Federal Trade Commission

Performance and Accountability Report Fiscal Year 2009

THE WORK OF THE FEDERAL TRADE COMMISSION IS CRITICAL TO PROTECTING AND STRENGTHENING FREE AND OPEN MARKETS AND PROMOTING INFORMED CONSUMER CHOICE, BOTH IN THE UNITED STATES AND AROUND THE WORLD.

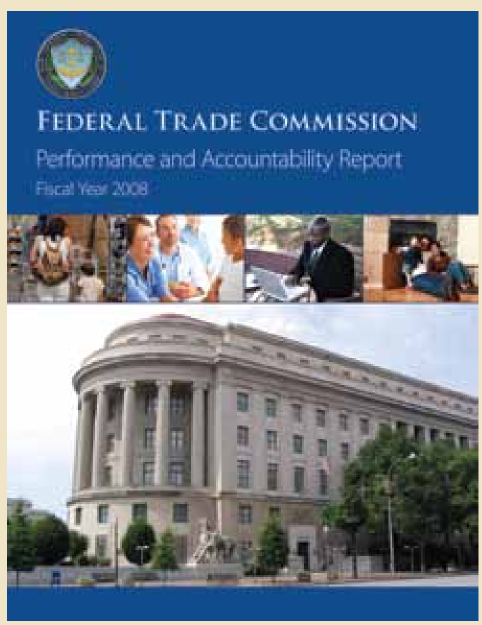
About This Report

The Federal Trade Commission's (FTC) FY 2009 (FY) Performance and Accountability Report (PAR) provides the results of the agency's program and financial performance and demonstrates to the Congress, the President, and the public the FTC's commitment to its mission and accountability over the resources entrusted to it. This report, available at www.ftc.gov/par, includes information that satisfies the reporting requirements contained in the following legislation:

- Federal Managers' Financial Integrity Act of 1982
- Government Performance and Results Act of 1993
- Government Management Reform Act of 1994
- Reports Consolidation Act of 2000
- Accountability of Tax Dollars Act of 2002
- Improper Payments Information Act of 2002

The performance and financial information contained in this report is summarized in a "Summary of Financial and Performance Information" report available at www.ftc.gov/par by February 2010.

Certificate of Excellence



The FTC received the Association of Government Accountants' *Certificate of Excellence in Accountability Reporting* for its FY 2008 PAR.

How This Report Is Organized

This report includes four major sections plus supplemental information.

1. Management's Discussion and Analysis

The Management's Discussion and Analysis (MD&A) provides an overview of the FTC's mission and organization, a key performance measures overview, mission challenges, financial highlights, and management assurances on internal controls, financial systems, and compliance with laws and regulations.

2. Performance Section

The Performance Section explains the FTC's performance relative to its strategic goals and objectives, and includes an overview of how the performance data are verified and validated.

3. Financial Section

The Financial Section provides financial details, including the independent auditor's report and audited financial statements.

4. Other Accompanying Information

The Other Accompanying Information provides management and performance challenges identified by the Inspector General, along with the Chairman's response and a summary of financial statement audit and management assurances.

5. Appendices

Appendix A is a list of acronyms used throughout this report, and Appendix B contains contact information and acknowledgements.

The FTC At-A-Glance

History

The federal government created the Bureau of Corporations in 1903. In 1914, President Woodrow Wilson signed the Federal Trade Commission Act into law, and the Bureau of Corporations became the FTC.

Laws Enforced

The FTC is a law enforcement agency with both consumer protection and competition jurisdiction in broad sectors of the economy. The agency administers a wide variety of laws and regulations, such as the Federal Trade Commission Act, Telemarketing Sales Rule, Identity Theft Act, Fair Credit Reporting Act, and Clayton Act.

Profile

- The agency is headquartered in Washington, DC, and operates with seven regions across the United States.
- The agency had over 1,100 full-time equivalent employees at the end of FY 2009.
- Total new budget authority for FY 2009 was $259 million.

Did You Know?

- Consumers are affected every day by the FTC's activities. For example, consumers receive fewer telemarketing calls, obtain free credit reports, receive less spam, receive identity theft victim assistance, access truthful information about health and weight-loss products, pay lower prescription drug prices thanks to the availability of generic drugs, and enjoy competitive prices for goods as a result of merger reviews and actions taken by the FTC.
- The agency manages the National Do Not Call (DNC) Registry, which gives consumers the opportunity to limit telemarketing calls. At the end of the fiscal year, there were more than 191 million active registrations on the DNC Registry.
- Over the past three years, the FTC has saved consumers over $1.4 billion in economic injury by stopping illegal practices. The FTC's jurisdiction ranges from misleading health claims and deceptive lending practices to weight-loss schemes and business opportunity fraud.
- In FY 2009, the FTC took action against mergers likely to harm competition in markets with a total of $22.3 billion in sales. The agency's efforts to maintain aggressive competition among sellers benefit consumers through lower prices, higher quality products and services, additional choice, and greater innovation.
- The FTC shares the more than 12.1 million fraud, identity theft, financial, and DNC Registry complaints it has collected during the past five years with more than 1,700 other law enforcement agencies across the United States, Canada, and Australia via the secure Consumer Sentinel Network website.

Message From the Chairman

Jon Leibowitz
Chairman

It is my pleasure to present the Federal Trade Commission's Performance and Accountability Report for Fiscal Year 2009. This report presents the results of the agency's strong program performance and sound financial management over the past year, and affords us the opportunity to show the American taxpayers how the FTC benefits consumers in broad sectors of the economy. Having served as a commissioner since 2004, I am honored that President Obama designated me to serve as Chairman of this remarkable agency.

The FTC has two critical goals: protecting consumers and maintaining competition. To achieve these goals, we apply four objectives and related strategies: (1) identify illegal practices; (2) stop illegal practices through law enforcement; (3) prevent consumer injury through education of consumers and businesses; and (4) enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange. These objectives set the course for us to accomplish our mission effectively. Although our core goals and objectives remain steady, our agency also works to respond nimbly as we navigate the dynamic marketplace, rapidly changing technology, and increasing globalization.

This year, the nation's financial crisis has required the agency to shift resources and priorities to meet the challenges of the economic downturn. In these difficult times, protecting consumers and promoting competition are more important than ever. Through the efforts of our dedicated staff, the FTC has responded expeditiously to the changing needs of American consumers.

In the consumer protection area, the FTC has taken a number of actions to address the economic meltdown's impact on consumers. We have warned consumers about economic stimulus scams and initiated a crackdown on frauds fueled by the recession, including numerous foreclosure rescue schemes. We have joined with our federal, state, and local law enforcement partners to coordinate law enforcement and outreach efforts for consumers in financial distress. Further, the FTC has given priority to addressing consumer privacy, including: online behavioral advertising; technology abuses; identity theft and data security; and "Do Not Call" violations. The FTC also has focused on deceptive marketing of health products, "green" marketing, and marketing to children.

To maintain competition, the FTC has continued to actively enforce the antitrust laws in a range of industries of critical importance to American consumers, including: healthcare and pharmaceuticals, technology, energy, real estate, and retail. For example, in an effort to control health care costs, one priority is attacking collusive "pay-for-delay" settlements in the pharmaceutical industry that delay the introduction of generic drugs and cost consumers and the government billions of dollars each year. The agency also continues to pursue law enforcement actions against anticompetitive mergers and business conduct. We vigorously monitor and enforce compliance with consent orders as well as with the reporting obligations under the Hart-Scott-Rodino (HSR) Act. In addition, the FTC engages in an active program of workshops, reports, and advocacy letters to educate stakeholders about the importance of competition to consumers.

> "In these difficult times, protecting consumers and promoting competition are more important than ever. Through the efforts of our dedicated staff, the FTC has responded expeditiously to the changing needs of American consumers."

To help achieve our mission, we reach out to our stakeholders—consumers, business representatives, and law enforcement partners—to help identify marketplace trends and challenges. We provide toll-free phone numbers and online complaint forms for the public to alert us to illegal practices. We invite stakeholders to workshops and hearings to discuss current issues and industry developments. Our law enforcement partners, both domestic and foreign, help us ensure robust enforcement of consumer protection and antitrust laws, such as blocking mergers that could reduce competition. The FTC maximizes its law enforcement and deterrent impact through good press relations and an extensive consumer and business education program. To prevent further consumer injury we issue alerts to warn the public of emerging schemes, we post web pages, we publish brochures, and we use other innovative approaches to reach the public. The agency's extensive education materials are available online in English at www.ftc.gov and in Spanish at www.ftc.gov/ojo.

A critical component of our success is the FTC's investment in retaining and training our employees. The FTC is fortunate to have a dedicated and knowledgeable staff of attorneys, economists, and other professionals who possess strong technical skills and experience. Their tireless work enables our small agency to leverage our resources and handle a growing workload.

Furthermore, essential to FTC's success in gaining organizational excellence is sound financial management. The FY 2009 independent financial audit resulted in the FTC's 13th consecutive unqualified opinion, the highest audit opinion available. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with laws and regulations. In the Management Assurances section (see p. 22), I provide my assurances that FTC has no material weaknesses to report. I am also pleased to report that the FTC financial and performance data presented in this report are complete, reliable, and accurate in keeping with the guidance from the Office of Management and Budget.

In accordance with the Reports Consolidation Act of 2000, the Inspector General (IG) identified key management and performance challenges facing the agency, and he assessed our progress in addressing them. Agency management concurs that the issues identified by the IG are critical challenges, and with his assessment of our progress. Those challenges and our responses are discussed further in the Other Accompanying Information (see p. 105). Moving forward, we will continue our efforts to tackle these matters proactively.

I look forward to working with my fellow Commissioners to maintain the culture of collegiality, consensus-building, and collective problem solving that uniquely characterizes the FTC. Together, we will work with the FTC's talented and dedicated staff and our law enforcement partners as we pursue our critical consumer protection and competition missions in the face of the challenges brought by today's tumultuous economy.

Jon Leibowitz

Jon Leibowitz
November 13, 2009

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MANAGEMENT'S DISCUSSION AND ANALYSIS

Management's Discussion and Analysis

1

Mission and Organization

The work of the Federal Trade Commission (FTC) is critical to protecting and strengthening free and open markets and promoting informed consumer choice, both in the United States and around the world. The FTC performs its mission through the use of a variety of tools, including law enforcement, rulemaking, research, studies on marketplace trends and legal developments, and consumer and business education.

FTC's Vision

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

FTC's Mission

To prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity.

The FTC: Our Purpose and History

Consumers and businesses are likely to be more familiar with the work of the FTC than they think. In the consumer protection area, the care labels in clothes, product warranties, or stickers showing the energy costs of home appliances illustrate information that is required by the FTC. Likewise, businesses must be familiar with the laws requiring truthful advertising and protecting consumers' personally identifiable information and sensitive health information. These laws are administered by the FTC.

Each year, more people around the globe have come to understand that the competition among independent businesses is good for consumers, the businesses themselves, and the economy. Competitive markets yield lower prices and better quality goods and services, and a vigorous marketplace provides the incentive and opportunity for the development of new ideas and innovative products and services. Many of the laws governing competition also are administered by the FTC.

The FTC has a long tradition of maintaining a competitive marketplace for both consumers and businesses. When the FTC was created in 1914, its purpose was to prevent unfair methods of competition in commerce as part of the battle to "bust the trusts." Over the years, the Congress passed additional laws giving the agency greater authority over anticompetitive practices. In 1938, the Congress passed a broad prohibition against "unfair and deceptive acts or practices." Since then, the FTC also has been directed to administer a wide variety of other consumer protection laws and regulations, including the Telemarketing Sales Rule, the Identity Theft Act, and the Equal Credit Opportunity Act.

FTC History and Laws

The FTC had its genesis in the Supreme Court's 1911 decision in the Standard Oil case (Standard Oil Co. v. U.S., 221 U.S. 1 (1911)). In the aftermath of that decision, Congress determined to create an administrative agency that would be directed to prevent "unfair methods of competition;" to give definition to that general prohibition; and to use a number of quasi-judicial powers to enforce that prohibition. The FTC Act was later amended to prohibit unfair or deceptive acts or practices. Since its creation in 1914, Congress has substantially increased the FTC's enforcement responsibilities with respect to both of its goals, protecting consumers and maintaining competition. The FTC currently has enforcement and administrative responsibilities under 46 laws. For a description and further information on each law see http://www.ftc.gov/ogc/stats.shtm.

