



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

October 20, 2006

BY ELECTRONIC MAIL

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

Dear Ms. Evans:

Pursuant to your Memorandum for Chief Information Officers, entitled "FY 2006 E-Government Act Reporting Instructions" and dated August 25, 2006, the following is the annual E-Government report on the progress of the Federal Trade Commission ("FTC," "Commission," or "the agency") in implementing the E-Government Act of 2002. As required, we are reporting on: (1) the agency's overall implementation of the Act including a description of an internal agency-specific E-Government initiative; (2) the process for determining which information will be made available on our public website as required in Section 207(f)(2) of the Act; and (3) how the agency's information dissemination activities are coordinated with its FOIA operations in order to improve both access to and dissemination of government information to the public.

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

The FTC has been a leader in the use of technology and the Internet to inform citizens of its mission and conduct certain other transactions with them without having to enlarge its workforce significantly. In FY 2003, the Commission premiered a redesign of its <http://www.ftc.gov> Web site. Also in 2003, the FTC deployed the National Do Not Call Registry, which now has over 64 million phone numbers registered enabling citizens to stop getting unwanted telemarketing phone calls. In 2004, the agency implemented a Web service to update the FTC's Identity Theft database with records from the National White Collar Crime Center. Collecting this information in one database and sharing it with other agencies helps law enforcement identify trends in consumer issues and track illegal activities of specific businesses. In June 2006, the FTC announced the implementation of an electronic filing system that allows merging parties to submit via the Internet premerger notification filings required by the Hart-Scott-Rodino (HSR) Act. Electronic filings may be submitted quickly and easily, eliminating the time and expense entailed in duplicating and delivering documents. The FTC also participates and cooperates in the implementation of OMB-identified E-Government initiatives that relate to the FTC's mission and operations, such as www.regulations.gov. The FTC also complies with other provisions of the E-Government Act that apply to the Commission, including, for example, the provisions of Title III (Federal Information Security Management Act), and the privacy-related provisions of Title II (e.g., Web privacy policies and privacy impact assessments where required).

For our agency-specific initiative, we are highlighting the implementation of the agency's new **electronic filing system that allows merging parties to submit via the Internet premerger notification filings required by the Hart-Scott-Rodino (HSR) Act**. Electronic filings may be submitted quickly and easily, eliminating the time and expense entailed in duplicating and delivering documents.

The HSR Act and HSR Rules require the parties to certain mergers and acquisitions to file Notification and Report Forms (Forms) with the FTC and the Antitrust Division in advance of those transactions. The reporting and waiting period requirements are intended to enable the enforcement agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation.

Electronic filing will provide several benefits to the companies filing the Form as well as to the reviewing agencies:

- Filing the Form electronically will eliminate expensive and time-consuming duplication of submitted documents. In the absence of electronic filing, companies filing HSR notification must submit five paper copies of their filing, consisting of one original and one copy to the FTC, and three copies to DOJ.
- Electronic filing will ease the delivery of completed filings to the agencies and will facilitate circulation of filings within the agencies, reducing the cost and delay associated with traditional delivery methods. Electronic filings may be submitted quickly and easily at any time.
- Electronic filing will enhance the data entry of filing information into the information systems of the agencies. Some filing data will be electronically entered directly into the agency databases rather than by the more time-consuming method of hand data entry by agency staff. Direct data entry will be less prone to data entry error and potentially more accurate.

In addition to the above benefits, electronic filing complies with the mandate of the Government Paperwork Elimination Act, Pub. L. No. 105-277, title XVII (Oct. 21, 1998), which requires that agencies, to the extent practicable, provide electronic filing and signature options.

HSR filings are highly confidential. Every step of the electronic filing process has been designed to ensure the confidentiality, security and integrity of submitted information – from requiring a valid electronic signature before submission of the package and encrypting the signed package, to securely transmitting the package over the Internet to a secure FTC server and providing a return e-mail that the Form has been received. Once an electronic Form is received, multiple security measures such as authentication via digital certificates, unique permanent ID tags, and secure storage, will maintain a high level of data security and integrity.

In order to provide maximum flexibility, filers will now have three options for filing: (1) complete the Form and all attachments in paper format and deliver them to the designated delivery sites; (2) complete the electronic version of the Form and submit the Form and all attachments electronically; or (3) complete the electronic version of the Form and submit it electronically while providing all documentary attachments in paper format to the FTC and DOJ as in Option 1 above.

For the HSR Act electronic filing system and other FTC e-government initiatives, the FTC communicates with appropriate stakeholders for their input. These communications take the form of public comments, FTC hosted forums, workshops, and conferences, and individual communications, among other methods. The HSR Web site is fully compliant with both Section 508 of the Disability Act (supporting citizens with disabilities) and Section 208 of EGOV (e.g., having a Web site privacy policy and ensuring it is machine-readable).

