950091	11/01/95	Franchise Rule	Vending Machine Business Opportunity
Quartercall Communications, Inc.	X950094	12/28/95	Franchise Rule	Pay Telephone Business Opportunity
Restland Funeral Homes, Inc.	X920009	09/19/96	Funeral Rule	Funeral Services
STP Corporation	X960004	12/20/95	Order Violation	Motor Oil Additives
Summit Communications, Inc.	X950099	05/28/96	Franchise Rule	Pay Telephone Business Opportunity
Tanzara International, Inc.	X960109	09/04/96	Care Labeling Rule	Women's Sports Apparel
Telebrands Corporation	X960111	09/23/96	Mail/Telephone Order Merchandise Rule	Mail-Order Merchandise
Tutor Time Child Care Systems, Inc.	X960094	08/05/96	Franchise Rule	Day Care Center Franchises
United Creditors Alliance Corporation	X960113	09/19/96	Fair Debt Collection Practices Act	Debt Collection
W.W. Chambers, Co., Inc.	X950070	07/17/96	Funeral Rule	Funeral Services

**CONSUMER PROTECTION MISSION (DETAIL)** *A.H. Peters Funeral Home of Grosse Pointe, Inc.;*  
*David L. Peters; Roy A. Peters*

A.H. Peters and its officers agreed to pay a \$60,000 civil penalty to settle allegations that they violated the Funeral Rule. The Commission alleged that they conditioned the furnishing of certain

## **Federal Trade Commission**

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funeral goods and services on the purchase of other goods and services, failed to provide general price lists, and failed to give properly itemized statements. Under the settlement, the defendants are required to follow written procedures and to participate in a training program to ensure that their employees comply with the Funeral Rule in the future.

### *All Snax, Inc.; Harvey Waters*

All Snax and its president agreed to a consent order under which they are required to pay a \$20,000 civil penalty to settle allegations that they violated the Franchise Rule in their sale of display rack distributorships for snack foods and related products. According to the Commission, the defendants failed to give potential investors a complete pre-purchase disclosure document about the business opportunity they sold and documentation to support claimed earnings. Under the provisions of the settlement, the defendants are permanently enjoined from future violations of the Rule.

### *Allied Bond & Collection Agency, Inc.*

Allied Bond & Collection Agency settled allegations that it was in violation of the Fair Debt Collection Practices Act (FDCPA), which prohibits the use of threatening, harassing, and deceptive tactics to collect debts. The Commission alleged that company employees threatened to sue consumers when there was no reasonable likelihood that the consumers would be sued and telephoned consumers at work when they knew such calls were prohibited by the consumer's employer. The agreement requires the company to pay a \$140,000 civil penalty and prohibits it from future violations of the FDCPA.

### *American Direct Marketing, Inc.; Herman S. Howard*

The Commission obtained an agreement from American Direct Marketing and its president to pay a \$100,000 civil penalty as part of a settlement of allegations that they violated the Mail/Telephone Order Merchandise Rule, which requires merchandisers to ship items ordered within a certain time period. The Commission alleged that the mail-order company shipped products late, failed to properly notify consumers of their option to cancel late orders, and sent refund

checks that bounced. The defendants are prohibited from violating the Rule in the future.

*America's Radio Transmitter, Ltd.;*  
*America's Radio Transmitter, Inc.; Leon D. Swichkow*

The two companies and their president agreed to pay a \$10,000 civil penalty to settle allegations that they failed to give potential investors presale disclosures about the business opportunities they sold and documentation to support claimed earnings, as required by the Franchise Rule. America's Radio Transmitter issued franchises to sell short-range AM radio transmitters for promotional use, claiming investors could earn \$120,000 a year. The settlement prohibits the defendants from violating the Rule and from making false statements or misrepresenting material aspects of any business venture they offer.

*Beeson Funeral Home, Inc.; James E. Beeson, Jr.*

Beeson Funeral Home and owner James Beeson settled allegations that they violated the Funeral Rule by failing to provide consumers with price lists and by bundling funeral goods and services. The defendants agreed to pay a civil penalty of \$20,000 and to comply with the Rule in the future.

*(Building Inspector of America, Inc., The)*  
*Lawrence Finkelstone; Beverly Tisei; Ralph Tisei*

Three officers of The Building Inspector, which offered franchises for home inspection services, settled allegations that they failed to disclose to potential purchasers the litigation and bankruptcy history of the company and two of its officers. The Commission also alleged that the defendants made unsubstantiated claims about the earnings franchise buyers could expect, among other violations of the Franchise Rule. The settlements bar the officers from future violations of the Rule and require civil penalty payments, as follows: Lawrence Finkelstone, \$5,000; Beverly Tisei, \$10,000; Ralph Tisei, \$20,000.



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### *Chynoweth Corporation (d/b/a IS International)*

Chynoweth, doing business as IS International, a company that performs screening of tenant applicants for apartments, executes evictions, and acts as a collection agency for rent and damage charges, agreed to settle allegations that it violated provisions of the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. The Commission alleged that the company engaged in a wide range of violations, including revealing consumers' debts to third parties, making harassing and abusive telephone calls, and misrepresenting who it was or what legal action it might take. The company also allegedly failed to correct inaccurate data about tenants in consumer files it made available to potential landlords. Under the terms of the settlement, IS International must pay a \$10,000 civil penalty and is enjoined from violating the laws in the future. In addition, the firm and its employees are required to inform consumers of their protections under the law.

### *Dahlberg, Inc.*

Dahlberg agreed to pay a \$2.75 million civil penalty to settle allegations that it made numerous false and unsubstantiated claims for its Miracle-Ear Clarifier, a "noise-suppression" hearing aid, in violation of a 1976 Commission order. The settlement prohibits future violations of the earlier order, which bars Dahlberg from making false or unsubstantiated claims about the features, performance, uniqueness, superiority, or efficacy of its hearing aids. This is the largest civil penalty ever obtained in a consumer protection case.

### *Daniels & Hutchison Funeral Homes*

*(Robert C. Hutchison, Jr., d/b/a);*

*House of Wright Mortuary, Inc.; Jacquita L. Wright;*

*Robert O. Wright;*

*J. Llewellyn Bell Memorial Chapel, Inc.; J. Llewellyn Bell;*

*John F. Yasik, Inc.; John P. Yasik, Jr.; John P. Yasik, III;*

*Stephanie A. Yasik*

In a nationwide crackdown on funeral homes, four Delaware-area funeral homes and their operators agreed to pay civil penalties as part of agreements settling allegations that they violated the Funeral Rule. The Commission alleged that the funeral homes failed to give test

shoppers the required general price list for goods and services and, in some instances, failed to provide separate price lists for items not on the general list. The agreements require the funeral homes to comply with the Rule in the future and impose civil penalties as follows: Robert Hutchison, doing business as Daniels & Hutchison, \$3,500; House of Wright and corporate officers Robert and Jacquita Wright, \$7,700; J. Llewellyn Bell Memorial Chapel and J. Llewellyn Bell, \$3,200; John F. Yasik, Inc., and three corporate officers, \$3,700.

*Doctors Eyecare Center, Inc.; Daniel B. Shropshire*

Doctors Eyecare, which offers eye examinations and eyeglasses, and its president agreed to pay a \$10,000 civil penalty to settle allegations that they failed to provide many patients with a copy of their eyeglass prescription after completing an eye examination and that they unlawfully included on their prescription forms a waiver of liability as to accuracy. These practices violate the Prescription Release Rule, which requires an ophthalmologist or optometrist to give a copy of the patient's eyeglass prescription to the patient immediately after the eye examination is over. In addition to requiring the civil penalty, the settlement prohibits the defendants from further violating the Rule. This is the first case alleging violation of this Rule, which is intended to provide consumers with a choice of eyeglass providers and the opportunity to shop around for competitive prices.

*Double Z Manufacturing, Inc.*

Double Z Manufacturing, a women's clothing manufacturer, agreed to pay a \$50,000 civil penalty to settle allegations that it put faulty care labeling in several styles of formal and party dresses. As a result, the decorative trim or other parts of the garments were damaged when they were dry-cleaned according to the labels, the Commission alleged. Double Z Manufacturing also agreed to use proper care instruction labels on its garments in the future, in compliance with the Care Labeling Rule.

*Eggland's Best, Inc.*

The Commission's follow-up of its 1994 case against Eggland's led to another settlement with the company over the cholesterol-

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related claims it has made in marketing its eggs, and this time the settlement includes a civil penalty of \$100,000. The Commission alleged that Egglan's advertising conveyed the same false and unsubstantiated claims about the effect of its eggs on serum cholesterol that were challenged in 1994. The consent decree prohibits Egglan's from violating the 1994 Commission consent order in the future.

*Eton Derma Laboratories; Atida Karr Enterprises, Inc.;  
Atida H. Karr*

The marketer of an over-the-counter acne treatment agreed to pay a \$200,000 civil penalty to settle allegations that infomercials representing the product as an effective treatment for severe or cystic acne were deceptive. The Commission alleged that, at the time Atida Karr and her companies made the claims, they did not have competent and reliable scientific or medical evidence to support them. According to the Commission, the recent claims also violate a 1979 order prohibiting Karr from making unsubstantiated claims about the effectiveness or superiority of any acne preparation she markets.

*Family Memorial Funeral Home of Yazoo City, Inc.;  
Michele Goodloe;  
Glenwood Funeral Homes, Inc.; John Kamman, Jr.;  
William D. Mobley, Sr.;  
Gregory Funeral Home, Inc.; Vay Gregory McGraw;  
Robbins Funeral Home (Yolande T. Robbins, d/b/a);  
Stricklin-King Funeral Home, Inc.; Aaron S. King, Jr.;  
David A. King;  
W.H. Jefferson Funeral Home; James E. Jefferson, Jr.;  
Williams Funeral Service (Matthew Williams, Jr., d/b/a)*

In a sweep of funeral homes in Mississippi, the Commission alleged that seven homes violated the Funeral Rule by failing to give test shoppers the required general price list of funeral goods and services. In some instances, the homes failed to provide supplemental price lists for items not on the general lists. The settlements prohibit the funeral homes from future violations of the Rule and require them to pay civil penalties, as follows: Family Memorial, \$1,500; Glenwood, \$16,500; Gregory, \$1,000; Robbins, \$1,000; Stricklin-King, \$10,500; W.H. Jefferson, \$1,000; Williams, \$1,000.

*Firstlight Entertainment, Inc.; Michael Peters*

The Commission announced a settlement with Firstlight Entertainment and corporate officer Michael Peters in connection with allegations that they violated the Franchise Rule. The company markets display rack distributorships for “collectable” comic books. The Commission alleged that the company failed to give prospective purchasers basic disclosure and earnings documentation, as required by the Rule. The settlement requires the defendants to pay a \$10,000 civil penalty and to comply with the Rule in the future and prohibits them from making false or misleading statements when offering any franchise or business opportunity.

*G & L Financial Services, Inc. (d/b/a Goldman & Levine)*

The Commission approved a consent agreement settling allegations that G & L Financial, doing business as Goldman & Levine, violated the Fair Debt Collection Practices Act (FDCPA). According to the Commission, Goldman & Levine violated the Act by disclosing consumers’ debts to third parties, falsely stating or implying that courts or law enforcement authorities had been contacted about the debts, and using abusive language when talking to consumers, among other things. Under the terms of the agreement, the defendant must pay a \$10,000 civil penalty and is permanently enjoined from future violations of the FDCPA.