Our Organization

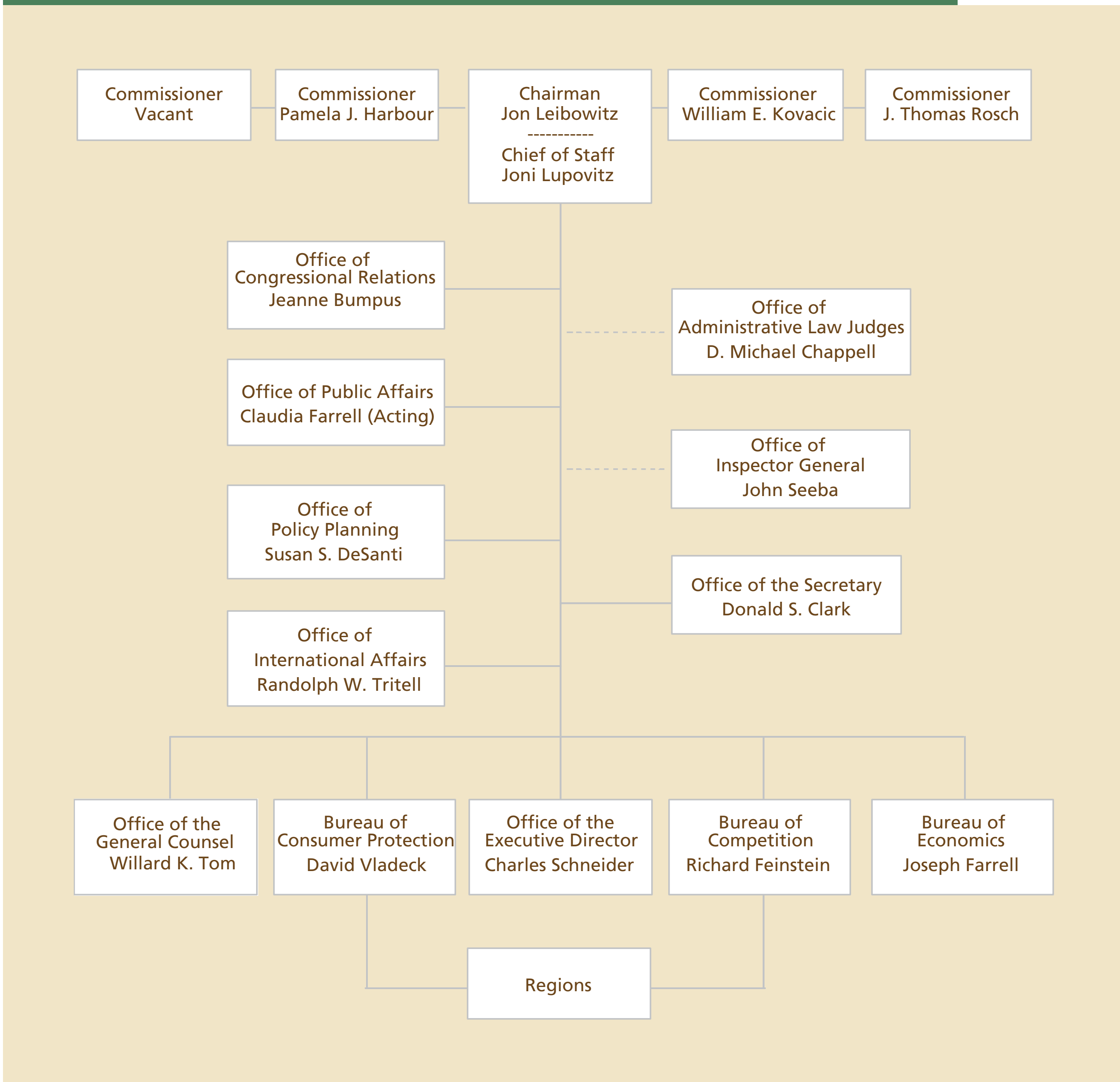
The FTC is an independent agency that reports to the Congress on its actions. These actions include pursuing vigorous and effective law enforcement; advancing consumers' interests by sharing its expertise with federal and state legislatures and U.S. and international government agencies; developing policy and research tools through hearings, workshops, and conferences; and creating practical and plain-language educational programs for consumers and businesses in a global marketplace with constantly changing technologies.

The FTC is headed by a Commission composed of five commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. The President chooses one commissioner to act as Chairman. No more than three commissioners can be from the same political party. Jon Leibowitz was designated to serve as Chairman of the FTC on March 2, 2009, by President Barack H. Obama. Leibowitz was previously sworn in as a Commissioner on September 3, 2004, following his nomination by the President and confirmation by the U.S. Senate. At the end of the fiscal year, the commissioners were Pamela Jones Harbour, William E. Kovacic, and J. Thomas Rosch. The fifth commissioner position was vacant.

The FTC Commission: (left to right) Pamela Jones Harbour, Commissioner; Jon Leibowitz, Chairman; William E. Kovacic, Commissioner; J. Thomas Rosch, Commissioner

The FTC's mission is carried out by three bureaus: the Bureau of Consumer Protection, the Bureau of Competition, and the Bureau of Economics. Work is aided by offices, including the Office of General Counsel, the Office of Inspector General, the Office of International Affairs, the Office of the Executive Director, and seven regions.

Federal Trade Commission Organization Chart

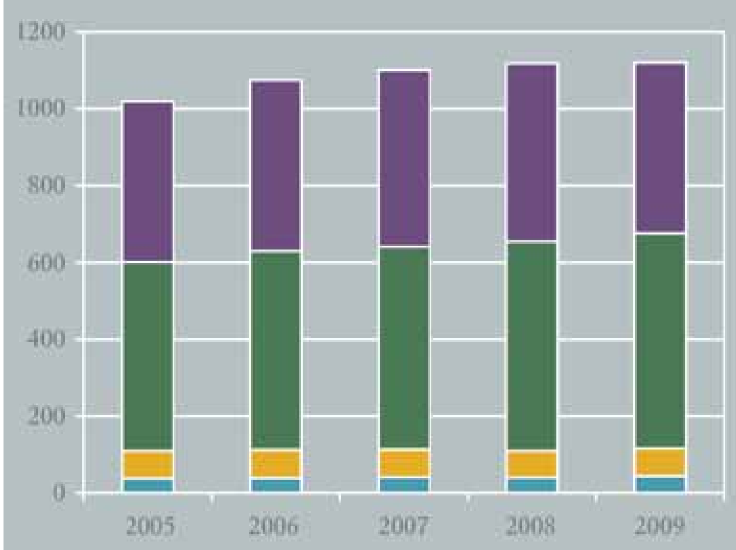


The agency is headquartered in Washington, DC, and operates with seven regions across the United States. The graphic below illustrates the locations of the FTC regions.

Our People

The FTC's workforce is its greatest asset. The agency's workforce consists of over 1,100 civil service employees dedicated to addressing the major concerns of American consumers. The graph below shows workforce composition by category.

FTC'S WORKFORCE COMPOSITION



	2005	2006	2007	2008	2009
Other Professions	418	444	459	464	444
Attorneys	491	517	527	544	559
Economists	72	74	73	70	73
Senior Managers	38	39	41	40	44
	1019	1074	1100	1118	1120

Performance Overview

This section explains the FTC's strategic and performance planning framework and summarizes the key performance measures reported in the Performance Section. The Performance Section contains details of program performance results, trend data by fiscal year, resources, strategies, factors affecting performance, and the procedures used to verify and validate the performance data. The financial data and performance results described in this report enable the FTC to administer its programs, gauge their success, and make adjustments necessary to improve program quality for the public. The steps the FTC has taken to ensure the performance information it reports is complete, accurate, and consistent are described in the Performance Section: Verification and Validation of Performance Data.

Strategic and Performance Planning Framework

Performance Measurement Methodology

The FY 2009 performance planning framework originates from the FTC's Fiscal Years 2006 to 2011 Strategic Plan, available at www.ftc.gov/opp/gpra/spFY06FY11.pdf and is supported by the FTC's Performance Plan, available at www.ftc.gov/opp/gpra/2010_performance_plan.pdf.

In FY 2009, the agency updated its Strategic Plan. The effort included reassessing the agency's overall performance framework and evaluating performance measures to ensure they provide the most relevant and meaningful information on strategic goals and objectives. The Strategic Plan for Fiscal Years 2009 to 2014 becomes effective in FY 2010.

The FTC's work is structured around two strategic goals and eight objectives. Performance measures for the eight objectives are used to gauge the FTC's success for each objective.

Strategic Goals	Statements of long-term aims outlined in the Strategic Plan, which define how the agency carries out its mission.
Objectives	Statements of how the FTC plans to achieve the strategic goals.
Performance Measures	Indicators used to gauge success in reaching strategic objectives.
Key Measures	Measures that best indicate whether agency activities are achieving the desired outcome associated with the related objective.
Targets	Expressions of desired performance levels or specific desired results targeted for a given fiscal year. Targets are expressed in quantifiable terms.

Strategic Goals	Objectives
Protect Consumers Prevent fraud, deception, and unfair business practices in the marketplace **Gross Costs** **$147 million** **Less: Earned Revenue** **($16 million)** **Net Costs** **$131 million**	***Identify*** fraud, deception, and unfair practices that cause the greatest consumer injury.
	Stop fraud, deception, unfairness, and other unlawful practices through law enforcement.
	Prevent consumer injury through education.
	Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.
Maintain Competition Prevent anticompetitive mergers and other anticompetitive business practices in the marketplace **Gross Costs** **$110 million** **Less: Earned Revenue** **($42 million)** **Net Costs** **$68 million**	***Identify*** anticompetitive mergers and practices that cause the greatest consumer injury.
	Stop anticompetitive mergers and business practices through law enforcement.
	Prevent consumer injury through education.
	Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.

Key Performance Measures Overview

The FTC has established various measures for assessing program performance against strategic goals and objectives. Of the 33 measures, 11 are considered "key" measures because they best indicate whether agency activities are achieving the desired outcome associated with the related objective.

For each measure, the FTC has established a performance target. This report presents actual results in comparison to established targets for the past three fiscal years.

The following table summarizes actual performance during FY 2009 against established targets for all of the FTC's key performance measures and provides a synopsis of related highlights. The table also includes actual results from the past two fiscal years. The FTC met or exceeded nine of the 11 key performance measures.

Legend for Upcoming Performance Section Tables
✔ Signifies that the target is met or exceeded or that the FTC is on track to meet the five-year target.
✕ Signifies that the target is not met or that the FTC is not on track to meet the five-year target.
N/A Signifies that the performance measure does not have a five-year target.

STRATEGIC GOAL 1: PROTECT CONSUMERS

Objective 1.1 Identify Fraud, Deception, and Unfair Practices That Cause the Greatest Consumer Injury

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
1.1.2 The percentage of the agency's consumer protection law enforcement actions that are responsive to consumer complaint information gathered by the agency.	76%	71%	65%	79% ✔	N/A

PERFORMANCE HIGHLIGHTS

In July 2009, the FTC announced a law enforcement crackdown, responsive to the consumer complaint information gathered by the agency, on scammers trying to take advantage of the economic downturn to bilk vulnerable consumers through a variety of schemes. Dubbed "Operation Short Change," the sweep included 15 FTC cases, 44 law enforcement actions by the Department of Justice, and actions by at least 13 states and the District of Columbia. In eight of the cases announced, the FTC alleged that the practices of John Beck/Mentoring of America, Wagner Ramos Borges, Grants For You Now, Cash Grant Institute, Mutual Consolidated Savings, Google Money Tree, Penbrook Productions, and Classic Closeouts were unfair or deceptive. In some of the cases, the agency also charged the defendants with making illegal electronic funds transfers or violating the Telemarketing Sales Rule.

Objective 1.2 Stop Fraud, Deception, Unfairness, and Other Unlawful Practices Through Law Enforcement

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
1.2.1 Save consumers money each year through law enforcement.	$519 million	$474 million	$400 million	$505 million ✔	$2 billion ✔

PERFORMANCE HIGHLIGHTS

In FY 2009, the FTC continued to combat the deceptive marketing of health products, particularly products making disease prevention or weight loss claims. In January 2009, the agency charged the Xacta 3000, Inc., marketers of Kinoki Foot Pads, with deceptive advertising, including claims that use of the foot pads would remove toxins from the body; treat high blood pressure, depression, and a host of other medical conditions. In March 2009, Roex, Inc., a marketer of dietary supplements and health-related devices, agreed to settle FTC charges that they deceptively claimed their products treated, reduced the risk of, or prevented a wide variety of serious diseases and medical conditions, including cancer, HIV/AIDS, diabetes, strokes and heart attacks, Alzheimer's disease, Parkinson's disease, arthritis, multiple sclerosis and other autoimmune diseases, ulcers, herpes, asthma, and glaucoma. In April 2009, the FTC charged Nutraceuticals International, LLC and Stella Labs, LLC, the suppliers of supposed *Hoodia gordonii* with deceptive advertising for claiming that using their product would lead to weight loss and appetite suppression. In these three cases alone, the FTC saved consumers an estimated $46.5 million.

STRATEGIC GOAL 1: PROTECT CUSTOMERS (continued)

Objective 1.3 Prevent Consumer Injury Through Education

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
1.3.4 Track (A) the number of times print media publish articles that refer to the FTC consumer protection activities and (B) the circulation of media that publish those articles.	(A) 3,066 articles (B) circulation of 863 million	(A) 3,100 articles (B) circulation of 791 million	(A) 2,750 articles (B) circulation of 750 million	(A) 2,484 articles ✗ (B) circulation of 702 million ✗	N/A

PERFORMANCE HIGHLIGHTS

In September 2009, the FTC announced two new law enforcement actions in a continuing crackdown on mortgage foreclosure rescue and loan modification scams, bringing to 22 the number of these cases the agency has filed since the housing crisis began. Many news outlets ran stories on the FTC's efforts, including *The New York Times*, *The Washington Post*, *Chicago Sun-Times*, and CBS News.

In FY 2009, the FTC accomplished 90 percent of its target of 2,750 articles, and 94 percent of its target of a circulation of 750 million. As more people turn to television and the Internet for news, print media circulation has continued to decline, and this performance measure was removed in the latest update of the FTC Strategic Plan.

Objective 1.4 Enhance Consumer Welfare Through Research, Reports, Advocacy, and International Cooperation and Exchange

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
1.4.1 Convene or participate substantially in workshops and conferences on novel or challenging consumer protection problems or issues.	10 workshops and conferences	16 workshops and conferences	6 workshops and conferences	9 workshops and conferences ✓	30 workshops and conferences ✓

PERFORMANCE HIGHLIGHTS

The FTC and the Technology Law and Public Policy Clinic at the University of Washington School of Law hosted a conference in March 2009 on the use of digital rights management (DRM) technologies, a widespread practice that is expected to become increasingly prevalent in the U.S. marketplace in coming years. Among other issues, the workshop addressed the need to improve disclosures to consumers about DRM limitations.