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

In Fiscal Year 2006, the Commission continued to provide through the Internet -- as prescribed by Section 207 of the E-Government Act -- public access to virtually all public documents generated in its public proceedings, including administrative and federal court law enforcement proceedings; rulemaking and guide development proceedings; and hearings, workshops, and conferences. In carrying out these efforts, the Commission assigned the highest priority to complying with all applicable statutes, regulations, and Presidential and other official directives, and to effecting mission-critical and essential program operations. To that end, the Commission has placed on its Web site, <http://www.ftc.gov>, electronic copies of virtually all public documents it has authorized or approved since 1996 -- when the Commission Web site was established -- including administrative complaints and consent orders issued pursuant to Part 2 and Part 3 of the Commission Rules of Practice, 16 C.F.R. §§ 2.31-2.34, 3.11, 3.25; federal court filings; Congressional testimony; Federal Register notices and other documents issued in proceedings involving rules and guides; Commission and staff reports (including all Commission annual reports since 1915); competition advocacy filings; and consumer education materials. These documents typically are placed on the Commission Web site at the same time as the news releases describing them. More recently, the Commission has effected the same approach with respect to all public motions and other filings by the parties -- and all public opinions and orders issued by the Commission and Administrative Law Judges -- in administrative adjudicative proceedings conducted pursuant to Part 3 of the Commission Rules of Practice, 16 C.F.R. § 3.1 et seq.

In addition, with respect to rulemaking, in Fiscal Year 2006 the Commission continued to comply with Section 206 of the E-Government Act. All Commission rulemaking notices and other Federal Register documents published in Fiscal Year 2006 were posted on the Commission's Web site and linked to the news releases describing them. Moreover, the Commission accepted public comments in each of its rulemaking proceedings electronically, through the creation and maintenance of either comment filing forms or email boxes.

Furthermore, the Commission made public comments and other documents from its rulemaking docket -- as defined in the Commission's public record rule, 16 C.F.R. § 4.9(b) -- routinely available for inspection and downloading on its Web site. In addition, the Commission continued to participate fully in the ongoing initiative to establish a centralized Federal regulatory docket, at www.regulations.gov.

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

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

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

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

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

3. How the agency's information dissemination activities are coordinated with its FOIA operations in order to improve both access to and dissemination of government information to the public.

The agency actively seeks to make agency records publicly available as much as possible. The FOIA portion of the agency's website contains an e-reading room divided into sections that include frequently requested records, FOIA annual reports, hot topics, agency policy statements and, the agency's operating manual. In addition, the e-reading room provides links to other areas of the FTC website where records on a wide variety of topics are found, obviating the need for FOIA requests in many instances. The FTC commits resources to maintain an extensive collection of documents on-line, and the links provide additional methods of finding information on the website. This commitment has yielded favorable results for the public and for the agency. For example, the availability of more records in its Consumer Response Center has eliminated nearly 100 requests per year by one requester who is now able to get information without going through the FOIA. Similarly, the FOIA office's work with the agency's Premerger Notification Office in putting informal advice letters on-line, has eliminated numerous FOIA requests each year.

To facilitate the submission of document requests, the FOIA office has reconstructed the FOIA portion of the FTC's website. The new website provides prominent links to both an on-line request form (and instructions for filling it out) and a link to a FOIA e-mail account to facilitate acceptance of electronically submitted FOIA requests. The agency has also acquired an off-the-shelf software package that enables the FOIA office to accomplish its mission in an electronic environment. The FOIA Office reviewed many options and selected and purchased its FOIA software program by working closely with the agency's Chief Information Officer. On October 1, 2004, the office began processing FOIA requests electronically. The system provides capabilities to track FOIA requests, acquire agency records, import responsive records, redact and apply exemption codes electronically, generate response letters, and transmit the completed response electronically.

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As part of the agency's FOIA improvement plan (<http://www.ftc.gov/foia/ftcplan.pdf>), the FOIA office is working to further improve access to and dissemination of government information. The FOIA office has begun working with staff in the CIO's office to further improve the FOIA section of the agency's website. The FOIA office is implementing procedures to identify frequently requested records and assure prompt posting to the website. Additionally, the FOIA office is currently working with the Secretary of the Commission to locate all agency policy statements for placement on the public website. Finally, the FOIA staff continues to work with staff in the Commission's Office of Public Affairs and other operating divisions to identify documents that are of great interest and post them to the internet obviating the need for FOIA requests for the materials.

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

Sincerely,

//s//

Stephen Warren
Chief Information Officer