*Glass Funeral Home, Inc.; James L. Glass, Sr.;*  
*M.H.I. Group, Inc.; Funeral Services Acquisition Group, Inc.;*  
*Douglas I. Kinzer*  
*Mark Curry’s Funeral Home, Inc.; Mark III Funeral Home, Inc.;*  
*Mark W. Curry, III;*  
*Thomas Aikens, Inc.; Thomas Aikens; Yvonne J. Aikens*

Four funeral home operators in Florida agreed to pay civil penalties to settle allegations that they violated the Funeral Rule by failing to give customers the required price list of funeral goods and services. Some of the defendants also failed to provide supplemental price lists and failed to disclose information that would help consumers decide whether they needed to purchase certain items. The companies and corporate officers agreed to comply with the Rule in the future and to pay the following penalties: Glass Funeral Home

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and its president, \$4,000; M.H.I. Group, Funeral Services Acquisition, and Kinzer, an officer of both companies, \$35,000; Mark Curry's, Mark III, and officer Curry, \$11,000; Thomas Aikens, Inc., and its corporate officers, \$9,000.

*Global Gumballs, Inc.; Michelle Smith; Tim McCarty*

The Commission settled with Global Gumballs and its officers in connection with allegations that they violated the Franchise Rule in the sale of gumball vending machine routes. The Commission alleged that the defendants failed to provide critical pre-purchase information to potential buyers and made exaggerated earnings claims. The consent order prohibits the defendants from violating the Rule and from making false statements or misrepresenting material aspects of any business venture they offer. In addition, they are required to pay a \$50,000 civil penalty.

*Hasbro, Inc.*

Hasbro, a toy company, agreed to pay a \$280,000 civil penalty to settle allegations that it engaged in deceptive advertising in violation of a 1993 consent order. The Commission alleged that a recent Hasbro commercial for its Colorblaster paint sprayer toy appeared to show that children could operate the toy with very little effort when, in fact, a motorized air compressor was used during filming of the commercial to provide the necessary pressure. The consent decree prohibits the firm from using deceptive demonstrations or otherwise misrepresenting the performance of any toy.

*Island Automated Medical Services, Inc. (d/b/a Diversified Data Services, Med Star USA, and Star Funding Group);  
John Travlos*

Island Automated Medical Services and its officer have agreed to pay a \$40,000 civil penalty to settle allegations that they failed to give potential investors presale disclosures about the business opportunity they sold and documentation to support claimed earnings, as required by the Franchise Rule. The defendants sold medical claims-processing franchises. The settlement requires the defendants to comply with all aspects of the Franchise Rule and prohibits them

from making false statements or misrepresenting material aspects of any franchise or business they offer.

*J.C. Pro Wear, Inc.; James L. O'Laughlin*

J.C. Pro Wear and its principal officer agreed to settle allegations of falsely claiming to be in compliance with the Franchise Rule and with violating the Rule, in part, by failing to provide prospective franchisees with required disclosure documents. The company offers franchises for retail outlets that sell sports apparel in leased space in Montgomery Ward stores. The settlement prohibits the defendants from making similar misrepresentations and from violating the Rule in the future and requires them to pay a civil penalty of \$65,000.

*Laura Ashley, Inc.*

Laura Ashley, an importer and retailer of children's and women's ready-to-wear clothes, agreed to pay a \$60,000 civil penalty to settle allegations that it violated the Care Labeling Rule, which requires that clothing be labeled with written instructions for proper cleaning and care. According to the Commission, Laura Ashley used symbols rather than written instructions, in violation of the current Rule. Under the agreement, the company will pay the civil penalty and will be barred from future violations of the Rule.

*Lewis & Ribbs Mortuary, Inc.; Lorenzo J. Lewis*

Lewis & Ribbs Mortuary and its owner agreed to pay a \$20,000 civil penalty to settle allegations that they failed to give consumers general price lists and statements itemizing their purchases in the form required by the Funeral Rule. Under the terms of the settlement, in addition to paying the civil penalty, the defendants must comply with the Rule in the future.

*Li'l Snacks, Inc.; Cornelius (Eugene) Hartley; Nava Jo Hartley*

The Commission reached a settlement with L'il Snacks and two individuals in connection with allegations that they violated the Franchise Rule. The Commission alleged that the defendants, who offered business opportunities involving snack-food vending machine routes, failed to give potential buyers detailed upfront disclosures and

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documentation, as required by the Rule. The settlement requires the defendants to pay a \$20,000 civil penalty and prohibits them from violating the Rule in the future.

*Modern Management Systems, Inc. (d/b/a Nationwide Vending);  
Margaret Reed Small*

The Commission settled with Modern Management Systems and its president in connection with alleged violations of the Franchise Rule in their sale of countertop snack-vending machines. The Commission alleged that the defendants failed to provide critical pre-purchase information to potential buyers and made exaggerated earnings claims. The consent decree prohibits the defendants from violating the Rule and from making false statements or misrepresenting material aspects of any business venture they offer. In addition, Modern Management Systems agreed to pay a \$7,000 civil penalty.

*National Tech Systems, Inc.; Mel Parsell*

National Tech Systems and its president agreed to pay a \$10,000 civil penalty to settle allegations that they failed to give potential investors presale disclosures about the business opportunities they sold and documentation to support claimed earnings, as required by the Franchise Rule. The company sold display rack business opportunities for “Crime Alert” personal protection products, claiming that investors could earn up to \$80,000 a year. Under the provisions of the settlement, the defendants are prohibited from violating the Rule and from making false statements or misrepresenting material aspects of any business venture they offer.

*Nibblers, Inc.; Thomas Kiernan*

Nibblers and its president agreed to pay a \$10,000 civil penalty, as well as to properly and accurately disclose key information to future investors in any franchise or business opportunity they offer. These provisions were included in a settlement of allegations that the defendants, who offer business opportunities involving candy vending machines, failed to provide potential investors with information required by the Franchise Rule.

*Quartercall Communications, Inc.; Fitzgerald Lewis*

The president of Quartercall agreed to pay a \$10,000 civil penalty to settle allegations that he and his company failed to provide key information to potential investors in their pay telephone business opportunity, as required by the Franchise Rule. The consent decree requires the defendants to comply fully with the provisions of the Rule and prohibits them from making unsubstantiated earnings claims or misrepresenting any other material aspects of a franchise or business opportunity.

*Restland Funeral Home, Inc.; Bluebonnet Hills Funeral Home, Inc.;  
Laurel Land Funeral Home, Inc.;  
Laurel Land Funeral Home of Fort Worth, Inc.;  
Singing Hills Funeral Home, Inc.*

Restland and four of its subsidiary funeral homes agreed to pay a \$121,600 civil penalty to settle allegations that they failed to provide customers with itemized general price lists and other information required by the Funeral Rule. In addition to paying the civil penalty, the largest ever imposed under the Funeral Rule, the defendants agreed to send itemized statements to customers who purchased pre-need plans between 1987 and 1989, to participate in a training program administered by the National Funeral Directors Association (NFDA), and to submit their price lists and other forms to NFDA for review.

*STP Corporation; First Brands Corporation*

STP and its parent corporation, First Brands, agreed to settle allegations that they violated a 1976 Commission order under which they are prohibited from making false and unsubstantiated claims for motor oil additives. According to the Commission, the defendants made numerous false claims in advertisements regarding the engine-protection qualities of their oil additive, STP Engine Treatment with XEP2. The settlement requires the defendants to pay a civil penalty of \$888,000 for the order violation.

*Summit Communications, Inc.; Mitchell R. Newman*



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The Commission settled with Summit Communications and its president in connection with allegations that they had violated the Franchise Rule in their sale of pay telephone vending franchises. The Commission alleged that the defendants failed to provide critical pre-purchase information to potential buyers and made exaggerated earnings claims. The consent decree prohibits the defendants from violating the Rule and from making false statements or misrepresenting material aspects of any business venture they offer. In addition, Summit Communications agreed to pay a \$10,000 civil penalty.

### *Tanzara International, Inc.*

Tanzara, an importer of women's sportswear, agreed to pay a \$10,000 civil penalty to settle allegations that it put improper care labels on some of its rayon garments. The Commission alleged that the care procedure that was recommended on the labels resulted in significant shrinkage. As part of the settlement, Tanzara agreed to provide proper care instructions on its labels in the future, in compliance with the Care Labeling Rule.

### *Telebrands Corporation; Ajit Khubani*

Telebrands and its owner reached a settlement with the Commission resolving allegations that they violated the Mail/Telephone Order Merchandise Rule in selling various products through print and broadcast advertising. The Commission alleged that the defendants failed to provide consumers with appropriate and timely notification of delays in shipping orders, to obtain customers' consent to delays, and to cancel delayed orders and provide refunds. The settlement requires the defendants to pay a \$95,000 civil penalty and prohibits future Rule violations.

### *Tutor Time Child Care Systems, Inc.;* *Florida Academic Enterprises, Inc.; Lifecare Investments, Inc.;* *Michael Weissman; Richard Weissman*

Tutor Time, a nationwide franchisor of day care centers, agreed to pay a \$220,000 civil penalty to settle allegations that it had overstated the earnings potential of franchise owners, the length of time it takes to open a center, and other important factors about

owning a Tutor Time franchise. The Commission also charged Tutor Time with failing to give potential franchisees certain key pre-purchase information about the franchise required by the Franchise Rule. In addition to requiring the civil penalty, the order prohibits the defendants from making similar misrepresentations, requires them to comply with the Rule, and bars them from imposing gag orders that prohibit their former franchisees from talking about their experiences with the company.

*United Creditors Alliance Corporation*

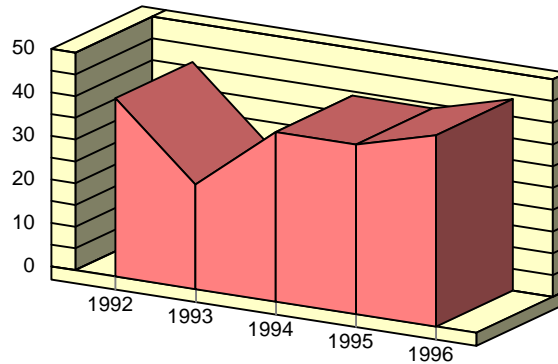
United Creditors, a nationwide debt collection agency, agreed to pay a \$146,000 civil penalty in settlement of allegations that it repeatedly violated the Fair Debt Collections Practices Act (FDCPA). The Commission alleged that United Creditors, in attempting to collect debts, made telephone calls after hours, used abusive language, falsely threatened consumers with legal action, and engaged in a variety of other FDCPA violations. The settlement prohibits the company from future violations of the FDCPA as well as requiring payment of the civil penalty.

*W.W. Chambers Co., Inc.; Thomas S. Chambers;  
William W. Chambers; William W. Chambers, III*

W.W. Chambers, a funeral home, and its principals paid a \$10,000 civil penalty to settle allegations that they failed to provide consumers with written itemized price lists and other information, in violation of the Funeral Rule. Under the terms of the settlement, the defendants must comply with the Rule in the future.