STRATEGIC GOAL 2: MAINTAIN COMPETITION

Objective 2.1 Identify Anticompetitive Mergers and Practices That Cause the Greatest Consumer Injury

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.1.1 Achieve positive outcomes* in matters in which Hart-Scott-Rodino (HSR) Act requests for additional information are issued.	100%	100%	90%	100% ✔	N/A

PERFORMANCE HIGHLIGHTS

The FTC brought 13 merger enforcement actions after issuing second requests, obtaining consumer relief in matters involving crucial pharmaceuticals (King Pharmaceuticals/Alpharma and Teva Pharmaceutical/Barr Pharmaceuticals), medical devices (Getinge AB/Datascope), software systems used by the auto insurance industry (CCC Information Services/Mitchell International), and industrial chemicals (BASF/Ciba Specialty Chemicals and Dow Chemical/Rohn & Haas).

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.1.2 Percentage of significant nonmerger investigations that result in a positive outcome.*	100%	100%	90%	100% ✔	N/A

PERFORMANCE HIGHLIGHTS

In addition to issuing three consent orders prohibiting illegal price fixing and anticompetitive boycotts in the health care professional services industry (AllCare IPA, Boulder Valley IPA, and Alta Bates Medical Group), the FTC reached settlements in a matter involving an illegal geographic market allocation agreement in the retail industry (Golf Galaxy Inc./Golf Town Canada, Inc.) and in a matter involving restrictive rules of real estate Multiple Listing Service (MLS) organizations that impeded competition from non-traditional and discount real estate professionals (West Penn MLS). The FTC also obtained a significant result when it filed a complaint in federal court seeking a permanent injunction challenging a pay-for-delay agreement between Solvay Pharmaceuticals, Inc. and two generic drug manufacturers.

* See respective performance measure discussion in the Performance Section for definitions of "positive outcome" and "positive result."

STRATEGIC GOAL 2: MAINTAIN COMPETITION (continued)

Objective 2.2 Stop Anticompetitive Mergers and Business Practices Through Law Enforcement

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.2.1 Positive result* of cases brought by the FTC due to alleged violations.	100%	96%	80%	96% ✔	N/A

PERFORMANCE HIGHLIGHTS

The FTC filed five cases involving proposed acquisitions in the health care, high tech, consumer goods manufacturing, and energy industries, and successfully challenged mergers that would have substantially reduced competition in the respective relevant product markets. In four of these cases, the parties abandoned the proposed transactions after the Commission authorized staff to file a complaint in federal district court seeking a preliminary injunction to block the mergers, (Thoratec/HeartWare, Talecris Biotherapeutics/CSL, CRH plc/Robert Schlegel, and Red Sky Holdings/Newpark Resources), and in the fifth case, the parties abandoned the merger after the FTC secured a preliminary injunction in federal court (Mitchell International/CCC). The FTC also secured several consents orders, restoring competition to markets that otherwise would have been lost through mergers or anticompetitive conduct.

* See respective performance measure discussion in the Performance Section for definitions of "positive outcome" and "positive result."

Objective 2.3 Prevent Consumer Injury Through Education

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.3.2 Track (A) the number of times print media publish articles that refer to FTC competition activities and (B) the circulation of the media that publish those articles.	(A) 2,982 articles (B) 635 million circulation	(A) 1,858 articles (B) 397 million circulation	(A) 2,500 articles (B) Establish baseline	(A) 1,569 articles (B) circulation of 360 million ✘	N/A

PERFORMANCE HIGHLIGHTS

The FTC initiated a series of competition-related education initiatives, including consumer- and business-oriented publications, to increase the awareness by the American public of what types of conduct are likely to be challenged as law violations. Examples of enforcement actions that received considerable media attention range from matters with an immediate impact in localized areas, such as the FTC's successful challenge of West Penn Multi-List's anticompetitive conduct in the Pittsburg real estate market (*The Pittsburgh Business Times* reported "West Penn Multi-List Opens Network to More Brokers") to cases of greater national interest, such as the FTC's challenge in federal court to Ovation Pharmaceuticals' consummated acquisition of the drug NeoProfen, which was reported by newspapers across the country (e.g., *The Wall Street Journal*, *Chicago Sun-Times*, *Los Angeles Times*, and *Charlotte Observer*).

The print media that published articles covering the competition-related activities of the FTC encompasses publications with varying degrees of territorial distribution (from local to national) and with circulations ranging from less than fifty thousand to more than one million copies. It is difficult to assess the performance of the agency under this measure in light of the severe decline experienced in the newspaper industry over the last year.

STRATEGIC GOAL 2: MAINTAIN COMPETITION (continued)

Objective 2.4 Enhance Consumer Welfare Through Research, Reports, Advocacy, and International Cooperation and Exchange

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.4.2 Issue studies, reports, and working or issues papers on significant competition-related issues.	18 documents	7 documents	8 documents	20 documents ✔	40 documents ✔

PERFORMANCE HIGHLIGHTS

The FTC continued to devote resources to the analysis of the nation's crucial economic sectors by producing reports addressing, for example, critical health care issues such as "follow-on biologic drug competition," the short-term and long-term effects of "authorized generics" on competition in the prescription drug marketplace, and retrospectives on hospital mergers. In addition to these industry reports, the FTC also published three working papers by staff on how best to identify anticompetitive exclusionary conduct for purposes of antitrust enforcement under Section 2 of the Sherman Act.

Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.4.3 Make advocacy filings with other federal and state government agencies, urging them to assess the competitive ramifications and costs and benefits to consumers of their policies.	11 filings	12 filings	6 filings	10 filings ✔	30 filings ✔

PERFORMANCE HIGHLIGHTS

The majority of the FTC's advocacy filings in FY 2009 were aimed at eliminating government-imposed impediments to a competitive marketplace in the health care industry and at promoting competition in the electric industry. The FTC issued four advocacy comments on health care topics addressing existing or proposed legislation dealing with health care cooperatives, the regulation of pharmacy benefit managers, and the provision of dental care services to underserved children.

STRATEGIC GOAL 2: MAINTAIN COMPETITION (continued)

Objective 2.4 Enhance Consumer Welfare Through Research, Reports, Advocacy, and International Cooperation and Exchange					
Key Measure	FY 2007 Actual	FY 2008 Actual	FY 2009 Target	FY 2009 Actual	5-Year Target
2.4.7 Track the number of (A) cases in which the FTC cooperated with a foreign competition authority, (B) consultations with or comments to foreign competition authorities, (C) written submissions to international fora, (D) international events attended, and (E) leadership positions held by FTC staff in international competition organizations.	(A) 61 cases (B) 70 consultations or comments (C) 19 submissions (D) 48 events (E) 8 positions	(A) 79 cases (B) 89 consultations or comments (C) 30 submissions (D) 68 events (E) 9 positions	(A) 30 cases (B) 25 consultations or comments (C) 7 submissions (D) 8 events (E) 5 positions	(A) 87 cases ✔ (B) 56 consultations or comments ✔ (C) 19 submissions ✔ (D) 125 events ✔ (E) 10 positions ✔	N/A

PERFORMANCE HIGHLIGHTS

Staff cooperated with foreign competition authorities on 67 cases of mutual interest, and worked bilaterally with other agencies to promote policy convergence on particular issues, devoting significant resources to working with China and India on the implementation of their new laws and with sister agencies in key jurisdictions including the European Union, Canada, Japan, Korea, and Mexico. The FTC participated in several multilateral organizations addressing competition policy and enforcement issues, submitting nineteen written papers and taking on leadership positions in these fora. Notably, in the International Competition Network (ICN), the FTC continued as a member of the ICN's Steering Group, on which one of its Commissioners served as a Vice Chair, and led unilateral conduct and merger notification and procedures project teams.

Performance Measures Summary

The Performance Measure Summary Table in the Performance Section of this report shows actual results for all performance measures. Of the 33 total performance measures, 21 were exceeded, one was met, three are measures being tracked and have "establish baseline" targets, and eight were not met. Based on these results, the FTC has made significant progress toward reaching its eight objectives, as fully described in the Performance Section.

Agency Mission Challenges

The FTC stands prepared to face the challenges of today's economy as a champion for consumers and competition. As a law enforcement agency with a broad mandate, many of the FTC's challenges are defined by marketplace conditions and thus are constantly evolving. For example, as consumers and businesses encounter difficulties with illegal practices involving financial services, Internet privacy, identity theft, and health fraud, as well as anticompetitive business practices in the health care, high technology, energy, and other industries, the FTC steps forward to protect consumers and maintain competition. Agency management has identified significant mission challenges the FTC currently faces. Management's identification was performed separately from the Inspector General's (IG) independent assessment of management and performance challenges (see Other Accompanying Information). Management concurs with the IG assessment; accordingly, certain aspects of the challenges described below are also addressed by the IG.

Significant agency mission challenges are presented below as they relate to the agency's strategic goals. A reference to the most applicable strategic objectives is also provided so that readers may refer to descriptions of related performance targets and actual results listed by objective within the Performance Section.

Strategic Goal 1: Protect Consumers: Prevent Fraud, Deception, and Unfair Business Practices in the Marketplace

Under the Consumer Protection goal, the FTC will continue to give priority to addressing the following challenges: protecting consumers in the financial services marketplace, protecting consumer privacy, protecting vulnerable and underserved Americans from fraud, stopping health fraud, evaluating "green" marketing claims, addressing issues related to marketing to children, and building international partnerships.

Protecting Consumers in the Financial Services Marketplace. Financial services play an important role in the daily lives of virtually all Americans. The FTC targets illegal practices in the financial services arena, especially schemes directed at financially distressed consumers, including: unfair, deceptive, or otherwise unlawful mortgage lending and credit offers; unlawful practices in servicing mortgages; foreclosure "rescue" and loan modification scams; bogus debt relief and credit "repair" services; and unlawful debt collection. These practices can have severe consequences for consumers, including unanticipated high-cost mortgages and fees, ruined credit histories, loss of their homes, and unwarranted fears of arrest and incarceration for failure to pay on time.

The FTC will continue to respond to growing challenges in the financial services arena. As consumer debt levels continue to rise, the FTC has received more complaints about debt collection, and the agency is aggressively pursuing law enforcement work in this industry. Further, the FTC has initiated three rulemaking proceedings in this area. At the same time, more consumers are targeted by credit repair, debt settlement, and foreclosure rescue companies, and the FTC is pursuing law enforcement action involving unfair and deceptive practices targeted at those consumers. (Objectives 1.1, 1.2, 1.3, and 1.4)

Protecting Consumer Privacy. The FTC will continue to take a leading role in efforts to protect consumers from unfair, deceptive, or other illegal practices related to their privacy. The agency will continue to bring law enforcement actions against companies that have misrepresented their policies about the use of personal information they collect from consumers or failed to take appropriate steps to protect the security of sensitive personal information. In addition to its enforcement efforts, the FTC will address the complex privacy and data security issues that may be associated with the use of online behavioral advertising and other media through workshops, testimony, reports, and consumer and business education. In December 2009, the FTC will host the first of a series of public roundtable discussions to explore the privacy challenges posed by the vast array of 21st-century technology and business practices that collect and use consumer data.

The FTC will also protect consumers from unwanted telemarketing call. The agency's National Do Not Call (DNC) Registry makes it easier and more efficient for consumers to stop unwanted telemarketing calls. There are now more than 191 million active registrations on the Registry. The FTC's challenge is to ensure that consumers who register their numbers are protected from receiving unwanted telemarketing calls by continuing to enforce the DNC provisions of the Telemarketing Sales Rule, including recent amendments relating to prerecorded calls ("robo calls"). Though most entities covered by the DNC Rule comply, the FTC received more than 1.8 million consumer DNC Registry complaints in FY 2009. (Objectives 1.1, 1.2, 1.3, and 1.4)

Protecting Vulnerable and Underserved Americans from Fraud. Frauds causing severe economic injury, including financial related frauds such as advance fee credit card scams and foreclosure business opportunity scams, continue to adversely affect the public. With an aging population, the economic downturn and related unemployment, and the healthcare crisis, the FTC will target law enforcement actions toward traditional and novel frauds targeting people in need and underserved consumers, particularly Hispanics and African-Americans. (Objectives 1.1 and 1.2)

Identity Theft, Privacy, and Security Resources

ID Theft, Privacy, and Security Resources
The FTC offers several websites that offer consumer publications on identity theft, privacy, and security topics.

Fighting Back Against Identity Theft
(www.ftc.gov/bcp/edu/microsites/idtheft)
This website is a one-stop national resource to learn about the crime of identity theft. It provides detailed information to help consumers deter, detect, and defend against identity theft.

OnGuard Online (www.onguardonline.gov)
This website provides practical tips from the federal government and the technology industry to help consumers be on guard against Internet fraud, secure their computer, and protect their personal information.

The Children's Online Privacy Protection Act (COPPA)
(www.ftc.gov/privacy/privacyinitiatives/childrens.html)
This website explains each component of a COPPA-compliant privacy policy, answers questions that website operators have asked, and features a Compliance Checklist to help website operators identify areas where their privacy policies could be improved.

Stopping Health Fraud. Consumers are being bombarded with unprecedented levels of advertising for products to prevent and treat diseases and improve health and, each year, they spend billions of dollars purchasing health products. Consumers can fall prey to fraudulent health marketing when they are desperate for help. The FTC will continue to respond to this challenge by scrutinizing the marketing of health care products, particularly claims about serious diseases or weight loss, advertised through infomercials and other forms of mass media marketing, and taking action against companies making deceptive representations. The FTC also works with the dietary supplement industry by providing guidance to encourage accuracy in claims for these products. In addition to traditional law enforcement actions, the FTC creates education materials to help companies develop adequate substantiation and information to help consumers spot deceptive claims. (Objectives 1.1, 1.2, 1.3, and 1.4)

"Operation Short Change"—The FTC Cracks Down on Scammers Trying to Take Advantage of the Economic Downturn

"Operation Short Change," is the FTC's law enforcement crackdown on scammers trying to take advantage of the economic downturn to bilk vulnerable consumers through a variety of schemes, such as promising non-existent jobs; promoting overhyped get-rich-quick plans, bogus government grants, and phony debt-reduction services; or putting unauthorized charges on consumers' credit or debit cards. The law enforcement sweep includes 15 FTC cases, 44 law enforcement actions by the Department of Justice, and actions by at least 13 states and the District of Columbia.

"Rising unemployment, shrinking credit, record-setting foreclosures, and disappearing retirement accounts are causing consumers tremendous anxiety about making ends meet. But to con artists, today's challenging economy presents just another opportunity to play on consumers' worry and bilk them out of money. Thousands of people have been swindled out of millions of dollars by scammers who are exploiting the economic downturn; their scams may promise job placement, access to free government grant money, or the chance to work at home. In fact, the scams have one thing in common—they raise people's hopes and then drive them deeper into a hole."

—David Vladeck, Director of the FTC's Bureau of Consumer Protection

To help consumers understand how easy it is to be conned—and how to avoid fraud—the FTC produced a new consumer education video featuring a former scammer who hawked phony business opportunities and ultimately served prison time for deceiving investors. To view the video, go to www.ftc.gov or www.youtube.com/ftcvideos.

Evaluating "Green" Marketing Claims. New "green" environmental marketing claims, such as claims for carbon reduction, landfill reduction, and sustainable materials and packaging, recently have increased in popularity. These claims can be extremely useful for consumers; however, the complexity of the issues involved creates the potential for confusing, misleading, and fraudulent claims. Given this potential, the FTC will continue to evaluate whether the "FTC Guides for the Use of Environmental Marketing Claims" remain current and useful. The agency is also developing a consumer and business education campaign and pursuing appropriate enforcement action involving deceptive claims in this area. (Objectives 1.1, 1.2, 1.3, and 1.4)

Addressing Issues Related to Marketing to Children. To combat the challenges of childhood obesity, underage drinking, and other problems, the FTC engages in research, policy, and law enforcement work pertaining to marketing of food, alcohol, and violent entertainment to children. The FTC monitors self-regulation in the food, alcohol, movie, video game, and music recording industries. In December 2009, the agency will hold a one-day workshop which will examine changes in industry practices since the Commission's 2008 report "Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation." In addition, in response to a Congressional directive, the FTC is coordinating an interagency working group with the Food and Drug Administration (FDA), Centers for Disease Control (CDC), and United States Department of Agriculture (USDA) to develop nutrition standards for food marketing to children. Further, in FY 2010, the FTC will launch its advertising literacy initiative with a significant marketing effort aimed at preadolescents and their parents and teachers. The goal of the initiative, which will include an interactive website, in-school curricula, and other features, is to help kids become smarter consumers. (Objectives 1.1, 1.2, 1.3, and 1.4)

Building International Partnerships. The FTC promotes market-oriented consumer protection and privacy policies globally, particularly in areas involving e-commerce and new technologies. Given the challenge of the increasingly cross-border nature of fraud such as spam, spyware, and telemarketing, and the international scope of privacy and data security issues, developing international partnerships is critical to the effective enforcement of laws to protect U.S. consumers. The FTC uses the tools provided by the 2006 U.S. SAFE WEB Act to increase the effectiveness of its cross-border cooperation and enforcement. Five key areas where the FTC has used this authority are: broadening information sharing, expanding investigative cooperation, negotiating international agreements, establishing staff exchanges, and enhancing cooperation between the FTC and the Department of Justice (DOJ) in foreign litigation. (Objectives 1.2 and 1.4)

Strategic Goal 2: Maintain Competition: Prevent Anticompetitive Mergers and Other Anticompetitive Business Practices in the Marketplace

Under the Maintaining Competition goal, the FTC will continue to give priority to the challenges of promoting competition and preventing anticompetitive activity in the health care and pharmaceutical industries, high technology sectors, and energy industries. The agency will also work on promoting sound competition policy at the international level and advocating for competition before the U.S. courts, legislatures, and government agencies.

Promoting Competition and Preventing Anticompetitive Activity in the Health Care and Pharmaceutical Industries. The rapidly rising cost of health care is a matter of concern for consumers, employers, insurers, and the nation as a whole. Health-related products and services continue to account for an increasingly significant share of gross domestic product. Agreements between branded and generic drug manufacturers to delay generic entry continue to pose a significant threat to competition by depriving consumers of low-cost generic drugs. FTC economists estimate that these anticompetitive deals, unless stopped, will cost consumers $35 billion over the next ten years. When appropriate, the FTC investigates and challenges patent settlements between brand and generic companies and supports legislation to eliminate this problem. The agency also addresses rising prescription drug prices by monitoring pharmaceutical and medical device company mergers. In addition, the FTC stops anticompetitive agreements between physicians and hospital service organizations and monitors hospital and other mergers that may raise the cost of health care. (Objective 2.2)

Promoting Competition and Preventing Anticompetitive Business Practices in High Technology Sectors.
The growing importance of technology is a crucial marketplace challenge that is placing greater demands on antitrust enforcement. The FTC's antitrust investigations increasingly involve high-technology sectors of the economy, such as information technology and pharmaceutical products. Through the review of Hart-Scott-Rodino (HSR) merger filings and non reportable transactions, the FTC endeavors to take action against those mergers that are likely to reduce or eliminate competition in the high technology sector by increasing prices and reducing the quality and choice of goods and services. Furthermore, issues in antitrust matters increasingly intersect with intellectual property concerns, raising difficult questions about how to harmonize these two bodies of law, both of which have a goal of promoting innovation. (Objective 2.2)

Stopping "Pay-for-Delay" Settlements Would Yield Consumer Savings

An internal FTC analysis projects that stopping collusive "pay-for-delay" settlements between brand and generic pharmaceutical firms would save consumers $3.5 billion a year and also reap significant savings for the federal government, which pays approximately one-third of all prescription drug costs. To learn more, visit www.ftc.gov/opa/2009/06/capspeech.shtm.

"…the decision about whether to restrict pay-for-delay settlements should be simple… On the one hand, you have savings to American consumers…and the prospect of helping to pay for health care reform as well as the ability to set a clear national standard to stop anticompetitive conduct. On the other hand, you have a permissive legal regime that allows competitors to make collusive deals on the backs of consumers."

—FTC Chairman Jon Leibowitz

Promoting Competition and Preventing Anticompetitive Activity in Energy Industries. The price of gasoline and other energy sources continues to be a great concern for consumers, businesses, and governments. The agency meets this challenge by closely monitoring gasoline markets and moving quickly to address any anticompetitive merger or nonmerger activity. In enforcing the antitrust laws, the FTC continuously examines price movements and other activity through its Gasoline and Diesel Price Monitoring Project to identify any conduct that may not reflect purely competitive decisions based on the forces of supply and demand. In August 2009, exercising the authority provided by Congress under the Energy Independence and Security Act of 2007, the Commission issued a Final Rule that will prohibit market manipulation in the petroleum industry.

Market Manipulation Rulemaking

In August of 2009, the FTC issued a rule that prohibits market manipulation in the petroleum industry. The Rule prohibits fraud or deceit in wholesale petroleum markets, and omissions of material information that are likely to distort petroleum markets and drive up prices at the pump. Specific examples of such conduct include false public announcements of planned pricing or output decisions, false statistical or data reporting, and "wash sales" intended to disguise the actual liquidity of a market or the price of a particular product. The Rule also prohibits material omissions from a statement that, although true, is misleading under the circumstances. To learn more, visit www.ftc.gov/mmr.

"We will police the oil markets—and if we find companies that are manipulating the markets, we will go after them." —FTC Chairman Jon Leibowitz

The Rule will proscribe fraud or deceit in wholesale petroleum markets, and omissions of material information that are likely to distort petroleum markets. The FTC also uses its enforcement role to search for anticompetitive nonmerger activity such as illegal agreements among competitors, agreements between manufacturers and product dealers, monopolization, and other anticompetitive activities. To prepare and support agency staff in meeting this challenge, the FTC devotes considerable resources to monitoring and studying energy markets—often in response to congressionally mandated requirements—thus developing the professional expertise and body of knowledge needed to address emerging concerns. (Objective 2.2)

Promoting Sound Competition Policy at the International Level. With over 100 jurisdictions enforcing competition laws, the FTC's work to promote international convergence toward sound policies is critical to meeting the challenge to maintain competition. The FTC plays a leading role, bilaterally and through international organizations, to promote procedural and substantive consistency of antitrust rules and their enforcement. To avoid divergent outcomes that can increase costs to agencies and firms alike, the FTC works to promote cooperation with foreign antitrust agencies on cases of mutual interest. In addition, the FTC provides technical assistance to foreign competition agencies, particularly in countries in the process of developing competition laws or enforcing newly adopted laws, to enable newer competition agencies to apply sound competition policies. As part of its ongoing effort to build effective relationships and promote understanding, the FTC implemented its International Fellows and Intern program, providing opportunities for staff from counterpart foreign agencies to spend time at the FTC working directly with agency staff on investigations, and developed opportunities for staff exchanges. (Objective 2.4)

Advocacy and Competition Policy. The FTC works to meet the important challenge of eliminating government-imposed impediments to a competitive marketplace by advising other government policymakers to apply sound competition principles as they make decisions affecting consumer welfare. Among its activities, the FTC continues to publish reports and file comments on proposed government action (legislation, regulation, and other rules) affecting competition across many industries, such as the provision and advertising of legal services, real estate brokerage, the direct shipment of wine to consumers, contractual relationships between product suppliers and distributors, and Certificate of Need (CON) laws. For example, in the past year, the agency issued a report on follow-on biologics as Congress was considering the issue. Similarly, the Commission has held hearings on important competition policy matters such as resale price maintenance and is working on reports on issues such as intellectual property law and competition. (Objective 2.4)

Management Assurances

(on Internal Controls, Financial Systems, and Compliance with Laws and Regulations)

Implementation of the Federal Managers' Financial Integrity Act (FMFIA) at the FTC

The FTC considers internal controls to be an integral part of all systems and processes that the agency utilizes in managing its operations and carrying out activities toward achieving strategic goals and objectives. The FTC holds agency managers accountable for efficiently and effectively performing their duties in compliance with applicable laws and regulations and for maintaining the integrity of their activities through the use of controls.

The FTC's Senior Assessment Team (SAT) provides strategic direction and oversight over the agency's internal control program, to promote and facilitate compliance with applicable guidance (e.g., Office of Management and Budget [OMB] Circular A-123, "Management's Responsibility for Internal Control"), and communicates the results of reviews to senior management and the head of the agency.

Some of the functions of the SAT are developing and documenting an internal control review plan, identifying key processes and related control activities and performing a preliminary risk assessment of such processes, reviewing and assessing the overall control environment, helping to ensure the timely implementation of any corrective actions needed to address identified weaknesses, and establishing guidance for program managers in monitoring and assessing management controls within their areas of responsibility.

During FY 2009, the SAT found that the FTC's overall control environment is strong. Additionally, the SAT updated guidance for program managers to use in completing self-assessments of the processes and controls within their areas of responsibility. Senior managers throughout the agency completed self-assessments that disclosed no significant control weaknesses. The SAT evaluated the results of the managers' assessments and concurred that no material weaknesses or nonconformances were identified. The results of these evaluations and other information—such as independent audits or reviews performed by the Office of Inspector General (OIG) and the Government Accountability Office (GAO) (e.g., Federal Information Security Management Act review), independent audits of service providers' operations and financial systems (e.g., reviews conducted in accordance with Statement on Auditing Standards [SAS] 70), internal analyses, and other relevant evaluations and control assessments—were considered by the SAT and the agency head in determining whether there are any management control deficiencies or nonconformances that must be disclosed in the annual assurance statement. The Chairman's assurance statement that follows is supported by the processes and reviews described above, which were carried out in FY 2009. Management assurances tables appear in the Other Accompanying Information.

Chairman's FMFIA Statement of Assurance

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

THE CHAIRMAN

CHAIRMAN'S FMFIA STATEMENT OF ASSURANCE

The Federal Trade Commission's (FTC) management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

In accordance with the requirements of the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, the FTC conducted its annual assessment of the effectiveness of the organization's internal controls to support effective and efficient programmatic operations, reliable financial reporting, and compliance with applicable laws and regulations; and whether the financial management system conforms to applicable financial systems requirements.

Based on the results of this assessment, the FTC provides reasonable assurance that its internal controls over the effectiveness and efficiency of operations, reliable financial reporting and compliance with applicable laws and regulations as of September 30, 2009, were operating effectively and that no material weaknesses were found in the design or operation of our internal controls.

Further, based on our assessment, we determined that the FTC financial management system conforms to applicable financial systems requirements.

Signed ____________________
Jon Leibowitz
November 13, 2009

Summary of Material Weaknesses and Nonconformances

As noted in the Chairman's statement of assurance, the FTC has no material weaknesses or nonconformances to report for FY 2009. No new material weaknesses or significant nonconformances were identified for the past five years, nor were there any existing unresolved weaknesses requiring corrective action.

Federal Information Security Management Act (FISMA)

The FTC continues to stay vigilant in ensuring that there are no material weaknesses in administrative controls over information systems and is always seeking methods of improving its secure configuration. In his FY 2009 FTC Management Challenges memo, the Inspector General reports that "the FTC security environment is strong and robust and continues to evolve to expand its coverage and to address changing threats and requirements." As part of the agency's effort to meet or exceed the requirements of FISMA, 100 percent of agency systems have undergone certification and accreditation, and the FTC's certification and accreditation policy conforms with the standards established by the National Institute of Standards and Technology. Additionally, the Information Technology Management Office and the Privacy Steering Committee continue to strengthen privacy and data security policies and will raise the level of awareness among staff regarding these issues so that data protection remains a critical consideration for all FTC employees.