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### CONSUMER REDRESS ACTIONS<sup>1</sup> CONSUMER PROTECTION MISSION



#### CONSUMER PROTECTION MISSION (SUMMARY)

Title <sup>2,3</sup>	Number	Action Date	Type of Matter	Product/Service
(American Fortune 900, Inc.) Rory Cypers	X960011	08/07/96	Investment Fraud	900-Number Telephone Lines
Caribbean Clear, Inc.	X920041	08/22/96	Order Violation	Swimming Pool Disinfectant System
Chase McNulty Group, Inc.	X950035	01/31/96	Investment Fraud	Wireless Communications Technology – Interactive Video and Data Service
Consumer Credit Advocates, P.C.	X960039	03/20/96	Credit Report Fraud	Internet Credit Repair
Credit Doctor	X960037	04/10/96	Telemarketing Sales Rule	Credit Repair
Desert Financial Group, Inc. Keith Parker	X960007	04/29/96	Telemarketing Fraud	Prize Promotion “Recovery Room”
Fraud Action Network System (FANS), Inc.	X960023	07/30/96	Telemarketing Sales Rule	Prize Promotion “Recovery Room”
Freedom Medical, Inc.	X950041	01/05/96	Telemarketing Fraud	Medical Equipment and Health Insurance
Fresh-O-Matic Corporation	X960015	02/23/96	Franchise Rule	Vending Machine Business Opportunity
Global Development Services, Inc.	X960114	07/27/96	Investment Fraud	Invention Promotion

## Consumer Redress Actions

## Appendix

Title <sup>2,3</sup>	Number	Action Date	Type of Matter	Product/Service
Hang-Ups Art Enterprises, Inc.	X950014	01/29/96	Investment Fraud	Art Prints
Independence Medical, Inc.	X950043	09/19/96	Telemarketing Fraud	Medical Equipment and Health Insurance
(International Charity Consultants, Inc.) AWARE	X940028	04/03/96	Telemarketing Fraud	Telephone Prize-Promotion Charitable Solicitation
International Computer Concepts, Inc.	X940071	10/24/95	Franchise Rule	Display Rack Business Opportunity
Mackie Services, Inc.	X950046	02/12/96	Franchise Rule	Display Rack Business Opportunity
Motion Medical, Inc.	X950042	05/20/96	Telemarketing Fraud	Medical Equipment and Health Insurance
MTK Marketing, Inc. Intel Marketing Dennis Connelly Erick Graziano	X960049 X960049 X960049 X960049	09/18/96 08/08/96 08/08/96 08/08/96	Telemarketing Fraud	Office Supplies
National Bureau of Credit, Inc. (Johnny Ray Dunn, d/b/a)	X960070	08/08/96	Telemarketing Sales Rule and Advance-Fee Loan Fraud	Consumer Finance
Nishika, Ltd.	X950016	04/16/96	Telemarketing Fraud	Camera Prize Promotion
North American Supply, Inc. Larry Ellis	X950055 X950055	11/22/95 11/22/95	Telemarketing Fraud	Office Supplies
On Line Communications, Inc. Richard Basile	X960022	07/19/96	Telemarketing Fraud and Investment Fraud	Paging License Services
Orion Products Corporation	X960095	07/19/96	Franchise Rule	Vending Machine Business Opportunity
Public Telco Corporation	X950064	10/04/95	Franchise Rule	Pay Telephone Business Opportunity
Research Awards Center, Inc. Fernando "Tom" Alvarez	X950033	02/29/96	Telemarketing Fraud	Sweepstakes/Prize Promotions
Satellite Broadcasting Corporation PAL Financial Services, Inc. Allan Wells	X950034 X950034 X950034	01/19/96 01/19/96 01/19/96	Investment Fraud	Satellite Television Broadcasting Services

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Title <sup>2,3</sup>	Number	Action Date	Type of Matter	Product/Service
(Second Income, Inc.) Alan Rosofsky M. David Silverman	X950073 X950073	11/27/95 11/27/95	Franchise Rule	Vending Machine Business Opportunities
Southeast Necessities Company, Inc.	X940075	10/06/95	Franchise Rule	Display Rack Business Opportunity
(Telecommunications of America, Inc.) Stephen Jonathan Burns Barry Taylor	X950050 X950050	03/14/96 03/14/96	Franchise Rule	Pay Telephone Business Opportunity
Total Care, Inc.	X960012	09/23/96	Telemarketing Fraud	Prize Promotion
U.S. Telemedia, Inc.	X960051	09/24/96	Mail/Telephone Order Merchandise Rule	Internet Computer Memory Chips
United Consumer Services, Inc.	X940080	05/21/96	Telemarketing Fraud	Telemarketing Fraud "Recovery Room"
United Wholesalers, Inc.	X950004	01/16/96	Telemarketing Fraud	Business Supplies
USM Corporation, d/b/a Senior Citizens Against Telemarketing (SCAT)	X950067	01/23/96	Telemarketing Fraud	Telemarketing Fraud "Recovery Room"
Windward Marketing, Ltd. Crestwood Enterprises, Inc. Matthew Corbitt Mizell, Jr.	X960026 X960026	06/26/96 06/26/96	Telemarketing Fraud	Magazine Subscription Prize Promotion
(Wolf Group) Marvin Wolf	X940029	01/31/96	Franchise Rule	Vending Machine Business Opportunity

<sup>1</sup>The consumer redress amounts included in the following case descriptions have been ordered by the court and may be higher than the amounts collected and returned to consumers.

<sup>2</sup>A company name shown in parentheses is for identification of the case only; the company is not a defendant in the item shown in the table.

<sup>3</sup>Redress or disgorgement funds were also obtained in the following administrative orders:

- Azrak-Hamway International, Inc. (see page 52)
- Budget Rent A Car Systems, Inc. (see page 53)
- Dannon Company, Inc., The (see page 54)
- Ivory Jack's Trading Company, Inc. (see page 101)
- National Dietary Research, Inc. (see page 66)
- Third Option Laboratories, Inc. (see page 61)
- Zygon International, Inc. (see page 62)

**CONSUMER PROTECTION** (*American Fortune 900, Inc.*)  
**MISSION (DETAIL)** *Rory Cypers*

The Commission negotiated a settlement with Rory Cypers, a principal of American Fortune 900, concerning his role in the company's allegedly deceptive marketing of investments in 900-number telephone lines. The Commission alleged that the company depleted a substantial portion of investors' capital in paying sales commissions and other expenses and misrepresented the number of operational 900-number lines in which it had a financial interest. The settlement with Cypers includes \$100,000 for consumer redress; in addition, he must post a \$300,000 performance bond before engaging in any type of telemarketing and must disclose the existence of the bond to customers.

*Caribbean Clear, Inc.; Patricia Benton; Jerry Minchey*

The Commission obtained a settlement of civil contempt allegations with Caribbean Clear and two former corporate officers, which includes a \$70,000 redress fund for consumers who purchased the Caribbean Clear disinfectant system for swimming pools since 1992. The Commission alleged that the company could not substantiate advertising claims that the system can be used without chlorine or similar chemicals and that it makes pool water safe enough to drink, and that the company therefore violated a 1992 order prohibiting such unsubstantiated claims. The settlement also requires Caribbean Clear to notify purchasers about the need to use appropriate chemicals with the system.

*Chase McNulty Group, Inc.;*  
*E. Lee Elliott; Anthony L. Rick; Jeffrey D. Trotter*

Chase McNulty and its officers settled allegations that they engaged in a variety of deceptive practices in connection with the marketing of investments in a new wireless communications technology called interactive video and data service (IVDS). The Commission alleged that the defendants misled investors as to the profitability of the investment, the use of investor proceeds, the capital needed to develop IVDS systems, and the technological capabilities of such systems. Under the settlement, the defendants are prohibited from making such misrepresentations in connection with

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the sale of any investment or telemarketed product or service. In addition, the individual defendants are required to turn over virtually all of their significant assets (totaling \$160,000) for consumer redress, and a \$1 million judgment was entered against the corporate defendant, Chase McNulty. The individual defendants are each required to post a \$350,000 performance bond before engaging in the telemarketing of any product or service, unless they are employed by a regulated broker or agency.

*Consumer Credit Advocates, P.C.;*  
*Consumer Credit and Legal Services, P.C.;*  
*David B. Markowitz; John E. Petiton*

The Commission reached a settlement with two closely related law firms that were behind a deceptive advertisement for credit repair services posted on thousands of Internet news groups. Consumer Credit and Legal Services and two of its officers created Consumer Credit Advocates, which advertised that it could remove derogatory information from clients' credit reports even when that information was accurate and not obsolete. The settlement bans the defendants from engaging in fraudulent credit repair practices and requires them to warn customers that consumers have no legal right to have accurate information removed from their credit reports. The order also requires the defendants to pay \$17,500 in consumer redress and prohibits them from instituting collection procedures against their current and former credit repair clients.

*Credit Doctor (Jayco Associates, d/b/a); Jerry J. Jewell*

Jayco Associates, doing business as Credit Doctor, and corporate officer Jerry Jewell agreed to settle allegations that they misrepresented the credit repair services they provided and required advance payment, in violation of the Telemarketing Sales Rule. The settlement requires the defendants to pay \$15,000 for refunds to consumers, prohibits them from trying to collect payments on past contracts, and requires them to withdraw negative credit reports they sent to credit reporting agencies about consumers who did not pay them. The order also prohibits the defendants from making similar deceptive claims about credit repair services and from violating the Rule in the future.

*Desert Financial Group, Inc.; Keith Parker*

Desert Financial and its president agreed to settle allegations that they falsely told consumers, many of whom were senior citizens, that for an upfront fee, sometimes exceeding \$1,000, they could recover money the consumers had lost to other telemarketers. In fact, according to the Commission, little, if any, money was recovered from the defendants' efforts. The settlement with Keith Parker requires him to post a \$300,000 bond before engaging in telemarketing activities in the future and to pay \$11,000 for consumer redress. The settlement prohibits Parker from misrepresenting any fact material to a consumer's decision to make a charitable contribution, to enter a contest, or to purchase recovery room services or any other product or service. The Commission is seeking a default judgment against Desert Financial once the settlement with Parker is approved by the court.

*Fraud Action Network System (FANS), Inc.;  
Michael Starrion; Rena Warden*

A federal district court permanently banned a telemarketer and two individuals from engaging in any prize-promotion telemarketing activity or recovery service. The judge issued the order after FANS and two of its officers failed to answer Commission allegations that they misrepresented that their "recovery room" services would obtain money that consumers had lost in previous telemarketing schemes and that they violated the Telemarketing Sales Rule by requesting payment in advance. The judgment provides for over \$378,900 for consumer redress.

*Freedom Medical, Inc.; Freedom Medical of Wisconsin;  
Sierra Medical, Inc.; Robert D. Atkins; Robert L. Grden;  
Brian A. Patten; Daniel Smeltzer*

Three related companies and four individuals agreed to settle allegations that they deceptively telemarketed medical equipment to consumers nationwide and engaged in fraud against health insurance companies. According to the Commission, the defendants marketed medical equipment to disabled persons, then obtained physicians' approval and submitted claims to health insurers; the claims in many instances were for more expensive equipment and for items and



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accessories that had not been ordered by consumers. The agreement requires the defendants to pay a total of \$269,650 for consumer redress. In addition, Brian Patten and Robert Grden are banned for ten years from selling or marketing any medical equipment, product, or service, and Robert Atkins is required to post a \$50,000 performance bond before selling or marketing medical equipment. All defendants are prohibited from making misrepresentations like those alleged in the complaint.

### *Fresh-O-Matic Corporation*

Fresh-O-Matic, a company that markets business opportunities involving soft drink vending machines, agreed to pay \$100,000 for consumer redress to settle allegations that it failed to provide key information to potential purchasers of its distributorships, as required by the Franchise Rule. The Commission alleged that the company also misrepresented potential earnings and the location assistance it would provide to investors. The consent order requires the company to comply fully with the Rule and prohibits it from misrepresenting any material aspect of a franchise or business opportunity.

### *Global Development Services, Inc.; Kenneth A. Rogers*

Global Development and its president agreed to pay \$1 million for consumer refunds as part of a settlement of allegations brought by the Commission. According to the allegations, the defendants, who marketed invention promotion services, misrepresented the financial gains their clients were likely to achieve and did not address the specific market potential, patentability, feasibility, or merit of clients' inventions. The settlement also requires Global and Kenneth Rogers to give customers a written notice stating that not one of their clients has received profits of any kind from an invention as a result of Global's services.

### *Hang-Ups Art Enterprises, Inc.; Max Klein*

Hang-Ups Art and its president agreed to pay \$150,000 into a fund for consumer redress as part of a settlement of allegations that they sold counterfeit art prints. The Commission alleged that the defendants bought and sold purported limited-edition prints attributed to well-known artists such as Marc Chagall, Joan Miro, and Pablo

Picasso, and represented to consumers that the prints were the work of the named artists, while knowing that they were counterfeit. The settlement also contains strong prohibitions against false claims about the nature of any artwork the defendants sell in the future.