Debt Collection Improvement Act

The Debt Collection Improvement Act of 1996 prescribes standards for the administrative collection, compromise, suspension, and termination of federal agency collection actions and referrals to the proper agency for litigation. Although the Act has no material effect on the FTC because the agency operates with minimal delinquent debt, all debts more than 180 days old have been transferred to the U.S. Department of the Treasury for cross-servicing. In addition, recurring payments were processed by electronic funds transfer (EFT) in accordance with the EFT provisions of the Debt Collection Improvement Act.

Prompt Payment Act

The Prompt Payment Act requires federal agencies to make timely payments to vendors, including any interest penalties for late invoice payments. In FY 2009, the FTC processed 10,384 invoices totaling $63 million that were subject to prompt payment. Of the 10,384 invoices processed, 98 percent were paid on-time. Also, during FY 2009, the FTC paid a total of $12,393 in interest penalties, or .02 percent of the total dollar amount invoiced.

Agency Financial Management Systems Plans

A key financial management goal at the FTC is to provide agency decision makers and staff with accurate and timely financial data using flexible query and reporting tools in a one-stop, easy-to-navigate system. During FY 2009, the FTC worked with its shared service provider, the Department of the Interior (DOI) National Business Center (NBC), in continuing to enhance the functionality of the Core Financial System (CFS) that was implemented in FY 2008. For example, the FTC partnered to fully automate processes for recording adjustments to prior year obligations and to fine-tune related fund validation checks.

The FTC also continued working toward integrating various legacy systems with the CFS, and on enhancing reporting capabilities. For example, the FTC evaluated a potential solution for an integrated procurement system based on its defined functional requirements. The agency also launched a pilot effort to implement a Business Intelligence (BI) reporting solution.

In addition to the BI initiative and efforts to modernize the agency's procurement system described above, the FTC endeavors to integrate functionality and data that currently reside in disparate systems. Long-term plans call for integrating project and cost accounting systems, property management, and budget formulation capabilities.

Financial Highlights

Introduction

The financial highlights presented below are an analysis of the information that appears in the FTC's FY 2009 financial statements. The agency's financial statements, which appear in the Financial Section of this report, are audited by an independent accounting firm. The FTC's management is responsible for the fair presentation of information contained in the principal financial statements. The financial statements and financial data presented below have been prepared from the agency's accounting records in accordance with Generally Accepted Accounting Principles (GAAP). GAAP for federal agencies are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB). For the 13th straight year, the FTC is proud to have received an unqualified (clean) opinion on our audited financial statements. The chart below presents a snapshot of the changes in key financial statement line items that occurred during FY 2009 and is followed by an explanation of the more significant fluctuations in each of FTC's financial statements.

CONDENSED BALANCE SHEET (Dollars shown in thousands)	Percentage Change	2009	2008
Fund Balance with Treasury	-6%	$ 81,307	$ 86,792
Cash and Other Monetary Assets	73%	18,141	10,485
Investments	-19%	94,848	117,514
Accounts Receivable, Net	-37%	55,705	88,030
General Property & Equipment, Net	2%	15,473	15,098
Total Assests	-16%	$265,474	$317,919
Accrued Redress Receivables Due to Claimants	-37%	$55,496	$87,800
Redress Collected not yet Disbursed	-18%	69,746	85,021
Divestiture Fund Due	0%	45,542	45,485
Accounts Payable and Other	-31%	34,299	49,537
Total Liabilities	-23%	$205,083	$267,843
Cumulative Results of Operations-Other Funds	21%	60,391	50,076
Total Net Position	21%	$ 60,391	$ 50,076
Total Liabilities and Net Position	-16%	$265,474	$317,919

COST SUMMARY	Percentage Change	2009	2008
Gross Cost	5%	$256,950	$245,558
Less: Earned Revenue	-51%	-58,256	119,394
Net Program Cost	57%	$198,694	$126,164

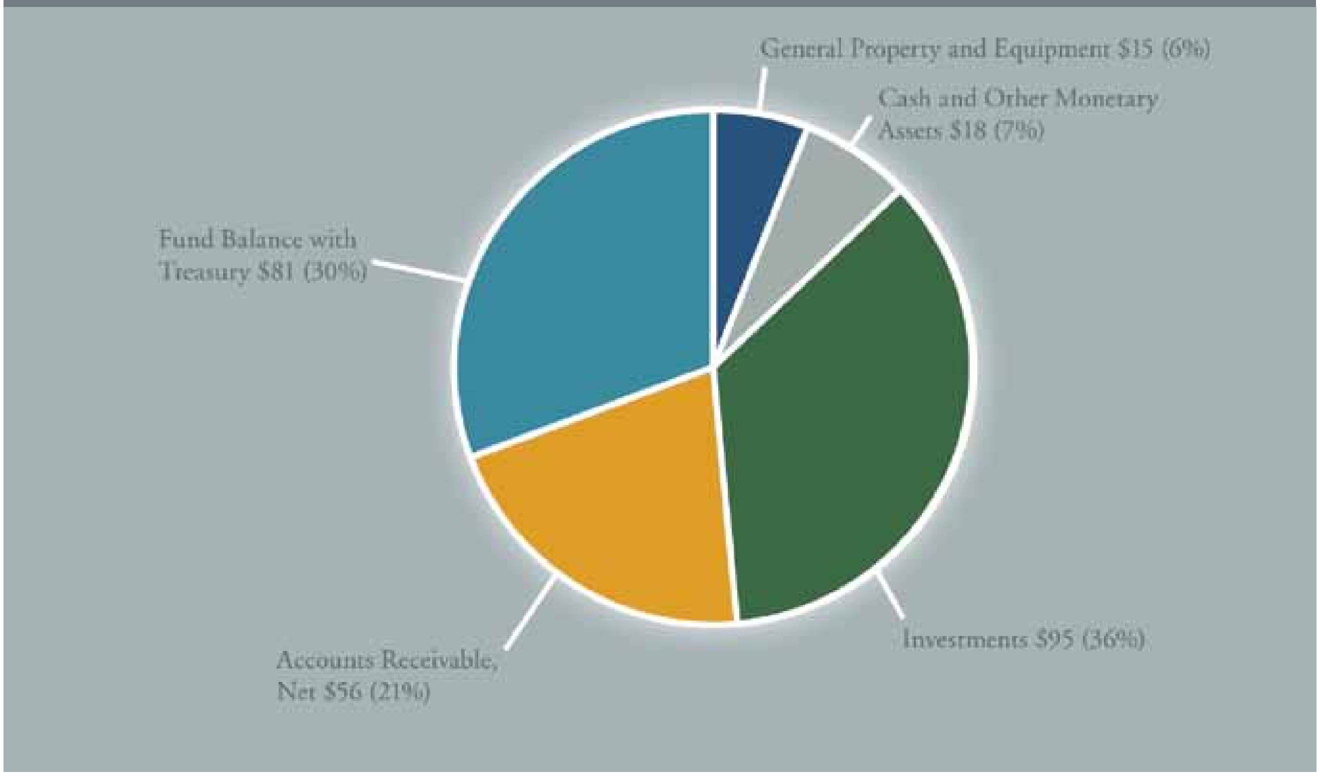
Financial Analysis

Assets. The FTC's Balance Sheet shows total assets of $265 million at the end of FY 2009, a decrease of $52 million or 16 percent compared to FY 2008. The overall decrease is attributable to a decrease of $32 million in consumer redress accounts receivable, net, a decrease of $15 million in consumer redress funds (held as cash and investments) and a $5 million decrease in Fund Balance with Treasury.

The $32 million decrease in consumer redress accounts receivable, net is due to the collections of $75 million and the net of bad debt expense and write-offs of $219 million, which exceeds the $262 million in new judgments and recoveries of judgments previously written off. The $15 million decrease in consumer redress funds are due to outflows for distributions to claimants and disgorgements to the Treasury of $84 million and for expenses of $6 million, compared to $75 million in collections.

The $5 million decrease in Fund Balance with Treasury primarily reflects a $15 million transfer to the DOJ of premerger collections during FY 2009 that represented undisbursed funds at year-end 2008 offset by the additional funds retained to pay for the $13 million increase in year-end FY 2009 obligations compared to FY 2008. Furthermore, unobligated balances decreased by $2 million in FY 2009.

ASSETS BY TYPE (Dollars shown in millions)

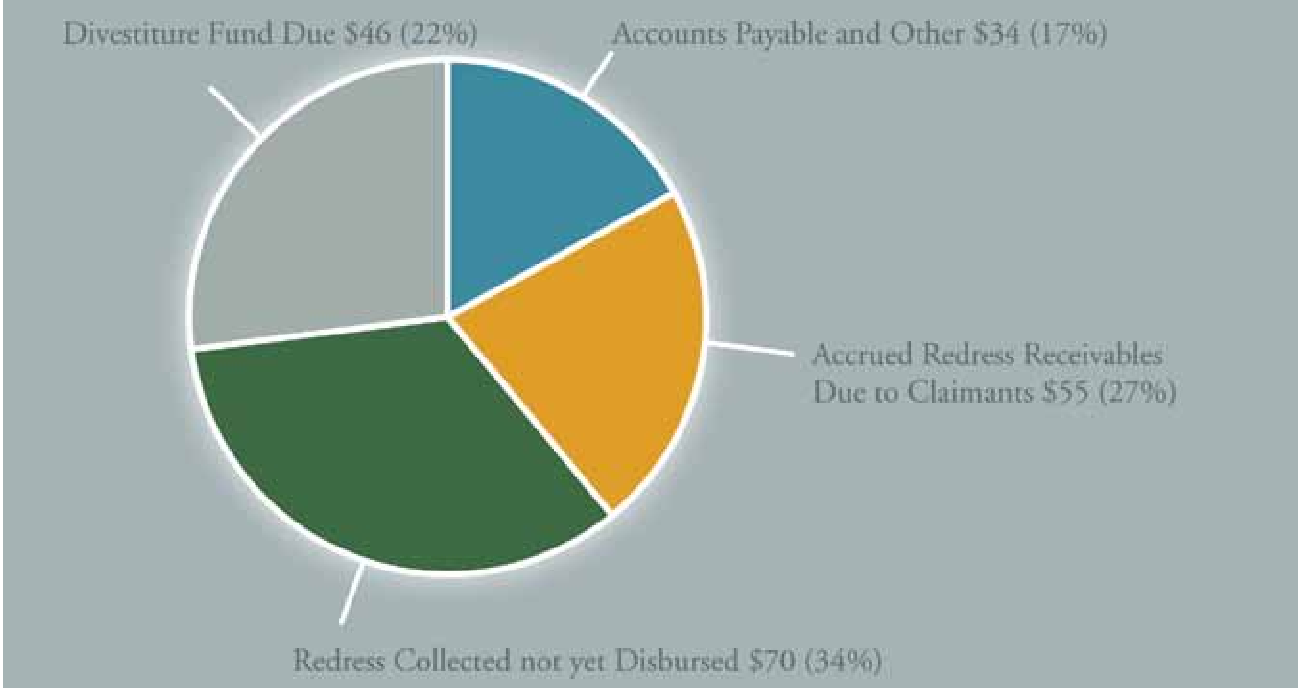


Liabilities. The agency's total liabilities at the end of FY 2009 were $205 million, decreasing by $63 million, or 23 percent, from FY 2008 total liabilities of $268 million.

The decrease in total liabilities is primarily the result of a $47 million decrease in redress-related liabilities (Accrued Redress Receivables Due to Claimants and Redress Collected but Not Yet Disbursed) which is consistent with the decrease in redress-related cash and other assets, investments and accounts receivable described above under Assets. These two non-entity liabilities correspond to cash and investments held by the FTC in a deposit fund as the result of judgments obtained or settlement agreements reached as part of consumer redress efforts. These redress-related liabilities accounted for 61 percent of all liabilities in FY 2009 versus 65 percent in FY 2008.

The decrease in total liabilities is further related to a $15 million decrease in Accounts Payable and Other liabilities reflecting the change in amounts due to the DOJ for their share of fees collected under the HSR Act.

LIABILITIES BY TYPE (Dollars shown in millions)



Net Position. The agency's cumulative Results of Operations comprises Net Position. At the end of FY 2009, the agency's Net Position is $60 million, increasing by $10 million or 20 percent over the FY 2008 ending Net Position of $50 million.

Financing sources from appropriations used during the year were $201 million and imputed financing sources totaled $8 million for a total of $209 million. The imputed financing sources consisted of $2 million in future retirement benefits and $6 million in future health and life insurance benefits accrued in FY 2009, which will be paid by entities other than the FTC.

The financing sources of $209 million exceed the net cost of operations totaling $199 million (gross costs of $257 million less revenues from fees of $58 million), resulting in the $10 million increase in net position.

Results of Operations. Total gross costs for the year ending September 30 were $257 and $246 million for FYs 2009 and 2008, respectively. Gross costs are inclusive of all costs involved in FTC's ongoing operations. Fees collected in relation to the HSR Act and the DNC Registry of $58 and $119 million in FY 2009 and 2008, respectively, offset the gross costs in determining net costs.

FY 2009 net costs of $199 million increased by $73 million over the FY 2008 level of $126 million primarily due to the decline in the total amount of HSR fees collected of $61 million. This decrease reflects the lower number of HSR filings in FY 2009 related to the economic downturn.

FY 2009 NET COSTS BY STRATEGIC GOAL

	Strategic Goal 1 Protect Consumers	Strategic Goal 2 Maintain Competition	Total
Gross Costs	$147,232	$109,718	$256,950
Less: Earned Revenue	(15,947)	(42,309)	(58,256)
Net Program Costs	$131,285	$67,409	$198,694

Budgetary Resources. The Statement of Budgetary Resources (SBR) provides information on budgetary resources made available to the agency and the status of these resources at the end of the fiscal year.