*Independence Medical, Inc.; Ability Medical, Inc.;  
American Medical Independence (A.M.I.);  
Independence Medical of America, Inc.; Jeffrey S. Marmer;  
Jerry Rodney Rogers; Jerry Wilburn Rogers; Violet Cassie Rogers*

Independence Medical, three related companies, and company officers and agents agreed to pay redress totaling \$38,500 to settle allegations stemming from their role in an allegedly deceptive scheme to telemarket medical equipment to consumers nationwide. The Commission alleged that these defendants, along with a number of other corporate and individual defendants, marketed one type of equipment to consumers but then obtained physician approval and made insurance claims for other, more expensive equipment. In some cases, the Commission alleged, insurance claims were filed for items never ordered by consumers. The settlement bars Jerry Rodney Rogers from any aspect of marketing medical products or services for ten years, and it requires Jeffrey Marmer to obtain a \$100,000 performance bond before engaging in the sale of durable medical equipment and to pay a judgment of \$31,000. Jerry Wilburn Rogers and Violet Cassie Rogers are required to obtain a performance bond of \$50,000 before engaging in the sale or rental of medical equipment and to pay a judgment of \$7,500.

*(International Charity Consultants, Inc.)  
Future Images, Inc.; Regeneration & Renewing, Inc.  
(d/b/a AWARE or Aware-Regeneration and Renewing);  
Topp Kat, Inc.; Toppkat, II. Inc.; Sherri L. Harvey; William Jervis;  
Joseph Rubbico; Michael Kody Sawyer*

Eight defendants in a charitable solicitation fraud case agreed to pay more than \$4.1 million in consumer redress as part of a settlement. The Commission alleged that the defendants used a fraudulent prize-promotion pitch to induce consumers, many of them elderly, to donate money to two purportedly charitable organizations, one of which – AWARE – was not a true nonprofit organization. The court order bans William Jervis, Joseph Rubbico, and Michael

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Sawyer from participating in telephone prize promotions and requires all of the defendants to post a \$5 million performance bond before engaging in telemarketing activities in the future. These eight defendants are among 24 originally charged in this case.

*International Computer Concepts, Inc.;*  
*Helen Schumaker; Larry Schumaker*

A federal district court judge ordered International Computer and its officers to pay nearly \$1.6 million in consumer redress in settlement of allegations that they misrepresented the potential earnings of their business opportunities and used fraudulent references, among other violations of the Franchise Rule. The company sells franchises consisting of computer software display racks to be placed in retail stores. The order also permanently bans the defendants from involvement with business opportunities and franchises in the future.

*Mackie Services, Inc.; Panoramic Multimedia, Inc.;*  
*Stanley L. Katz; Randy Prefer*

Two companies and their principal officers settled allegations that they exaggerated the earnings potential of their business opportunities involving CD-ROM display racks and otherwise violated the Franchise Rule. The Commission alleged that the defendants overstated potential profits and the value of the CD-ROM titles they supplied. In addition, they allegedly used fraudulent references and failed to provide investors with important documentation. The defendants are barred from marketing any franchise or business venture in the future and are required to pay \$20,000 into a consumer redress fund.

*Motion Medical, Inc.; Anton Albert Wood*

Motion Medical and its president agreed to settle allegations stemming from their participation in an allegedly deceptive scheme to telemarket medical equipment to consumers nationwide and file false claims with health insurance companies. According to the Commission, the defendants marketed medical equipment to disabled persons, then obtained physicians' approval and submitted claims to health insurers, which in many instances were for more expensive

equipment and for items that had not been ordered by consumers. The settlement prohibits the defendants from misrepresenting any product or service they telemarket in the future and requires Anton Wood to obtain a \$150,000 performance bond before he engages in the sale of durable medical equipment. In addition, the defendants are required to pay a total of \$346,700 for consumer redress.

*MTK Marketing, Inc. (d/b/a District Supply Center and Central Supply Center);  
Acacia Properties, Inc. (d/b/a National Supply Center);  
Copy Resource Center, Inc. (d/b/a District Supply Center and Central Supply Center);  
Intel Marketing of California, Inc. (d/b/a District Supply Center);  
Nationwide Transport, Inc. (d/b/a District Supply Center);  
Paragon Shipping, Inc. (d/b/a National Supply Center);  
Telco Marketing, Inc. (d/b/a Central Supply Center);  
Dennis Connelly; Jeanine Dora; Erick Graziano (a/k/a Eric Knight);  
Donna Green; Sam June; Colleen McCullough;  
James Rem (d/b/a Central Supply Center and JR Associates);  
Donald Ryan*

The Commission negotiated four settlements with 15 defendants in its case against perpetrators of an allegedly deceptive “toner phoner” scheme. The defendants were alleged to have victimized small businesses by misrepresenting themselves as the businesses’ regular suppliers, shipping unordered photocopier toner and other office supplies, and charging exorbitant prices. The settlements include a combined payment of more than \$17 million for consumer redress. The settlements also prohibit the defendants from engaging in deceptive acts and practices, permanently ban defendants Dennis Connelly and Sam June from engaging in the telemarketing of office supplies, and require the other individual defendants to post bonds ranging from \$25,000 to \$200,000 before engaging in the telemarketing of office supplies.

*National Bureau of Credit, Inc. (Johnny Ray Dunn, d/b/a this company and Carolina Federal Financial Services, Carolina Firststate Bankcard & Loan Program Services, Carolina Firststate Financial, Fidelity National Financial Services, National Bureau of Consumer Affairs Department, and NBC Services)*

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The Commission negotiated an agreement with Johnny Ray Dunn settling allegations that he engaged in misrepresentations and fraudulent practices in connection with the offering of advance-fee credit cards and loans. Dunn represented that he had an “excellent record” with an independent consumer protection agency, the National Bureau of Consumer Affairs, which was actually one of the names under which he did business, the Commission alleged. The settlement requires Dunn to pay \$3,500 in consumer redress, bars him from marketing advance-fee credit services and from violating the Telemarketing Sales Rule’s provisions against deceptive or abusive marketing, and prohibits him from making misrepresentations in connection with any product or service he sells in the future.

*Nishika, Ltd.; American 3-D Corporation; American 3-D, Ltd.; Bentley Industries, Inc.; Nishika 3-D Camera Sales, Inc.; Nishika Corporation; James D. Bainbridge; Daniel Alan Fingarette*

The Commission negotiated two settlements with defendants in a nationwide prize-promotion telemarketing scheme. The Commission filed a complaint against the Nishika and American 3-D companies and James Bainbridge, who is president, owner, or principal of these five companies, and against Bentley Industries and its owner and president, Daniel Fingarette. The defendants allegedly induced consumers to pay inflated prices for cameras and other items by misrepresenting that they had won valuable awards. The first agreement includes \$9.6 million for a consumer redress fund and \$1.7 million for consumers listed as creditors in the companies’ bankruptcy proceedings. The second bars the defendants from engaging in similar deceptive schemes in the future.

*North American Supply, Inc.; American Computer Industries, Inc.; Otis Brown; Larry Ellis; Harold Moskowitz; Ron Moskowitz*

The Commission reached settlement agreements that will recover money for redress to small businesses allegedly defrauded by North American Supply or its predecessor, American Computer Industries. The Commission alleged that the defendant corporations ran deceptive schemes to sell small companies overpriced photocopier toner and other office supplies by telephone. The two consent judgments make the defendants liable for redress in the following

amounts: North American Supply and American Computer Industries, \$1.3 million; Larry Ellis, \$202,316; Harold Moskowitz and Ron Moskowitz, \$325,000.

*On Line Communications, Inc.;*  
*Richard Basile; Robert Corey (a/k/a Michael Allen)*

The Commission reached a settlement with one defendant and obtained a default judgment against the others in its case against On Line Communications, a company that allegedly ran a fraudulent application service for paging system licenses issued by the Federal Communications Commission (FCC). The Commission alleged that the firm, its president, and a hidden principal misrepresented their paging license services, alleging that consumers are unlikely to derive any income or profit from such licenses, contrary to the defendants' claims. The settlement with Richard Basile requires him to turn over \$39,150 in frozen assets for consumer redress and prohibits him from making false representations about any investment he offers in the future. The court entered a default judgment of \$817,130 for redress against On Line Communications and Robert Corey after they failed to answer the Commission's allegations. The judgment also prohibits false claims and requires Corey to post a \$300,000 performance bond before engaging in any telemarketing in the future.

*Orion Products Corporation (d/b/a Natural Choice-USA);*  
*Antares Corporation; Dana M. Bashor*

Orion, Antares, and their president agreed to pay \$1 million in consumer redress to settle allegations of violating the Franchise Rule. The Commission alleged that the defendants misrepresented the potential earnings and profits of their vending machine distributorships and other facts about the businesses, and that they used false references. Under the proposed settlement, the defendants are permanently prohibited from making misrepresentations about the income, profits, or sales volume that distributors could expect and about the extent of location assistance.

*Public Telco Corporation; Ronald Oman*

A federal district court entered a judgment against Public Telco and its owner for nearly \$2.4 million for consumer redress. The

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Commission alleged that the defendants overstated the earnings potential of their pay telephone business opportunities, provided false references, misrepresented the assistance they would provide investors, and lied about their refund policies. The defendants are permanently banned from offering any franchise or business opportunity, from engaging in any form of telemarketing, and from selling or transferring any customer lists.

*Research Awards Center, Inc.; Financial Research Group, Inc.; Quality Marketing, Inc.; Fernando “Tom” Alvarez; Nicholas Creighton Parr (a/k/a Nicholas Creighton and Creig Parr)*

The Commission settled with three corporations and two individuals in connection with allegations that they mailed millions of deceptive solicitations in a massive sweepstakes scheme in which they falsely promised consumers that they were “guaranteed winners” of valuable prizes. The settlement requires Fernando Alvarez to pay \$900,000 for consumer redress; it bars all five defendants from offering sweepstakes or similar promotions, prohibits them from making false statements in offering any product or service by direct mail, and requires each of them to obtain a \$1 million performance bond before offering products or services by direct mail in the future.

*Satellite Broadcasting Corporation; Media Management, Inc.; PAL Financial Services, Inc.; Satellite Broadcasting Royalty Trust; Satellite Systems, Inc.; T. Michael Haws; Lonny Remmers; Allan Wells (a/k/a Joseph Champion)*

Five companies and three individuals who are company officers agreed to pay a total of more than \$700,000 for consumer redress in three settlements relating to allegations that they misrepresented investment opportunities in satellite television broadcasting services. The Commission alleged that the defendants induced consumers to invest in a plan to market and distribute direct broadcast satellite (DBS) television programming by falsely representing the investment as a “low-risk” and “instant income” venture and falsely telling investors that they had already acquired the rights to market DBS programming transmitted by DIRECTV, Inc., the largest provider of DBS programming in the United States. The settlements permanently prohibit the defendants from misrepresenting any investment

opportunity and require the individual defendants to post performance bonds before engaging in any future telemarketing activities.



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*(Second Income, Inc., d/b/a Creative Promotions  
and Silver Shots, Inc.)  
Alan L. Rosofsky; M. David Silverman*

The Commission negotiated settlements with two individuals named in the business opportunity fraud case against Second Income. The Commission alleged that the defendants enticed consumers nationwide into purchasing coin-operated game vending machines as business opportunities by making false claims about potential earnings, profitable locations, and compliance with state licensing laws. The Commission also alleged that the defendants violated the Franchise Rule by failing to provide required disclosure documents to prospective franchisees. The two settlements provide for combined consumer redress of \$80,000 and prohibit the defendants from making deceptive claims about any business opportunity and from violating the Franchise Rule in the future.

*Southeast Necessities Company, Inc. (d/b/a Dr.'s Choice);  
Allstate Locating, Inc.; Germaine Easley; David Kallen;  
Marc Frank Kallen; Janice Lynn Zoyes; Michael George Zoyes*

Two companies and five individuals paid \$360,000 to settle allegations involving their allegedly deceptive marketing of business opportunities. The money will be used as redress for consumers who invested in the defendants' display racks of "Dr.'s Choice" diet and vitamin products. The Commission alleged that the defendants misrepresented the earnings and success of the businesses and the availability of profitable retail locations for the display racks, furnished fraudulent references, and failed to make key pre-purchase disclosures required by the Franchise Rule. The settlement permanently prohibits the defendants from engaging in telemarketing and from selling any franchise or business opportunity.