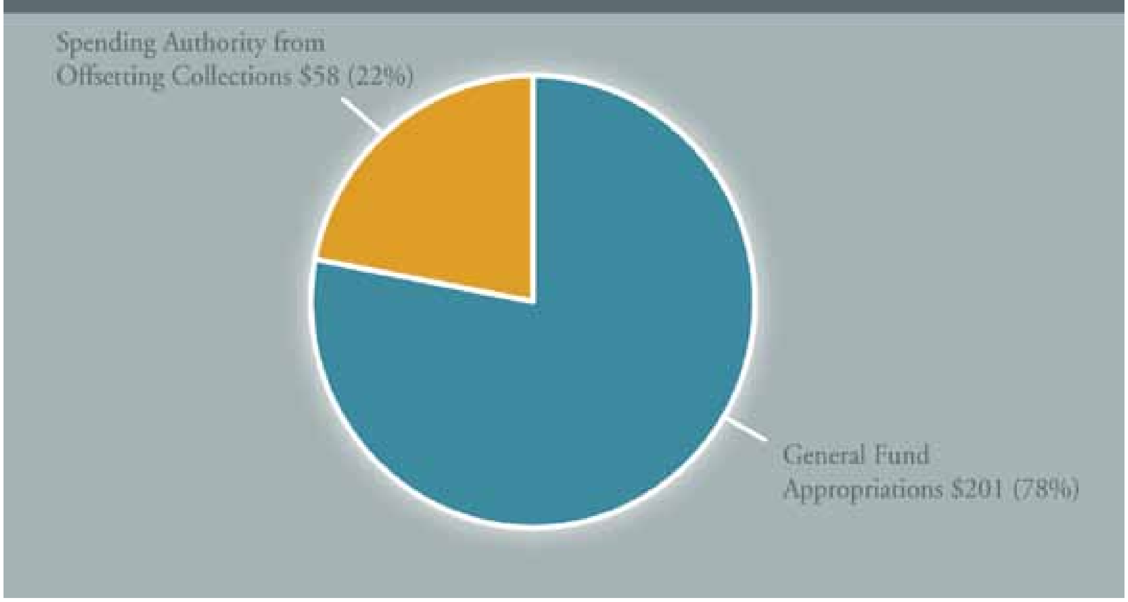
New budgetary authority (total budgetary resources excluding unobligated balances brought forward, prior year recoveries, and amounts previously unavailable) was $259 million in FY 2009, an increase of $15 million or 6 percent over the $244 million in FY 2008.

In FY 2009, spending authority derived from offsetting collections totaled $58 million ($42 million for HSR fees and $16 million for Do Not Call Registry) and general fund appropriations totaled $201 million, comprising 22 and 78 percent of new budget authority, respectively. This compares to offsetting collections of $135 million and general fund appropriations of $96 million, comprising 58 and 42 percent of new budget authority, respectively, in FY 2008.

The SBR includes a $15 million balance that was reported as temporarily not available in FY 2008, which was brought forward in the FTC's general fund (29X0100). This amount was collected by the FTC in FY 2008 on DOJ's behalf pursuant to 15 U.S.C. 18a note. Historically all of the DOJ share of HSR fee collections made during the fiscal year were transferred to DOJ by September 30, however FY 2008 was an exception (see further explanation in financial statement Note 1(g). Although this balance is included in total resources on the SBR, this amount was not available to finance the FTC operations and may only be transferred to DOJ for its use. During FY 2009, this $15 million balance was transferred to DOJ pursuant to 15 U.S.C. 18a note and recorded as an expenditure transfer consistent with guidance from OMB and the Department of Treasury. This transfer resulted in a $15 million increase to obligations and outlays above those incurred as part of the FTC's operations.

The SBR includes distributed offsetting receipts, which are the non-entity and non-budgetary funds recorded in the FTC's Miscellaneous Receipt accounts. These receipts comprise primarily of disgorgements to the Treasury from undistributed funds from the redress program and court-appointed receivers. Also included are other miscellaneous receipts that by law are not retained by the FTC. Distributed Offsetting Receipts decreased by $40 million in FY 2009 primarily due to the unusually large amounts of redress disgorgements occurring during the prior year and the lower collections of redress judgments during FY 2009 that contribute to reduced disgorgements.

NEW BUDGET AUTHORITY FOR FY 2009 (Dollars shown in millions)



Limitations of Financial Statements

FTC management has prepared its FY 2009 financial statements from the books and records of the agency in accordance with the requirements of the Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements, as amended. The financial statements represent the financial position and results of operations of the agency pursuant to the requirements of Chapter 31 of the U.S. Code section 3515(b). While these statements have been prepared from the agency's books in accordance with the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. These statements should be read with the understanding that they are for a component of the U.S. government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

Financial Management Indicators

The following table shows standard indicators developed by the Chief Financial Officers Council and used by the OMB to monitor agencies' financial management practices.

Financial Management Indicators for FY 2009	
Debt Management	
Debt Transferred to Treasury	100%
Funds Management	
Fund Balance with Treasury (Identifies the difference between the fund balance reported in Treasury reports and the agency fund balance with Treasury recorded in its general ledger on a net basis)	100% reconciled
Payment Management	
Percentage Invoices Paid on Time (per Prompt Payment Act)	98%
Percentage Interest Penalties Paid to Total Dollars Invoiced	0.02%
Percentage of total dollars outstanding in current status* (good standing) for Individually Billed Travel Account holders	100%
Percentage of total dollars outstanding in current status* (good standing) for Centrally Billed Travel Accounts	100%
Percentage of total dollars outstanding in current status* (good standing) for Purchase Cards	100%

*The Office of Management and Budget threshold for delinquency is 61 days.

Performance Section

Introduction to Performance

The Performance Section presents detailed information on the performance results of the Federal Trade Commission's (FTC) programs and includes a discussion of strategies and factors affecting performance. This section also includes trend data, and a summary of methods used to verify and validate performance data. Generally, this section also contains the results of program evaluations; the agency did not undergo any significant program evaluations in FY 2009.

Throughout this section, years without trend data are indicated as not available (N/A) and for performance measures with five-year cumulative targets, the shaded portions of the performance tables indicate those fiscal years included in the five-year targets. Additionally, Performance Measure 1.2.2, used only in FYs 2007 and 2008, was not continued in FY 2009. As an output measure that simply counted actions, it did not adequately measure the effectiveness of the FTC's work.

In FY 2009, the FTC updated its Strategic Plan, which will be effective FY 2010. This provided the FTC with an opportunity to better define its performance framework and work toward expanding outcome performance measures. Furthermore, the agency expects that its multiyear effort to modernize and integrate business systems will lead to the better determination of the cost of strategic goals and objectives in the coming years. This will provide another opportunity to use more efficiency measures and make further refinements to the Strategic Plan in an effort to measure the outcomes of the FTC's performance more precisely.

Relationship of Outputs to Outcomes

The goals of the FTC are to protect consumers and maintain and promote competition in the marketplace. The FTC has a number of desired outcomes of these goals, including stopping fraud and anticompetitive mergers or conduct. This is accomplished through (1) pursuing strategic law enforcement actions, (2) educating consumers and businesses on their rights and responsibilities; and (3) influencing policymakers, legislators, and the judiciary to issue and interpret policies and laws that are pro-consumer and pro-competitive. However, it remains difficult, if not impossible, to measure precisely the value (in monetary terms or otherwise) of deterrence, education, and advocacy. But the agency is confident—taking into account the information it gains through its performance measures—that consumers benefit from the FTC's deterring unfair or deceptive acts and anticompetitive mergers or conduct, providing accurate consumer information, and advocating agency positions. The agency's current performance measures include both input/output and outcome measures; however, the FTC is continuously reviewing its performance measures with the aim of developing additional outcome measures.

A measurable outcome of the FTC's goals is substantial financial savings to consumers through law enforcement actions to stop specific frauds and anticompetitive conduct or mergers. The FTC has five long-term outcome performance measures directed at these law enforcement actions, as discussed below. Even so, the FTC continues to develop performance measures that directly reflect whether desired outcomes were achieved. In FY 2010, the FTC will measure the outcome of its advocacy. Under its consumer protection goal, in addition to counting consumer complaints added to the FTC's database, Performance Measure 1.1.2 indicates the percentage of the agency's consumer protection law enforcement actions that were responsive to the consumer complaint information gathered by the agency. Although this is another output measure, it brings the FTC closer to determining its role in the ultimate desired outcome of a marketplace free of fraud, deception, and unfair practices that cause consumer injury.

The FTC has two outcome measures to its maintain competition goal. These two measures (Performance Measures 2.2.2 and 2.2.4) seek to measure the consumer savings that result from merger and nonmerger enforcement. The FTC now measures its achievement of outcomes using five long-term performance targets: (1) the five-year consumer protection performance target (Performance Measure 1.2.1) to save consumers approximately $2 billion through law enforcement actions stopping consumer fraud; (2) the five-year maintain competition performance target (Performance Measure 2.2.3) to take action against anticompetitive mergers in markets with a total of at least $125 billion in annual sales; (3) the five-year maintain competition performance target (Performance Measure 2.2.5) to take law enforcement action against anticompetitive nonmerger conduct in markets with a total of at least $40 billion in annual sales; (4) the five-year maintain competition performance target (Performance Measure 2.2.2) to achieve at least $2.5 billion in savings for consumers through merger enforcement; and (5) the five-year maintain competition performance target (Performance Measure 2.2.4) to achieve at least $400 million in savings for consumers through nonmerger enforcement. These five performance targets, in addition to annual outcome performance measures, continue to provide valuable indicators of how the FTC is progressing toward achieving its strategic goals to protect consumers and maintain competition.

Verification and Validation of Performance Data

The financial data and performance results described in this report enable the FTC to administer its programs, gauge their success, and make adjustments necessary to improve program quality for the public. The Message from the Chairman on p. IV provides that FTC's financial and performance data presented in this report are complete, reliable, and accurate. The following steps outline how the agency ensured the performance information it reports is complete, accurate, and consistent:

- Developed policy and documented the procedures used to ensure timely reporting of complete, accurate, and reliable actual results relative to the key performance measures.
- Held program managers accountable to set meaningful and realistic targets that also challenge the agency to leverage its resources. This includes ensuring ongoing monitoring of performance targets so they are updated to reflect changes in key factors that impact the agency's ability to achieve such results. Further, when appropriate, program managers are required to explain how they will improve performance when targets are not met.
- Worked with the Office of Inspector General to ensure an independent review of the systems and methodologies used for collecting performance data and ensured that senior economists from the Bureau of Economics reviewed statistical data, as appropriate.
- Subjected performance measurement results to periodic senior management and Commission review throughout the fiscal year. This process includes substantiating that actual results reported are indeed correct whenever those results reveal significant discrepancies or variances from the target.

Agency program managers also monitor and maintain automated systems and databases that collect, track, and store performance data, with support provided by the FTC's Information and Technology Management Office. In addition to the general controls in place over the network that ensure only authorized staff can access key systems, each application (system), such as the Consumer Sentinel Network, incorporates internal validation edits to ensure the accuracy of data contained therein. These application edits include checks for reasonableness, consistency, and accuracy. Crosschecks between other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units (i.e., the Bureaus of Consumer Protection and Competition) routinely monitor the data collection. For example, senior economists from the Bureau of Economics review statistical data used by the other bureaus to calculate performance results. Finally, in addition to the items described above, with the update of its Strategic Plan for Fiscal Years 2009 to 2014 (effective FY 2010), the FTC reassessed, and will monitor, the validation procedures to ensure that changes to or addition of performance measures are properly recorded and accurately reported.

The Financial Management Office is responsible for providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and accurately reporting performance management data. Within the Performance Section, the FTC has identified the data sources for each performance measure.

Legend for Upcoming Performance Measure Summary Tables
✔ Signifies that the target is met or exceeded or that the FTC is on track to meet the five-year target.
✕ Signifies that the target is not met or that the FTC is not on track to meet the five-year target.
N/A Signifies that the performance measure does not have a five-year target.

Performance Measure Summary Table

The tables that follow capture FY 2009 targeted performance compared to actual results.