*(Telecommunications of America, Inc.)  
Stephen Jonathan Burns; Barry Taylor*

The Commission obtained settlements with two officers of Telecommunications of America in connection with allegations that they violated the Franchise Rule in selling pay telephone business opportunities. The settlements require that the defendants comply with the Rule in the future and prohibit them from making false or

misleading statements when offering any franchise or business opportunity. In addition, Barry Taylor is required to pay \$10,000 and Jonathan Burns is required to pay \$7,500 for consumer redress.

*Total Care, Inc.; Irwin Gonor*

Total Care and its president agreed to settle allegations that they were involved in a fraudulent telemarketing scheme that preyed on older consumers. According to the Commission, the defendants made unsolicited telephone calls to consumers nationwide, many of them senior citizens, and promised them valuable prizes or awards if they purchased certain merchandise. In many instances, the Commission alleged, the prizes were worth little or nothing. The settlement requires the defendants to pay more than \$2.5 million in consumer redress.

*U.S. Telemedia, Inc.; Robert A. Brandzel*

U.S. Telemedia, a firm that marketed computer memory chips over the Internet, settled allegations that its marketing was deceptive and that it violated the Mail/Telephone Order Merchandise Rule. The Commission alleged that U.S. Telemedia and its principal officer failed to deliver merchandise in the time promised and failed to provide refunds to consumers who either did not get the chips they ordered or did not get them in a timely manner. To settle the allegations, the defendants agreed to pay \$5,500 in consumer redress and are barred from misrepresenting merchandise or shipping schedules in the future and from any other violations of the Rule.

*United Consumer Services, Inc. (formerly United Recovery Services, Inc.);  
Wayne Axelrod; Wendy Heitkamp*

A federal district court judge upheld Commission allegations against a company and two principals who operated a deceptive “recovery room” telemarketing scam. The Commission alleged that the defendants targeted victims of a previous telemarketing scheme who had lost money by investing in specialized mobile radio licenses and that they made a variety of deceptive representations in promising to recover the victims’ losses for upfront fees. The judgment requires

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that the defendants pay more than \$161,000 in consumer redress and permanently bars them from offering recovery services.

*United Wholesalers, Inc.; Innovators of Success, Inc.;  
International Research Corporation; Long Life Industries, Inc.;  
Steven Green; Philip G. Lynch; James W. MacDonald;  
Margaret A. MacDonald*

Four corporations and four individuals agreed to transfer assets totaling approximately \$1.3 million to the Commission and to pay an additional \$202,000 for consumer redress as part of the settlement of allegations that they used deceptive and illegal tactics in a massive telemarketing scheme that preyed on businesses and health care facilities across the country. The defendants allegedly misrepresented that they were the regular suppliers of business supplies and their prices were the regular prices. Further, they allegedly shipped unordered merchandise and intimidated customers into paying invoices for the unordered goods. The settlement prohibits the defendants from making misrepresentations in connection with any telemarketing activity, from using aliases, from shipping or billing for unordered merchandise, and from transferring their customer lists. In addition, for a period of five years, the individual defendants are required to post a \$500,000 performance bond before reentering the telemarketing business.

*USM Corporation (d/b/a Senior Citizens Against Telemarketing  
(SCAT) and SCAT Services);  
Anita Sowards*

SCAT and its president agreed to pay approximately \$25,000 for possible consumer redress, to settle allegations that they engaged in a deceptive telemarketing “recovery room” scheme that preyed on elderly consumers. The Commission alleged that the defendants falsely represented that they were affiliated with a government consumer protection agency and that, for an upfront fee, they would recover money the consumers had lost to previous fraudulent telemarketers. The settlement permanently prohibits the defendants, in connection with any type of telemarketing, from misrepresenting any fact that may influence a consumer’s decision to make a charitable contribution, enter a contest, or purchase any good or service.

*Windward Marketing, Ltd.; Crestwood Enterprises, Inc.*  
*(both corporations d/b/a Magazine Distributors of America,*  
*Magazine Express, Magazines of America, Magazines Limited,*  
*Magazines Unlimited, Premium Magazine,*  
*and Wholesale Magazine);*  
*Kent L. Holbrook; Matthew Corbitt Mizell, Jr.*

The Commission negotiated settlements with a group of telemarketers who allegedly perpetrated a magazine subscription telemarketing scheme using a variety of company names. The Commission alleged that the defendants used false promises of valuable prizes and a variety of other misrepresentations to obtain the numbers of consumers' checking accounts, which the defendants then debited without authorization. A federal district court issued a preliminary injunction halting the allegedly deceptive practices. In one settlement, Matthew Mizell, former president of corporate defendant Crestwood Enterprises, agreed to pay \$493,000 in consumer redress. In another, Kent Holbrook, current president of Crestwood Enterprises, agreed to relinquish any claim on the assets of the company, including \$150,000 in funds frozen at the Commission's request for use as redress. That settlement also includes a \$13.4 million judgment against Crestwood Enterprises.

*(Wolf Group)*  
*30 corporations; James E. Holler; Clyde G. King;*  
*Vincent Leonardo; Marvin Wolf*

A federal district court judgment against four individuals and 30 corporate defendants requires over \$31 million for consumer redress to settle allegations that they were involved in deceptive selling of vending machine business opportunities. The Commission alleged that the defendants used a variety of deceptive claims and practices, including using fraudulent references and misrepresenting investors' potential earnings and the assistance they would get in locating the vending machines. According to the complaint, many investors never even received their machines. The Commission alleged that the defendants also violated the Franchise Rule by failing to give potential investors critical pre-purchase information about the franchisors that may have tipped off consumers to the deceptive scheme.

### RULEMAKING ACTIVITIES

#### **COMMISSION-WIDE** *Sunset Rule*

The Commission issued a final rule regarding the duration of administrative cease and desist orders in both antitrust and consumer protection matters. Under the new Sunset Rule, administrative orders issued prior to August 16, 1995, will expire automatically 20 years after they were issued, unless there has been a complaint or consent decree alleging that the order has been violated. The Rule incorporating this “sunset” policy for existing administrative orders follows Commission policy issued in August 1995 that provides for termination of future administrative orders after 20 years. Before the Rule was adopted, the Commission could set aside orders or provisions of orders only upon filing of a petition by the respondent or initiation of show-cause proceedings by the Commission. The new Rule became effective on January 2, 1996.

#### **COMPETITION MISSION** *Premerger Review Regulations*

The Commission issued amendments to premerger notification rules by adopting five new rules that exempt certain mergers and acquisitions from prior review by federal regulators. Under the new rules, certain classes of transactions that are not likely to raise antitrust concerns are exempted from the reporting requirements of the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976. That Act generally requires entities contemplating mergers to file premerger reports with the Commission and the Department of Justice and to wait a specified period of time before consummating the transactions, so that the government can review the mergers and challenge those that may violate antitrust laws. The new rules clarify types of transactions that are exempt from the advance notice requirement, including certain acquisitions of real estate and fuel resources. Adoption of the new rules, which target transactions unlikely to have a significant anticompetitive impact, will remove an unnecessary burden from both businesses and government.

#### **CONSUMER PROTECTION MISSION** *Appliance Labeling Rule*

The Appliance Labeling Rule, in effect since 1980, is designed to help consumers comparison-shop for energy-efficient home

appliances such as refrigerators and freezers. Under this Rule, manufacturers must attach to most major appliances *EnergyGuide* labels that provide an estimate of the product's annual energy consumption or energy efficiency. The Commission amended the Rule this year to allow appliance manufacturers to place energy use labels required by the Canadian and Mexican governments "directly adjoining" the *EnergyGuide* labels. The amended Rule, which became effective June 28, 1996, supports the goal of the North American Free Trade Agreement to harmonize standards-related measures to facilitate trade among the United States, Canada, and Mexico.

#### *Funeral Rule*

In conjunction with the National Funeral Directors Association (NFDA), the Commission implemented two programs to improve and ensure the funeral industry's compliance with the Funeral Rule. This Rule requires that funeral homes give shoppers a general price list of funeral goods and services. One program, the Funeral Rule Offenders Program (FROP), is an option to resolve violations of the Rule. Violators choosing to enroll in this program make voluntary payments to the U.S. Treasury or state government, undergo compliance review by NFDA counsel, and hold NFDA-led training for all employees. The second program, the Funeral Industry Rule Compliance Assurance Program, provides continuous training to funeral industry personnel on Rule compliance.

#### *Recycled Oil Rule*

The Commission approved a final rule on test procedures and labeling standards for recycled or "rerefined" oil intended for use as engine oil. The Recycled Oil Rule implements statutory requirements designed to encourage the use of recycled oil. It permits manufacturers to represent on a container of recycled oil that the oil is substantially equivalent to new engine oil, as long as the determination of equivalency is based on the test procedures prescribed by the new Rule.

#### *Regulatory Reform*

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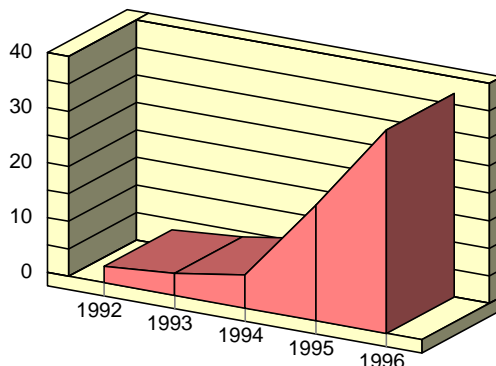
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The Commission continued its activities under the ten-year schedule to review all rules and guides, repealing those that are outdated or no longer needed, and streamlining those that are retained. In fiscal year 1996, the Commission rescinded eight rules (the *Fiberglass Curtain and Draperies Rule*, the *Quick Freeze Spray Rule*, the *Binocular (Prismatic) Rule*, the *Sleeping Bag Rule*, the *Tablecloth Rule*, the *Extension Ladder Rule*, the *Leather Belt Rule*, and the *Light Bulb Rule*) and two industry guides (the *Hosiery Guides* and the *Watch Band Guides*). In addition, the Commission revised six rules (the *Cooling-Off Rule*, the *Used Car Rule*, the *R-Value Rule*, the *Textile Rules*, the *Appliance Labeling Rule* (mentioned above), and the *Smokeless Tobacco Rule*), and two industry guides (the *Jewelry Guides* and the *Automotive Fuel Economy Guides*).

### *Telemarketing Sales Rule*

The Telemarketing Sales Rule, designed to give consumers important information regarding telemarketing offers, went into effect on December 31, 1995. The Rule prohibits telephone solicitors from a variety of practices, including calling before 8 a.m. or after 9 p.m., calling people who have said they do not want to be called, misrepresenting any aspect of the goods or services offered, and seeking advance payment before rendering service.

**ORDER MODIFICATIONS  
COMPETITION MISSION**



**COMPETITION MISSION (SUMMARY)**

Title	Number	Action Date	Type of Matter	Product/Service
Adobe Systems Incorporated	C3536	03/13/96	Horizontal Merger	Computer Programming and Software
Alleghany Corporation	C3218 C3335	06/27/96 06/27/96	Horizontal Merger	Title Offices, Title Insurance
American Home Products Corporation	C3557	01/16/96	Horizontal Merger	Pharmaceuticals
American Stores Company	C3238	12/01/95	Horizontal Merger	Grocery Stores
Arkla Inc.	C3265	06/13/96	Horizontal Merger	Gas Transmission and Distribution
Atlantic Richfield Company (ARCO)	C3314	02/07/96	Horizontal Merger	Chemicals
Boston Scientific Corporation	C3573	01/05/96	Horizontal Merger	Surgical and Medical Instruments
California Medical Association	C2967	10/27/95	Horizontal Price Fixing	Physicians Offices
Charter Medical Corporation	C3558	01/29/96	Horizontal Merger	Psychiatric Hospitals
Columbia/HCA Healthcare Corporation	C3619	05/15/96	Horizontal Merger	General Medical and Surgical Hospitals
Hoechst Celanese Corporation	D9216	04/26/96	Horizontal Merger	Organic Fibers
Institut Merieux S.A.	C3301	01/18/96	Horizontal Merger	Pharmaceuticals



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Title	Number	Action Date	Type of Matter	Product/Service
IVAX Corporation	C3565	06/17/96	Horizontal Merger	Pharmaceuticals
KKR Associates, L.P.	C3253	10/31/95	Horizontal Merger	Packaged Foods
L' Air Liquide S.A.	C3216	02/15/96	Horizontal Merger	Industrial Gases
Mannesmann AG	C3378	10/11/95	Horizontal Merger	Conveyors and Conveying Equipment
McCormick & Company	C3468	02/26/96	Horizontal Restraints	Dehydrated Onions
MTH Holdings, Inc.	C3266	02/16/96	Horizontal Merger	Grocery Stores
National Dairy Products Corporation	D8548	11/08/95	Price Discrimination	Packaged Foods
Occidental Petroleum Corporation	D9205	11/16/95	Horizontal Merger	Plastic Materials and Resins
Papermakers Felt Association	C0828	11/22/95	Monopolization	Papermaking Felt
Pendleton Woolen Mills, Inc.	C2985	09/30/96	Distributional Restraints	Clothing
Red Apple Companies, Inc.	D9266	09/13/96	Horizontal Restraints	Grocery Stores
Roche Holding Ltd.	C3315 C3542	01/16/96 01/16/96	Horizontal Merger	Pharmaceuticals
Rohm & Haas Company	C3387	01/16/96	Horizontal Merger	Acrylic Polymers
S.C. Johnson & Son, Inc.	C3418	12/22/95	Horizontal Merger	Polishes and Sanitation Goods
Service Corporation International Sentinel Group, Inc.	C3372 C3440 C3579 C3348	04/18/96 04/18/96 04/18/96 04/18/96	Horizontal Merger	Funeral Services and Cemeteries
Sun Company, Inc.	C3246	04/18/96	Horizontal Merger	Petroleum Products
T&N plc	C3312	04/23/96	Horizontal Merger	Motor Vehicle Parts and Accessories
Tele-Communications, Inc.	C3575	05/15/96	Horizontal Merger	Cable TV
Vons Companies, Inc., The	C3233	05/28/96	Horizontal Merger	Grocery Stores
West Point Pepperell Inc.	C3244	10/04/95	Horizontal Merger	Bed and Bath Linens

**COMPETITION MISSION** *Adobe Systems Incorporated; Aldus Corporation*  
**(DETAIL)**

The Commission modified a 1994 consent order, eliminating Adobe's obligation to obtain Commission approval before acquiring an interest in any firm that develops or sells professional-illustration software for Macintosh or Power Macintosh computers, and requiring instead, advance Commission notice of such acquisitions. Under the Commission's 1996 prior approval policy, consent agreements will no longer routinely require parties to a challenged merger to obtain prior approval for future transactions.

*Alleghany Corporation*

The Commission modified, in part, two consent orders, one issued in 1987 and another issued in 1991. The Commission ended the obligation of Alleghany, in both orders, to obtain prior Commission approval before acquiring certain assets related to title insurance, instead substituting a provision requiring the firm to provide prior notification for acquisitions of original title records. The modification also exempts acquisitions of certain copies of title records.

*American Home Products Corporation*

The Commission ended the obligation of American Home Products to obtain prior approval before acquiring certain assets of any U.S. manufacturer of tetanus, diphtheria, or rotavirus vaccine. The prior approval provision was included in a 1995 consent order that settled charges stemming from the acquisition of American Cyanamid Company, a competitor in the market for pharmaceutical products. The Commission replaced the prior approval provision with a prior notice requirement, obligating the firm, for ten years, to notify the Commission before proceeding with certain acquisitions.

*American Stores Company*

The Commission granted in part American Stores' request to reopen and modify a 1988 consent order, requiring Commission approval before acquiring certain retail grocery stores in specified areas of California and Nevada. The Commission replaced the prior approval provision with a prior notice requirement for the acquisitions specified in the original order.

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### *Arkla, Inc. (NorAm Energy Corporation, successor)*

The Commission granted the petition of NorAm Energy, formerly Arkla, and set aside a 1989 consent order requiring prior Commission approval for certain transactions related to pipeline acquisitions. The consent order settled charges that Arkla's acquisition of natural gas pipeline assets from TransArk Transmission Co. would reduce competition for the transportation of natural gas out of the Arkoma Basin in Arkansas.

### *Atlantic Richfield Company (ARCO); ARCO Chemical Company; Union Carbide Chemicals and Plastic Company Inc.; Union Carbide Corporation*

The Commission ended ARCO's obligation to obtain Commission approval before acquiring the assets of any company that produces urethane polyether polyol, propylene glycol, or propylene oxide. The original order, issued in 1990, settled charges relating to ARCO's acquisition of certain chemical assets from Union Carbide Chemicals and Plastic Company, a subsidiary of Union Carbide Corporation.

### *Boston Scientific Corporation*

The Commission ended the obligation of Boston Scientific to obtain prior Commission approval before acquiring certain assets of any company engaged in researching, developing, or manufacturing intravascular ultrasound (IVUS) catheters for sale in the United States. The modified order now requires prior notification of acquisitions of exclusive rights to U.S. patents related to the production of IVUS catheters. The 1995 order settled antitrust concerns stemming from the acquisitions of Cardiovascular Imaging Systems, Inc., and SCIMED Life Systems, Inc., two competitors in the market for IVUS catheters.

### *California Medical Association*

The Commission granted the petition of the California Medical Association to set aside a 1979 consent order to allow the Association to establish and operate a managed care plan whereby physicians would provide services under a fee schedule. The original order

prohibited the Association from participating in and publishing a relative values study that influenced the fees charged by physicians. According to the Commission, the original order was designed to inhibit price-fixing, not to inhibit the Association's lawful entry into managed care markets.

*Charter Medical Corporation*

The Commission granted in part the petition of Charter and modified two provisions in a 1995 order, replacing the general prior approval requirement with a prior notice provision requiring Commission notice of acquisitions of certain psychiatric facilities and setting aside the prior notice provisions concerning certain nonmerger joint ventures.

*Columbia/HCA Healthcare Corporation*

The Commission modified a hold-separate agreement requiring the Utah assets of Healthtrust, Inc.–The Hospital Company to be operated separately from Columbia/HCA. Under conditions of the modification, Columbia/HCA's hold-separate requirements ended when Davis Hospital, the Medical Center of Layton, and Pioneer Valley Hospital were sold to Paracelsus Healthcare Corporation.

*Hoechst Celanese Corporation*

The Commission ended Hoechst Celanese's obligation to obtain prior Commission approval before acquiring certain assets related to acetal. The order settled charges that the acquisition of the Celanese Corporation by Hoechst substantially lessened competition in the manufacture and sale of acetal, an engineering thermoplastic polymer used in small mechanical parts such as gears, in the United States.

*Institut Merieux S.A. (Pasteur Merieux Serums & Vaccins S.A.,  
successor)*

The Commission granted the petition of Pasteur Merieux (successor to Institut Merieux, S.A.) to delete the provision of a 1990 consent order requiring prior approval of any acquisition of any company that manufactures or sells in the United States human vaccines also produced by Pasteur Merieux, such as vaccines for

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diphtheria, pertussis, and tetanus (DPT), polio, and rabies. The Commission replaced the requirement with a prior notice provision for acquisitions valued at \$2 million or more. The consent order settled charges that the acquisition of Connaught BioSciences, Inc., would create a dominate firm in the U.S. market for rabies and injectable polio vaccines.

### *IVAX Corporation*

The Commission modified a 1995 consent order settling allegations that IVAX's acquisition of Zenith Laboratories, Inc., could create a monopoly in the U.S. market for verapamil, a generic drug used in the treatment of patients with chronic cardiac conditions. The modified order ends IVAX's requirement to obtain prior Commission approval before acquiring the assets of any firm that manufactures extended-release generic verapamil in the United States.

### *KKR Associates, L.P.*

The Commission ended the provision of a consent order that required KKR Associates to obtain Commission approval before making acquisitions in certain food product categories, including packaged nuts, oriental foods, and catsup. The 1989 consent order permitted the acquisition of RJR Nabisco and required the divestiture of certain assets and businesses associated with RJR Nabisco and Beatrice/Hunt-Wesson.

### *L'Air Liquide S.A.*

The Commission granted a petition from L'Air Liquide and eliminated the only remaining obligation under the 1988 order – to obtain prior Commission approval before acquiring any U.S. producer of liquid gases used in industrial applications. The original order settled charges stemming from L'Air Liquide's acquisition of Big Three Industries, Inc.

### *Mannesmann AG*

The Commission set aside a 1992 consent order against Mannesmann. The last applicable provision required Mannesmann

to obtain Commission approval before acquiring any entity that manufactures and sells certain conveyor systems in the United States. The original order settled charges relating to the acquisition of Rapistan Corporation and required the divestiture of The Buschman Company.

*McCormick & Company, Inc.*

The Commission modified a 1993 consent order and ended McCormick's obligation to obtain Commission approval before acquiring the assets of any company that sells a specified level of dehydrated onion products.

*MTH Holdings, Inc.; GU Acquisition Corporation*

The Commission granted the amended petition of MTH Holdings to modify a 1989 consent order and ended the company's obligation to obtain prior Commission approval before acquiring any grocery store in certain specified areas of Vermont and New York. The provision was replaced with a prior notice provision requiring MTH Holdings to instead notify the Commission before making such acquisitions in the future. The 1989 order settled charges that MTH's acquisition of GU Acquisition Corporation, a holding company that owned The Grand Union Company, would reduce competition among grocery stores in various areas of Vermont and Upstate New York.

*National Dairy Products Corporation (Kraft Foods, Inc., successor)*

The Commission set aside a 1967 consent order that prohibits Kraft Foods (as successor to National Dairy Products) from discriminating in price between different purchasers of its jam, jelly, and preserves products. The order was modified under the Commission's "sunsetting" policy, which terminates most orders after 20 years.

*Occidental Petroleum Corporation;  
Occidental Chemical Corporation*

The Commission ended the obligation of Occidental Petroleum and its subsidiary, Occidental Chemical, to obtain Commission approval before acquiring stock in any polyvinyl chloride (PVC)

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producer in the United States. The 1994 consent order settled charges stemming from Occidental's acquisition of the PVC businesses of Tenneco Polymers, Inc.

*Papermakers Felt Association (Albany International Corporation, successor to Albany Felt Company)*

The Commission terminated a 1964 consent order that settled charges that the Papermakers Felt Association and its members conspired to fix and maintain prices and terms of sale in the papermakers felt industry. The order against Albany International (successor to Albany Felt Company) was set aside under the Commission's "sunsetting" policy, which terminates orders that have been in effect more than 20 years.

*Pendleton Woolen Mills, Inc.*

The Commission modified in part a 1979 order that settled charges that Pendleton had engaged in agreements with retailers about the prices at which they could advertise and sell Pendleton clothing and other products. The order prohibited the firm from engaging in certain resale price maintenance practices and also contained "fencing in" provisions prohibiting Pendleton from exercising unilateral control over how its products are marketed and sold. The modification permits Pendleton to engage in lawful, price-restrictive, cooperative advertising and also allows Pendleton to terminate a reseller of its products for failing to adhere to Pendleton's announced resale prices or sale periods.

*Red Apple Companies, Inc.; Designcraft Industries, Inc.  
(d/b/a Sloan's Supermarkets, Inc.);  
Supermarket Acquisition Corp.; John A. Catsimatidis*

The Commission granted a petition from Red Apple and three other respondents to reopen and modify a 1995 consent order ending their obligation to divest a supermarket in the Chelsea area of Manhattan, only after the respondents agreed to pay a civil penalty of \$600,000 for failure to divest certain supermarkets in Manhattan on a timely basis.