Strategic Goal 1: Protect Consumers

Performance Measure	FY 2009 Target	FY 2009 Actual	5-Year Target
Objective 1.1 Identify Fraud, Deception, and Unfair Practices That Cause the Greatest Consumer Injury			
1.1.1 Collect and enter complaints and inquiries into the consumer database.	1.8 million	3.3 million ✔	N/A
Key Measure: 1.1.2 The percentage of the agency's consumer protection law enforcement actions that are responsive to consumer complaint information gathered by the agency.	65%	79% ✔	N/A
Objective 1.2 Stop Fraud, Deception, Unfairness, and Other Unlawful Practices Through Law Enforcement			
Key Measure: 1.2.1 Save consumers money each year through law enforcement.	$400 million	$505 million ✔	$2 billion ✔
Objective 1.3 Prevent Consumer Injury Through Education			
1.3.1 Track consumer protection messages accessed online or in print.	55 million messages	43.1 million messages ✘	N/A
1.3.2 Track consumer protection messages related to identity theft, accessed online or in print.	10 million messages	10.1 million messages ✔	N/A
1.3.3 Track consumer protection messages in Spanish, accessed online or in print.	3 million messages	1.8 million messages ✘	N/A
Key Measure: 1.3.4 Track (A) the number of times print media publish articles that refer to the FTC consumer protection activities and (B) the circulation of media that publish those articles.	(A) 2,750 articles (B) circulation of 750 million	(A) 2,484 articles ✘ (B) circulation of 702 million ✘	N/A
Objective 1.4 Enhance Consumer Welfare Through Research, Reports, Advocacy, and International Cooperation and Exchange			
Key Measure: 1.4.1 Convene or participate substantially in workshops and conferences on novel or challenging consumer protection problems or issues.	6 workshops and conferences	9 workshops and conferences ✔	30 ✔
1.4.2 Issue reports on novel or challenging consumer protection problems or issues.	8 reports	14 reports ✔	40 ✔
1.4.3 File public and advocacy comments with other federal and state government agencies.	6 comments	2 comments ✘	30 ✘
1.4.4 Cooperate with foreign government agencies on enforcement matters with cross-border components.	20 agencies	39 agencies ✔	20 ✔
1.4.5 Provide consumer protection related policy or technical input to foreign government agencies or international organizations.	20 instances	81 instances ✔	100 ✔

Strategic Goal 2: Maintain Competition

Performance Measure	FY 2009 Target	FY 2009 Actual	5-Year Target
Objective 2.1 Identify Anticompetitive Mergers and Practices that Cause the Greatest Consumer Injury			
Key Measure: 2.1.1 Achieve positive outcomes in matters in which HSR requests for additional information are issued.[1*]	90%	100% ✔	N/A
Key Measure: 2.1.2 Percentage of significant nonmerger investigations that result in a positive outcome.*	90%	100% ✔	N/A
2.1.3 Track the number of enforcement actions for the total mission, for the (A) merger and (B) nonmerger actions.	Establish Baseline	(A) 19 (B) 7	N/A
2.1.4 Report the number of (A) second requests, (B) reportable transactions for which premerger notifications were received, (C) HSR investigations that resulted in enforcement action, (D) transactions in which antitrust issues were resolved through voluntary abandonment or restructuring because of FTC concerns, and (E) investigations closed because the evidence indicated that a competitive problem was unlikely.	Establish Baseline	(A) 15 (B) 684 (C) 13 (D) 1 (E) 3	N/A
2.1.5 Track the number of significant nonmerger investigations closed each year, (A) with enforcement action and (B) without enforcement action.	Establish Baseline	(A) 7 (B) 27	N/A
Objective 2.2 Stop Anticompetitive Mergers and Business Practices Through Law Enforcement			
Key Measure: 2.2.1 Positive result of cases brought by the FTC due to alleged violations.*	80%	96% ✔	N/A
2.2.2 Achieve savings for consumers through merger enforcement.	$500 million	$791 million ✔	$2.5 billion ✔
2.2.3 Take action against mergers likely to harm competition in markets with a total of at least $125 billion in sales over a five-year period; $25 billion in sales each year.	$25 billion	$22.3 billion ✘	$125 billion ✔
2.2.4 Achieve savings for consumers through nonmerger enforcement.	$80 million	$188 million ✔	$400 million ✔
2.2.5 Take action against anticompetitive conduct in markets with a total of at least $40 billion in annual sales over a five-year period; $8 billion each year.	$8 billion	$14.6 billion ✔	$40 billion ✘
2.2.6 Save consumers at least six times the amount of agency resources allocated to the merger program over a five-year period. (Efficiency Measure)	600% (annual)	2,132% ✔	600% (cumulative) ✔
2.2.7 Save consumers at least four times the amount of agency resources allocated to the nonmerger enforcement program over a five-year period. (Efficiency Measure)	400% (annual)	1,035% ✔	400% (cumulative) ✔

*See respective performance measure discussion in the Performance Section for definitions of "positive outcomes" and "positive results."

Strategic Goal 2: Maintain Competition (continued)

Performance Measure	FY 2009 Target	FY 2009 Actual	5-Year Target
Objective 2.3 Prevent Consumer Injury Through Education			
2.3.1 Quantify the number of "hits" on antitrust information on the FTC's website.	15 million	11.9 million ✗	N/A
Key Measure: 2.3.2 Track (A) the number of times print media publish articles that refer to FTC competition activities and (B) the circulation of the media that publish those articles.	(A) 2,500 articles (B) Establish Baseline	(A) 1,569 articles ✗ (B) circulation of 360 million	N/A
Objective 2.4 Enhance Consumer Welfare Through Research, Reports, Advocacy, and International Cooperation and Exchange			
2.4.1 Convene or participate substantially in workshops, conferences, seminars, and hearings involving significant competition-related issues.	4 events	8 events ✓	20 ✓
Key Measure: 2.4.2 Issue studies, reports, and working or issues papers on significant competition-related issues.	8 documents	20 documents ✓	40 ✓
Key Measure: 2.4.3 Make advocacy filings with other federal and state government agencies urging them to assess the competitive ramifications and costs and benefits to consumers of their policies.	6 filings	10 filings ✓	30 ✓
2.4.4 Issue advisory opinions to persons seeking agency review of proposed business actions.	2 – 3 opinions	1 opinion ✗	12 ✗
2.4.5 File *amicus briefs* with courts addressing competition-related issues.	2 – 3 briefs	2 briefs ✓	12 ✓
2.4.6 Track the volume of traffic on www.ftc.gov relating to competition research, reports, advocacy, and international cooperation and exchange.	1.1 million	1.6 million ✓	N/A
Key Measure: 2.4.7 Track the number of (A) cases on which the FTC cooperated with foreign competition authorities, (B) consultations with or comments to foreign competition authorities, (C) written submissions to international fora, (D) international events attended, and (E) leadership positions held by FTC staff in international competition organizations.	(A) 30 cases (B) 25 consultations or comments (C) 7 submissions (D) 8 events (E) 5 positions	(A) 87 cases ✓ (B) 56 consultations or comments ✓ (C) 19 submissions ✓ (D) 125 events ✓ (E) 10 positions ✓	N/A

Strategic Goal 1: Protect Consumers

Prevent Fraud, Deception, and Unfair Business Practices in the Marketplace

I. Strategic View

As the nation's premier consumer protection agency, the FTC strives to protect consumers by preventing fraud, deception, and unfair business practices in the marketplace. The agency applies four related objectives to achieve this broad-reaching goal.

Objective 1.1 Identify fraud, deception, and unfair practices that cause the greatest consumer injury.
The FTC identifies practices that cause consumer injury by analyzing the consumer complaint data collected in its Consumer Sentinel Network database, holding public discussions, and monitoring the marketplace.

Objective 1.2 Stop fraud, deception, unfairness, and other unlawful practices through law enforcement.
The FTC uses information gathered under Objective 1.1 to target its law enforcement efforts. Its law enforcement program aims to stop and deter fraud and deception, protect consumers' privacy, and increase compliance with its consumer protection statutes and rules.

Objective 1.3 Prevent consumer injury through education.
The FTC targets its education efforts to give consumers the information they need to protect themselves from injury and to explain to businesses how to comply with applicable laws.

Objective 1.4 Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.
The FTC complements its law enforcement and education efforts by gathering, analyzing, and making public certain information concerning the nature of business practices in the marketplace.

AnnualCreditReport.com—The ONLY Authorized Source to Get a Free Annual Credit Report

Anyone can write a catchy jingle, but only AnnualCreditReport.com provides consumers with a truly free credit report. AnnualCreditReport.com requires no hidden fees or trial memberships.

The Fair Credit Reporting Act guarantees consumers access to a free credit report from each of the three nationwide reporting agencies—Experian, Equifax, and TransUnion—every twelve months. The FTC has received complaints from consumers who thought they were ordering their free annual credit report, but instead paid hidden fees or agreed to unwanted services.

The FTC urges consumers to not be fooled by TV ads, email offers, or online search results. To learn more, visit www.ftc.gov/freereports or www.annualcreditreport.com.

II. Strategic Analysis

Objective 1.1 Identify fraud, deception, and unfair practices that cause the greatest consumer injury.

Identifying the practices that cause the greatest consumer injury is the first step in preventing fraud, deception, and unfair business practices in the marketplace.

Our Strategy

To identify consumer protection problems, the FTC collects and analyzes data from many sources. Its Consumer Response Center receives consumer complaints and inquiries via a toll-free number (877-FTC-HELP); an Internet complaint form available at www.ftc.gov; and postal mail. Partners such as Better Business Bureaus, the Internet Crime Complaint Center (a partnership between the Federal Bureau of Investigation and the National White Collar Crime Center), the U.S. Postal Inspection Service, Phone Busters (the Canadian fraud database), and the National Fraud Information Center of the National Consumers League also share with the FTC the consumer complaint data they collect. The FTC continues to pursue new international partnerships to increase its collection of information from consumer agencies in other countries. For example, through www.econsumer.gov (a portal where consumers can report complaints about online and related transactions with foreign countries), the agency partners with other

Top Consumer Complaints in Calendar Year 2008

CONSUMER SENTINEL NETWORK

For the ninth year in a row, identity theft is the number one consumer complaint category, accounting for 26 percent of the 1,223,370 total complaints received between January and December 2008. To learn more, visit www.ftc.gov/opa/2009/02/2008cmpts.shtm.

RANK	CATEGORY	% OF TOTAL COMPLAINTS
1	Identity theft	26
2	Debt collection (third party and creditor)	9
3	Shop-at-home and catalog sales	4
4	Internet services	4
5	Foreign money offers and counterfeit checks	3
6	Credit bureaus, information furnishers, credit report users	3
7	Prizes, sweepstakes, and lotteries	3
8	Television and electronic media	2
9	Banks and lenders	2
10	Telecom equipment and mobile services	2
11	Computer equipment and software	2
12	Business opportunities, employment agencies, work-at-home plans	2

members of the International Consumer Protection Enforcement Network, an international group that identifies and shares information about worldwide consumer protection issues.

This information is entered into a database within the FTC's Consumer Sentinel Network (CSN) and is analyzed by FTC staff to identify current trends and to target fraudulent, deceptive, and unfair business practices. The agency makes the more than 12.1 million consumer fraud, identity theft, financial, and Do Not Call (DNC) complaints that it has collected during the past five years available, through CSN's secure website, to more than 1,700 law enforcement organizations in the United States, Canada, and Australia. Although the FTC does not act on behalf of individual consumers, the consumer complaint database enables the FTC and its law enforcement partners to quickly spot trends, target the most serious consumer frauds reported by consumers, and coordinate law enforcement efforts. The ongoing input and analysis of current complaint data allows the FTC to move rapidly to stop illegal practices before they can cause more harm to consumers.

Consumers can call the FTC's identity theft toll-free number, 877-ID-THEFT, or view its website (www.consumer.gov/idtheft) to obtain information about, and report, identity theft. At the end of the fiscal year, the CSN contained nearly 1.4 million identity theft complaints that the agency has collected during the past five years. The FTC uses this data to spot patterns that can help criminal law enforcement agencies prosecute identity theft and help individuals and businesses avoid the financial consequences of this crime.

The FTC and U.S. Secret Service Case Referral Program jointly identify criminal cases, and strong leads are referred to regional task forces, many led by the Secret Service Financial Crimes Division. The FTC is a civil law enforcement agency without criminal authority. The FTC's Criminal Liaison Unit identifies law enforcement agencies and case agents for referral of specific types of consumer fraud cases. They also educate criminal law enforcement authorities about the FTC and its mission, and coordinate training of FTC staff by criminal law enforcement authorities to help staff prepare cases for referral and ensure smooth progress of parallel prosecutions. The FTC, in partnership with the Secret Service and the Department of Justice, continues a training program that provides local and state law enforcement officers with practical tools to enhance combined efforts to combat identity theft, including information about accessing consumer complaint data. This training program provided on-site training to more than 750 officers from more than 220 agencies in FY 2009. To date, the FTC and its partners, who now include the U.S. Secret Service, the U.S. Postal Inspection Service, the Federal Motor Carrier Safety Administration, and the Federal Bureau of Investigation, have conducted a total of 37 seminars, training more than 4,850 law enforcement officers from more than 1,570 agencies.

Performance Results

The key performance measure under this objective measures the percentage of agency consumer protection law enforcement actions that are responsive to the consumer complaint information gathered by the agency (Performance Measure 1.1.2). This measure was added in FY 2007 to take the agency a step beyond counting the number of complaints collected to examining the extent to which these complaints help set the consumer protection agenda under this objective.

Performance Measure 1.1.1 requires the FTC to collect and enter complaints and inquiries into the CSN. The large number of consumer complaints and inquiries collected provides the agency a broad view of what reporting consumers are experiencing.

The CSN allows the FTC and its law enforcement partners to identify and develop cases against operators engaging in deceptive, fraudulent, and unfair practices that cause the greatest consumer injury. By analyzing consumer complaints, the FTC targets its enforcement and education efforts to the top areas of consumer complaints. Not only does the CSN help identify the most serious and commonly reported consumer protection problems, but the real-time analysis quickly informs the agency of emerging scams so it can move rapidly to stop ongoing consumer injury. For the ninth year in a row, identity theft topped the annual list of top-10 complaint categories gathered by the agency. The FTC continues to focus law enforcement and education resources on this area of continuing concern to consumers and businesses, as well as the other areas identified as priorities.

¡OJO! Mantente alerta contra el fraude. Infórmate con la FTC
(Be on the alert against fraud. Stay informed with the FTC.)

The FTC's Hispanic Initiative includes a significant outreach component that includes disseminating consumer information in Spanish, providing consumer news to the Spanish-language media, and building partnerships with organizations, businesses, and leaders in the Hispanic community. The FTC's Spanish-language fraud awareness campaign, "Mantente alerta contra el fraude. Infórmate con la FTC," aims to encourage Spanish speakers to identify fraudulent and deceptive business practices and to tell the FTC about them when they occur. To learn more, visit www.ftc.gov/ojo.

In addition to the *¡OJO!* website, the FTC has a number of Spanish-language "micro sites" on topics such as credit, business opportunities and work-at-home scams, identity theft, information security, and diet and fitness. Additionally, the FTC has more than 100 publications in Spanish. Consumers can find them at www.ftc.gov/espanol.

Performance Measure 1.1.1

Collect and enter complaints and inquiries into the consumer database. (Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
0.7	1.0	1.0	1.0	1.0	1.1	1.8	3.1	1.8	3.3

Data Source: The FTC's Consumer Sentinel Network.

Target Exceeded. To aid in assessing its effectiveness in identifying fraudulent, deceptive, and unfair practices, the FTC measures the number of consumer complaints and inquiries added to its CSN each fiscal year. In FY 2009, the FTC added more than 3.3 million entries into its database, 183 percent of the target of 1.8 million.