*Roche Holding Ltd.; Genentech, Inc.; Hoffman-La Roche Inc.;*

*Roche Holdings, Inc.*

The Commission modified the prior approval provisions in two orders that required Roche and subsidiary Hoffman-La Roche, among other things, to obtain approval before acquiring certain assets in the markets for drug abuse testing products. In the 1990 order that settled antitrust concerns relating to the acquisition of Genentech, the Commission replaced the prior approval provision with a prior notice provision; the Commission set aside entirely the 1994 order that challenged the acquisition of Syntex, a competitor in drug abuse testing products.

*Rohm & Haas Company*

The Commission granted in part the petition of Rohm & Haas to end the company's obligation to obtain Commission approval before acquiring an interest in any entity that produces architectural acrylic emulsion polymers, an ingredient in exterior latex paints. In place of the prior approval requirement, the Commission imposed a prior notice requirement for certain future acquisitions.

*S.C. Johnson & Son, Inc.*

The Commission set aside in its entirety a 1993 consent order that required S.C. Johnson to obtain Commission approval before acquiring any interest in air freshener or furniture care products manufactured or distributed in the United States.

*Service Corporation International; Sentinel Group, Inc.*

The Commission granted in part petitions to reopen and modify four consent orders that settled antitrust concerns stemming from Service Corporation International's acquisitions of funeral homes owned by Sentinel (two consent orders), Pierce, and Uniservice Corporation. Each order was modified by removing the prior approval requirements and substituting prior notice requirements relating to the acquisitions of interests in funeral establishments.

*Sun Company, Inc.*



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The Commission granted Sun's petition to modify a 1989 consent order by substituting a prior notice provision for the prior approval requirement. The order now requires Sun to notify the Commission before acquiring any light petroleum products terminals or pipelines in certain parts of New York and Pennsylvania.

### *T&N plc*

The Commission granted T&N's request and modified a 1990 consent order that settled antitrust concerns relating to the acquisition of J.P. Industries, Inc. The consent order now requires T&N to provide prior notice before acquiring any entity engaged in the manufacture of engine bearings.

### *Tele-Communications, Inc.*

The Commission granted in part Tele-Communications' petition to end its obligation to obtain prior approval before acquiring any cable television system in the Columbus, Georgia, area as required by a 1995 consent order. The consent order was modified to require the firm to notify the Commission before acquiring any assets originally covered by the prior approval provision.

### *Vons Companies, Inc., The; Safeway Stores Incorporated; SSI Associates, L.P.*

At the request of Vons Companies, the Commission replaced a prior approval requirement with one requiring prior notice for acquisitions of supermarkets in specified geographic areas. The 1988 consent order settled concerns stemming from Vons' acquisition of Safeway stores in southern California and Nevada. The Commission, however, denied Vons' petition to modify a 1992 order that settled charges relating to the acquisition of supermarkets in San Luis Obispo county, California, on grounds that ending the prior approval requirements in that order would not be in the public interest.

### *West Point Pepperell, Inc. (WestPoint Stevens, Inc., successor)*

The Commission ended the obligation of WestPoint Stevens (successor to West Point Pepperell) to obtain prior approval before acquiring certain bed and bath linen manufacturing assets required by

a 1988 order. The order allowed West Point Pepperell to acquire J.P. Stevens & Co. but required the divestiture of certain sheet and towel manufacturing facilities. The Commission modified the order under its recently adopted prior approval policy whereby consent orders stemming from merger cases will no longer include prior approval provisions.

**ORDER MODIFICATIONS  
CONSUMER PROTECTION MISSION**

***CONSUMER PROTECTION MISSION (SUMMARY)***

<b>Title</b>	<b>Number</b>	<b>Action Date</b>	<b>Type of Matter</b>	<b>Product/Service</b>
General Motors Corporation	C2966	12/21/95	Deceptive Disclosure/Labeling	Automobile Engines

***CONSUMER PROTECTION MISSION (DETAIL)***      *General Motors Corporation*

The Commission reopened and modified the portion of a 1979 consent order that prohibited General Motors (GM) from placing the name of a car division on an engine label unless the car division also manufactured the engine. Since the order was issued, GM has implemented a series of corporate restructurings that resulted in the removal of engine production from the nameplate divisions that existed in 1979. The 1979 order settled allegations that GM engaged in unfair and deceptive practices by selling cars with engines and other equipment manufactured by a different GM division without informing purchasers. The order prohibited GM from misrepresenting the availability of any standard or optional equipment and prohibited GM from displaying a division’s name on an engine unless the engine was manufactured by that division. The Commission modified the order to allow GM to display brand nameplates on engines that are materially different from those displaying all other brand nameplates.

## CONSUMER AND BUSINESS EDUCATION ACTIVITIES

### **CONSUMER PROTECTION** *Publications and Other Products* **MISSION**

The Office of Consumer and Business Education produced 61 new and revised publications: 55 for consumers and 6 for business; they included 22 updates and one publication in Spanish. Distribution exceeded 4.1 million copies.

The Office produced two radio public service announcements (PSAs). The PSA on the Telemarketing Sales Rule (TSR), produced in English and Spanish, was distributed to an estimated 2,200 stations. The other, which promoted *The Real Deal* booklet, was sent to 500 radio stations and networks.

The Office produced several new “products,” including tip cards, bookmarks, book covers, and flyers, and redesigned its *Facts for Consumers* format to enhance readability. Among the year’s special products were two award-winning publications: *The Real Deal*, an activity booklet for pre-teens, and *Viatical Settlements*, widely distributed through the Internet.

#### *Internet Activities*

The Office established *ConsumerLine* in 1995 to enhance distribution. In fiscal year 1996, *ConsumerLine* received more than 140,000 “hits” (accesses to individual publications or categories).

The Office established World Wide Web pages for *ConsumerLine* and the new TSR. It also established a FAQ (Frequently Asked Questions) feature, which provides a forum for Commission staff to answer consumers’ online questions. The Office arranged for hyperlinks to and from many Web pages (government and non-government) to increase publication visibility and accessibility.

The Office initiated the Commission effort to develop a federal interagency consumer information Web site. During the last quarter of 1996, the Office registered the “consumer.gov” domain name, elicited the partnership of five other federal consumer protection and law enforcement agencies, and began design and development.

#### *Cooperative Projects*

The Office continued to work with the National Association of Attorneys General; in addition, it cooperated with the Federal

Communications Commission to produce brochures on telephone leasing and high-tech telecommunications scams, with the American Express Company to write and distribute brochures on cybershopping and the use of credit for college students, and with the Direct Marketing Association to produce a compliance guide to the TSR and a business checklist for direct marketers.

The Office furnished the Securities and Exchange Commission with more than 3,000 copies of *Investing in Interactive TV Licenses* to be included with letters to complainants, worked with the Social Security Administration to augment the Commission's mailing list for *Viatical Settlements*, and worked with the Small Business Administration (SBA) to distribute information about office supply scams, and other business publications.

The Office helped support town meetings produced by regional office staff and the Commission's Office of Congressional Affairs. The Office also participated in an "expo" with 60 other government agencies for Public Service Recognition Week, distributing 10,000 copies of agency publications in three days. It continued its work with the Consumer Literacy Consortium, a group of more than 20 private and public sector organizations headed by the Consumer Federation of America, to market *66 Ways to Save Money*, and its work with the Alliance Against Fraud in Telemarketing.

In September, the Commission announced several actions against companies that guarantee scholarships to high school or college students. As part of this effort, the Office developed a campaign to educate students and parents about scholarship scams. The Office disseminated posters and other materials through the 3,600 member stores of the National Association of College Stores and via the *ConsumerLine*. In addition, the Office elicited the cooperation of six major educational organizations and the Interactive Services Association to promote the materials through professional journals, newsletters, and the Web. The Office also disseminated materials produced by Sallie Mae (a nationwide provider of student loans) to high school counselors, teachers, and students. The education campaign will continue through spring 1997.

Finally, the Office spearheaded the Partnership for Consumer Education, an innovative cooperative effort among 84 federal agencies, private industry, and consumer organizations to provide effective consumer education campaigns against fraud. As its first project, the Commission targeted various telemarketing scams, including investment fraud. This new approach to marketing

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products and messages to various industry, trade, and professional organizations helped to expand the audience for consumer and industry education. Since its launch in January 1996, the partnership has disseminated 90 million fraud-prevention messages.

### *Telemarketing Fraud Information*

To mark the first anniversary of the TSR, the Commission and its partners developed a national education campaign, “Spread the Word About Telemarketing Fraud.” The centerpiece is an action kit containing background information, a fact sheet, a list of suggested activities that organizations can undertake in support of the initiative, a consumer quiz, a sample press release, sample op-ed and newsletter articles, public service announcements, and a form for ordering additional education materials.

The kit is distributed widely to partners, consumer organizations, the media, and government agencies, and is available on the Web ([www.ftc.gov/telemarketing](http://www.ftc.gov/telemarketing)). Partners have carried out a wide range of activities to strengthen and expand the effectiveness of the Partnership and the “Spread the Word” campaign. For example, American Express placed an educational message in its Optima billing statement; the Atlanta Metropolitan Transit Authority has placed public service messages on buses and trains; the Administration on Aging placed a newsletter article that generated wide interest and support among Area Agencies on Aging; Spiegel placed a PSA in several sales catalogs; The Industry Council for Tangible Assets has asked relevant publishers to include articles in newsletters; the International Credit Association is having information about credit fraud incorporated into high-school teachers’ guides; and the Publisher’s Clearinghouse developed an envelope stuffer about sweepstakes fraud.

### *Additional Consumer Education Partnerships*

For “Operation Copycat,” a law enforcement effort focusing on office supply scams, the Office produced a brochure and tip card, directed toward small businesses and nonprofit organizations, the most frequent victims of this scam. These products were distributed to nearly 350 trade and business publications with a combined circulation of 24 million. The Office arranged for the Association of Chamber of Commerce Executives, whose more than 1,500 members

represent approximately 90 percent of the chambers in the United States, to help publicize and distribute the brochure and tip card. In addition, the SBA agreed to distribute the brochure through its 70 regional offices. Online dissemination of the brochure originated with *ConsumerLine* and was hyperlinked to the U.S. Business Advisor's Web site.

In an educational campaign to fight advance-fee employment scams, the Office developed a brochure and tip card and coordinated the participation of five major human resource and placement industry organizations. The groups promoted the brochure and tip card in their member newsletters and magazines, and three of the groups added the publications to their Web sites. In addition, the Office sent the brochure to 23 industry magazines. The major industry publication, the *Fordyce Letter*, ran a story on the Commission's educational campaign.

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### APPELLATE COURT REVIEW OF COMMISSION ACTIONS COMPETITION MISSION

#### COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product/Service
Coca-Cola Bottling Company of the Southwest	D9215	09/10/96	Horizontal Merger	Carbonated Soft Drinks
Freeman Hospital	D9273	11/30/95	Horizontal Merger	Inpatient Hospital Services

**COMPETITION MISSION (DETAIL)** *Coca-Cola Bottling Company of the Southwest;  
Dr Pepper/Seven-Up Company*

The Commission dismissed its complaint against Coca-Cola Bottling Company of the Southwest after the U.S. Court of Appeals for the Fifth Circuit ruled that the competitive effects of the 1984 acquisition of a San Antonio, Texas, area Dr Pepper franchise should have been reviewed under the Soft Drink Interbrand Competition Act of 1980 rather than the Clayton Act. The Commission said that, while it disagreed with the court decision, the circumstances underlying the court's decision were not likely to apply in future cases involving an acquisition of soft drink bottlers.

*Freeman Hospital; Tri-State Osteopathic Hospital Association, Inc.  
(d/b/a Oak Hill Hospital)*

The Commission determined not to pursue the administrative litigation and dismissed the complaint that challenged the merger of the second and third largest acute care hospitals in the Joplin, Missouri, metropolitan area. The complaint alleged that the merger of Freeman and Oak Hill Hospitals would substantially reduce competition and raise prices for inpatient acute care hospital services in the area. The hospitals consummated the merger after the U.S. Court of Appeals for the Eighth Circuit denied the Commission's motion for a preliminary injunction. The decision to end the administrative proceedings was made in accordance with a 1995 policy statement pursuant to which the Commission evaluates on a case-by-case basis whether to pursue administrative litigation after the denial of a preliminary injunction.

**ECONOMIC REPORTS AND WORKING PAPERS*****ECONOMIC REPORTS***

Economic Reports are major, published reports, usually containing original research and entailing a substantial commitment of resources, concerning an issue of current policy interest or of long-term impact on Federal Trade Commission antitrust or consumer protection missions.

*The Salt Producers' Discount Practices Before and After the Robinson-Patman Act and the FTC's Challenge to Them: The Morton and International Salt Cases*, John L. Peterman, October 1995.

This study describes the pricing and distribution of salt during the National Industrial Recovery Act period and beyond (1930-1945). Two Commission cases brought to enforce the Robinson-Patman antidiscrimination law during this period are examined in some detail. Also included is a statistical description of industries in which the Commission brought Robinson-Patman Act cases between 1936 and 1980.

*Disentangling Regulatory Policy: The Effects of State Regulations on Trucking Rates*, Timothy P. Daniel and Andrew N. Kleit, November 1995.

This study estimates the relationship between intrastate trucking rates and three different types of state-level regulations: (1) the strictness with which rates are regulated, (2) the requirements placed on motor carriers seeking to enter the market, and (3) whether the state provides antitrust immunity for decisions made by motor carrier rate bureaus.

*The Effectiveness of Collusion Under Antitrust Immunity: The Case of Liner Shipping Conferences*, Paul S. Clyde and James D. Reitzes, January 1996.

This study analyzes whether ocean shipping rates are affected by the presence and practices of ocean liner conferences. The study provides some support for the conclusion that some aspects of the conference system may contribute to higher shipping rates, particularly when the conference has a sizable market share.



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### ***ECONOMIC WORKING PAPERS***

Economic Working Papers are preliminary, unpublished work products of the Commission, resulting from original research by Bureau of Economics staff, either in connection with ongoing agency activities or as independent analyses, often entailing relatively minor allocations of official time.

*The Political Economy of Federal Trade Commission Administrative Decision Making in Merger Enforcement* (WP #210), Malcolm B. Coate and Andrew N. Kleit, November 1995.

*A Game Theory Model of Celebrity Endorsements* (WP #211), Mark N. Hertzendorf, March 1996.

*Entry Policy and Entry Subsidies* (WP #212), James D. Reitzes and Oliver R. Grawe, April 1996.

**ADVOCACY FILINGS**

**ADVOCACY FILINGS (SUMMARY)**

Agency/State	Matter Number	Subject/Issue	Authorization Date
FEDERAL AGENCIES			
Copyright Office	V960014	Open Video Systems Licensing	09/13/96
Federal Communications Commission	V960013	900-Numbers	08/26/96
	V950014	Local Multipoint Distribution Service	08/22/96
	V960009	Open Video Systems	07/15/96
	V960007	Paging License Allocation Procedures	03/18/96
Federal Energy Regulatory Commission	V960008	Merger Standards	05/06/96
Food and Drug Administration	V960001	Direct-to-Consumer Promotion	01/11/96
	V960002	“Pharmaco-Economic” Claims	01/16/96
STATES			
Massachusetts	V960012	Wholesale Liquor Price Advertising	06/25/96
Tennessee	V960005	Veterinary Form-of-Practice	02/02/96
Virginia	V960015	Real Estate Settlements	09/19/96
Washington	V960006	Certified Public Accountant Qualifications	03/18/96

**ADVOCACY FILINGS (DETAIL)**

**FEDERAL AGENCIES** *Copyright Office: Open Video Systems Licensing*

Staff of the San Francisco Regional Office and the Bureau of Economics filed a comment with the Copyright Office recommending that it extend the compulsory licensing arrangement for cable television systems to open video systems (OVS). OVS, established under the Telecommunications Act of 1996, will combine features of common carriers and cable systems in providing video programming.

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Staff said that applying the cable compulsory license to OVS, rather than having OVS negotiate separate copyright licenses for each broadcast channel, could benefit consumers because it would lead to an allocation of resources that better reflected the relative costs of different video distribution methods and would reduce the OVS's cost of acquiring programming, making its acquisition costs comparable to those of other distribution technologies. In addition, the staff recommended that the copyright liability rest with the firm providing the programming on the OVS, not with the OVS operators.

### *Federal Communications Commission: 900-Numbers*

Federal Trade Commission staff filed comments with the Federal Communications Commission (FCC) supporting its efforts to keep unscrupulous pay-per-call service providers from evading federal regulations governing the 900-number industry. In particular, staff supported the FCC's efforts to prevent pay-per-call transactions from being disguised as long-distance calls by requiring that whenever a provider of information or entertainment programs gets any remuneration for calls to such a program, the calls must fall within the 900-number dialing code. Staff said that consumers would likely benefit from this proposal because it would allow them to recognize telephone numbers for calls that entail charges above regular long-distance charges, would subject the calls to cost-disclosure and billing-dispute requirements, and would enable consumers to prevent charges for unauthorized calls by blocking 900 numbers. The Commission also said it supports efforts to narrow an exemption from regulatory requirements in situations where there is a "pre-subscription" agreement between the caller and the information provider, by requiring that such agreements be in writing.

### *Federal Communications Commission: Local Multipoint Distribution Service*

Federal Trade Commission staff filed comments with the FCC about policies for awarding licenses for local multipoint distribution service (LMDS), which can be used for two-way voice, video, and data transmission, potentially in competition with local telephone or cable companies. Staff said that local telephone or cable companies that acquired an LMDS license for the same geographic area in which they offer their current service, given enough market power, could

either warehouse the LMDS license to forestall a third party from coming in and competing, or could raise the price of both services they offer. In general, staff supported the FCC's proposals to adopt a cross-ownership rule that, rather than strictly prohibiting the award of licenses to cable or telephone companies whose service areas overlap the area for the LMDS license, would permit the incumbent cable or telephone service operator to acquire an LMDS license as long as the overlap was no more than a certain percentage of the area. Staff concluded that until such time as effective competition is present in these markets, the acquisition of LMDS spectrum licenses by competing local exchange carriers and cable operators presents potentially significant risks.

*Federal Communications Commission: Open Video Systems*

Staff of the Federal Trade Commission and the Antitrust Division of the Department of Justice filed comments with the FCC in opposition to petitions for reconsideration of the FCC's recently adopted rules to permit the operators of open video systems (OVS) to limit the ability of competing, in-region cable operators to demand carriage of their programming on the OVS. Staff supported the FCC's decision to permit an OVS operator to discriminate against or exclude a directly competing dominant cable company when such discrimination or exclusion is reasonable and just under the Telecommunications Act of 1996. This approach, staff concluded, comports with the mandate of the Act that the FCC accelerate the emergence of competition in this market.

*Federal Communications Commission: Paging License Allocation Procedures*

The Federal Trade Commission filed comments with the FCC supporting its proposed revisions to its paging licensing rules and distribution through competitive bidding. The Commission observed that several of the proposed bidding procedures, such as requiring a bidder to disclose its business classifications and posting upfront payments, will help deter fraud. The Commission suggested that the proposed bidding procedures can be strengthened further, to prevent fraudulent abuse of the auction process, by requiring applicants, prior to auction, to disclose the identities of the real parties in interest and financial information. In addition, applicants should certify, prior to

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auction, that the license will comply with any FCC transfer restrictions and performance requirements. The Commission further suggested that the application and competitive bidding procedures require that bidding agents and application preparers disclose material information about paging license regulations to the licensee and to all interested parties.

### *Federal Energy Regulatory Commission: Merger Standards*

The staff of the Bureau of Economics filed comments with the Federal Energy Regulatory Commission (FERC) recommending measures to assist in FERC's evaluation of whether electric utility mergers will be anticompetitive and increase costs for consumers. Staff suggested relying on the Horizontal Merger Guidelines, examining actual market concentration and competitive conditions, examining competitive conditions among generation suppliers, and modeling transmission flows. Staff concluded that open access to transmission services should enable increased competition among power generators to benefit consumers through lower rates.

### *Food and Drug Administration: Direct-to-Consumer Promotions*

Commission staff filed comments with the Food and Drug Administration (FDA) in response to a notice of proposed rulemaking concerning its regulation of direct-to-consumer advertising for prescription drugs. Staff suggested that the FDA consider adopting an approach similar to the Commission's Deception Policy Statement and Statement on Advertising Substantiation to assist in evaluating prescription drug advertisements. Staff recommended that limiting current disclosure requirements and adjusting disclosure requirements according to advertising venues could increase the net benefits of direct-to-consumer advertisements. Staff also recommended that the FDA consider alternative means for ensuring consumer access to important information, replacing the highly technical and lengthy "brief summary" currently appearing in consumer-directed prescription drug advertising.

### *Food and Drug Administration: "Pharmaco-Economic" Claims*

Commission staff filed comments with the FDA in response to a notice of proposed rulemaking concerning how structural changes in

the health care industry affect its responsibilities to regulate drug marketing and promotion. Staff suggested that the FDA consider a more flexible substantiation standard requiring competent and reliable evidence whose level could depend on the claim being made, rather than a standard containing an *a priori* requirement. Staff also suggested that the FDA may wish to consider a disclosure approach for any deception concerning “switch” programs, programs in which pharmacists in managed-care plans seek physician approval to switch a patient from a prescribed drug to a drug from a manufacturer affiliated with the pharmacist. Clear and conspicuous disclosures could cure deception while preserving the economic benefits of these programs.

**STATES** *Massachusetts: Wholesale Liquor Price Advertising*

In a statement to the Massachusetts Alcoholic Beverages Control Commission, Boston Regional Office staff supported repeal of a Massachusetts rule that facilitates wholesale-level collusion in liquor. Staff suggested that the rule, which requires liquor wholesalers to file a price list prior to the month in which the list will be effective, may harm competition by deterring price changes. The rule may also prevent incentive discounts in the form of free goods and promotional discounts. Staff concluded that repealing the rule would tend to encourage competition in the sale of alcoholic beverages in Massachusetts.

*Tennessee: Veterinary Form-of-Practice*

The Atlanta Regional Office submitted comments to the Tennessee State legislature supporting a bill that will permit veterinarians to practice as employees of non-veterinarians under certain conditions. Staff suggested that prohibiting jointly owned or operated facilities could prevent efficient combinations of business practices or operations that might result in lower prices to consumers, while admitting new business formats that Tennessee’s law now prohibits could have a positive effect on competition and might afford consumers a wider selection of services and costs.

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### *Virginia: Real Estate Settlements*

Staff of the Commission and the Department of Justice submitted a joint comment to the Virginia State Bar urging against adoption of the Bar's proposal to prevent non-lawyers and title company attorneys from handling closings of real estate transactions and refinancings. Staff said that the proposal, which would particularly affect consumers who are obtaining home equity loans or refinancing existing real estate loans, would be anticompetitive and would increase costs to consumers by forcing consumers who would not otherwise hire an attorney for a real estate closing to do so and would likely cause the price of lawyers' settlement services to increase, by eliminating competition from lay settlement services. Staff concluded that uninformed consumers could be protected by measures far less anticompetitive than an outright ban on non-lawyer closings.

### *Washington: Certified Public Accountant Qualifications*

Commission staff filed comments with the Washington State legislature on a rule that will require candidates for Certified Public Accountant (CPA) status to earn at least 150 semester hours of undergraduate academic credit. Staff suggested that raising the educational entry requirements for CPA licensure will increase costs of entry and may raise prices to consumers for CPA services. The price effect could cause some consumers to reduce their use of accounting services, substitute similar services at a lower price, or forego professional accounting services altogether.

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