Since FY 2008, the total has included consumer complaints alleging DNC violations. Due to the extent by which the FTC exceeded this target in FYs 2008 and 2009, the agency has re-evaluated the target in the latest update of the FTC Strategic Plan, significantly increasing the target for FY 2010 and further increasing it for each of the following four years.

Key Measure: Performance Measure 1.1.2

The percentage of the agency's consumer protection law enforcement actions that are responsive to consumer complaint information gathered by the agency.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	50%	76%	65%	71%	65%	79%

Data Source: Case managers report on e-questionnaires whether CSN complaints were used to identify the practices that resulted in a law enforcement action.

Target Exceeded. In FY 2009, 79 percent, or 70 out of 89, of the agency's actions were responsive to consumer complaint information. Because other sources of information such as letters from consumers or businesses, Congressional inquiries, and articles on consumer or economic subjects also may trigger FTC action, the agency has determined that 65 percent is the optimal target for this measure.

Objective 1.2 Stop fraud, deception, unfairness, and other unlawful practices through law enforcement.

Once fraud, deception, and unfair business practices are identified in the marketplace, the FTC focuses its law enforcement efforts on areas where it can have the greatest impact for consumers.

Our Strategy

Through its law enforcement efforts, the FTC stops fraudulent, deceptive, and unfair practices by obtaining court-ordered injunctions against defendants. The agency enforces Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce, as well as an increasing number of statutes and rules proscribing specific unlawful practices. Enforcement efforts in FY 2009 included cases covering a range of topics, with priority given to addressing prohibited practices in the financial services marketplace, privacy and data security concerns, DNC violations, technology abuses, deceptive marketing of health products, deceptive "green" marketing claims, and issues related to marketing to children.

With advances in technology, spammers, spyware operators, fraudulent telemarketers, and other scam artists can strike quickly on a global scale. An increasing number of complaints the FTC receives involve international transactions, and an increasing number of law enforcement investigations the FTC undertakes involve some international component. As a result, the FTC has implemented a comprehensive program to combat cross-border consumer protection law violations. The FTC continues to develop new bilateral and multilateral enforcement partnerships and to strengthen existing ones. Given its broad jurisdiction and limited resources, the agency focuses on the most serious identified problems, using varied enforcement tools.

Performance Results

This objective has one performance measure. This key performance measure (Performance Measure 1.2.1) is to save consumers more than $400 million annually through law enforcement. The measure of the dollars saved is an important one. The FTC's experience in most cases is that once it files a complaint and obtains

National Do Not Call Registry

The FTC manages the National Do Not Call (DNC) Registry, which gives consumers the opportunity to limit telemarketing calls. As of September 30, 2009, there were more than 191 million active registrations on the DNC Registry. The federal government created the national registry to make it easier and more efficient for consumers to stop getting unwanted telemarketing calls. The Do-Not-Call Improvement Act of 2007, which became law in February 2008, ensures that telephone numbers placed on the DNC Registry will remain on it permanently. Consumers can register online at www.donotcall.gov or call toll-free 888-382-1222 (TTY 866-290-4236) from the number they wish to register. Registration is free. To learn more, visit www.donotcall.gov.

a court or administrative order, the defendants stop their practices. If they fail to comply with an order, they are subject to contempt or civil penalty proceedings. By stopping these practices, the agency directly prevents further consumer losses caused by these defendants. Also, by publicizing these law enforcement actions and distributing consumer education materials, the FTC alerts consumers to fraudulent and deceptive practices, educates them to avoid such practices in the future, and, ultimately, seeks to increase consumer confidence in the marketplace, while deterring similar behavior by would-be violators. The agency estimates consumer savings by totaling the estimated annual sales of defendants in the 12 months prior to the FTC's contacting the defendants or filing a complaint.

Key Measure: Performance Measure 1.2.1

Save consumers money each year through law enforcement. (Dollars shown in millions.) Due to the potential of great variance of savings on an annual basis, this measure has a five-year target of $2 billion. For FY 2009, the measure was changed to include only fraudulent sales from defendants, and not other economic injury.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
$400	$366	$400	$293	$400	$519	$400	$474	$400	$505

Data Source: To make dollar value assessments, staff uses company sales and other records, as well as information from employees and customers, where applicable.

Target Exceeded. In FY 2009, the FTC saved consumers nearly $505 million, 126 percent of its annual target. Based on the results in FYs 2007 to 2009, the agency would be on track to meet its five-year target of $2 billion by FY 2011. Because of the great variance of savings on an annual basis, and the exclusion of non-monetary economic harm caused by defendants' actions, this measure was replaced with new measures in the latest update of the FTC Strategic Plan.

Objective 1.3 Prevent consumer injury through education.

An educated consumer and business community is a first line of defense against fraud and deception.

Our Strategy

The FTC is committed to using education and outreach as cost-effective methods to prevent consumer injury, increase business compliance, and leverage its law enforcement program. Virtually every consumer protection effort, from compliance efforts including Internet surfs (monitoring the Internet for potentially false or deceptive advertising for a targeted product or service) and law enforcement sweeps to the announcement of new rules and regulations, contains an educational component. Through print publications, websites, electronic media, videos, interactive quizzes, tutorials, special events, and partnerships, the agency reaches out to tens of millions of consumers and businesses every year on issues that directly affect their daily activities.

The CSN helps the FTC tailor its education efforts to topical areas where fraud, deception, unfair practices, and information gaps are causing the greatest injury. Through the FTC's education efforts, consumers are given the tools they need to spot potentially fraudulent and other illegal promotions, and businesses are advised of how they can comply with the law. As with the agency's law enforcement activities, many of its educational efforts now involve the Internet. The Internet plays an integral role in the FTC's education, deterrence, and enforcement efforts by permitting the agency to reach vast numbers of consumers and businesses quickly, efficiently, and inexpensively. Through the Internet, our education efforts have not only a national impact, but also a global effect.

The FTC coordinates with hundreds of private and public partners to provide information about specific education campaigns, products, and services.

The FTC's Hispanic Outreach program forms partnerships by providing national and community groups with Spanish-language consumer and business education materials, and conducting countless media interviews with Spanish-language media. The agency also distributes a quarterly, bilingual newsletter to more than 1,500 local and national Hispanic organizations, maintains a Spanish-language version of the FTC's website at www.ftc.gov/espanol, and translates signature FTC "microwebsites" like OnGuardOnline; Deter, Detect, Defend: Avoid Identity Theft; and Money Matters. In addition to the Hispanic Outreach program, a growing component of the agency's consumer and business education efforts involve strategic partnerships to reach African Americans.

Going forward, the FTC will continue to focus consumer and business education efforts on emerging consumer protection issues as well as those subjects identified by its consumer complaint databases where information gaps cause the greatest injury. The FTC will continue to use technology creatively, including new interactive media, to extend the reach of its consumer and business education.

"Who Cares?"

With so many sources of health information at consumers' fingertips—many of them online—it can be tough to tell fact from fiction, or useful health products and services from those that don't work or aren't safe.

The FTC has created a website to help consumers find reliable sources of information on important health topics, whether you are an older consumer or a family member, caregiver, or friend. Consumers can:

- Find links to agencies and organizations that care about topics like generic drugs, hormone therapy, caregiving, surgery to improve vision, alternative medicine, hearing aids, Medicare fraud, and medical identity theft;
- Learn how to spot misleading and deceptive claims; and
- Find out who to contact to ask questions, enlist help, or speak up if you think a health product or service isn't living up to its promises.

To learn more, visit www.ftc.gov/whocares.

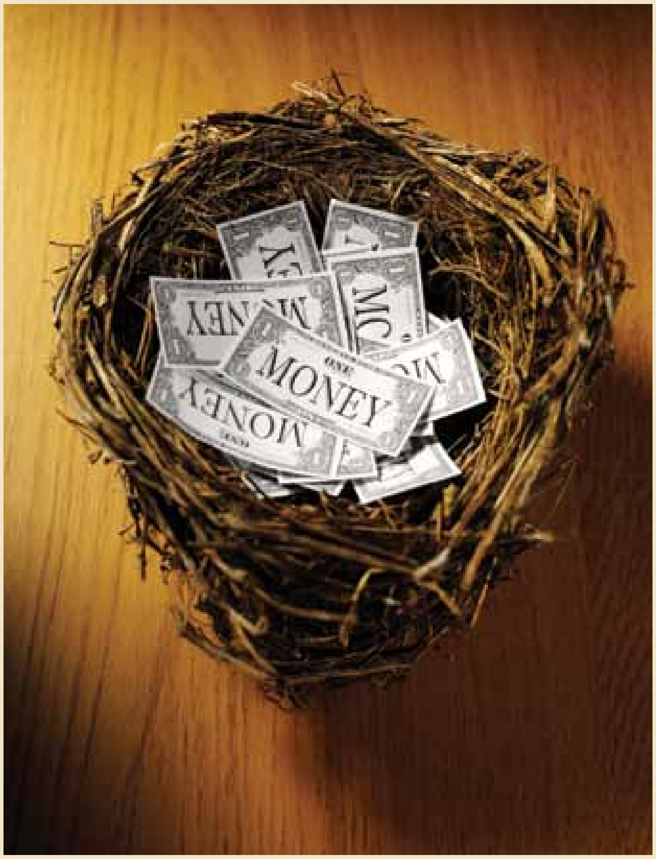
Performance Results

The FTC's key performance measure under this objective gauges the agency's impact by tracking the number of times print media publish articles that refer to FTC consumer protection activities and the circulation of media that publish those articles (Performance Measure 1.3.4). This measure takes a step beyond counting the number of hits on the FTC's consumer protection web pages.

The remaining three measures (Performance Measures 1.3.1, 1.3.2, and 1.3.3) help the FTC gauge the impact of its education efforts by tracking the number of consumer and business education publications it distributes in response to requests from the public. These performance measures help ensure that the agency is engaging in a sufficient amount of educational activity and that the educational materials are aimed at particularly vulnerable populations.

The FTC seeks to alert as many consumers as possible to the telltale signs of fraud, deception, unfair business practices, and other critical consumer protection issues through dissemination of its education messages.

Money Matters: www.ftc.gov/moneymatters



The Federal Trade Commission has created a website to help consumers tackle some money issues head-on: www.ftc.gov/moneymatters.

It's become an all-too-familiar headline—lay-offs and furloughs, falling housing prices and rising consumer debt, declining retail sales and increasing costs of living. Money—and the lack of it—is a source of stress and frustration. And while people the world over are working to stem the global financial situation we're in, folks at home are trying to gain some control over their own financial situations, too.

Practicing positive, tried and true money management techniques—and learning how to recognize and avoid some "ripped from the headlines" consumer scams and rip-offs—can help you weather tough economic times.

Ideally, the agency would like to measure the extent to which its educational materials improve consumer understanding and help consumers get better value for their money. This effect would be extremely difficult to measure, but traaking the distribution of publications provides a rough idea of how many consumers the FTC is reaching. The measure of the number of publications distributed by the FTC indicates its impact in educating consumers, although it does not fully capture the millions of FTC publications that are distributed to consumers through the FTC's partners.

Performance Measure 1.3.1

Track consumer protection messages accessed online or in print. (Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
20.0	35.3	25.0	53.0	45.0	47.0	50.0	49.2	55.0	43.1

Data Source: The FTC tracks its publication inventory to determine the number of print messages accessed, and uses a computer software program to compile the number of FTC website accesses.

Target Not Met. In FY 2009, the FTC accomplished 78 percent of its target of 55 million publications. Of the more than 43 million consumer protection messages accessed, nearly 30.3 million were accessed online and nearly 12.8 million were print publications distributed by the FTC.

Performance Measure 1.3.2

Track consumer protection messages related to identity theft, accessed online or in print. (Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
3.0	3.7	3.3	9.4	8.0	9.6	9.0	11.4	10.0	10.1

Data Source: As a subset of the totals tracked in Performance Measure 1.3.1, the FTC tracks the number of consumer protection messages related to the high-profile and emerging issues of data security and identity theft. The FTC tracks its publication inventory to determine the number of print messages accessed, and uses a computer software program to compile the number of FTC website accesses.

Target Exceeded. In FY 2009, the FTC accomplished 101 percent of its target of 10 million. The 10.1 million result includes more than 6.5 million messages accessed online, and more than 3.6 million print publications distributed, including more than 61,000 comprehensive toolkits to help organizations combat identity theft by raising awareness and educating people by hosting a Protect Your Identity Day. Because this is a subset of measure 1.3.1, this performance measure was removed in the latest update of the FTC Strategic Plan.

Performance Measure 1.3.3

Track consumer protection messages in Spanish, accessed online or in print.

(Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
0.5	1.1	0.6	2.4	2.2	2.2	3.0	2.0	3.0	1.8

Data Source: As a subset of the totals tracked in Performance Measure 1.3.1, the FTC tracks the number of consumer protection messages, in Spanish, accessed online or in print. The FTC tracks its publication inventory to determine the number of print messages accessed, and uses a computer software program to compile the number of FTC website accesses.

Target Not Met. In FY 2009, the FTC accomplished 60 percent of its target of three million. The 1.8 million result includes more than 1 million messages accessed online, and more than 800,000 print publications distributed. While the number of print publications distributed remained relatively static over the last decade, as more consumers and businesses went online, the number of publications accessed through the Internet soared before leveling off within the past few years. The agency's partners are increasingly opting to post the FTC's information on their own websites, and the agency has also increasingly taken advantage of the outreach potential of the "blogosphere." The FTC is unable to measure the number of its consumer protection messages accessed on partner websites or blogs. Although the FY 2009 target, based on past growth, was not met, the agency's media outreach continues to be active, its list of partnerships is growing, and community outreach efforts through its newsletter and conference participation continue to be strong. Because this is a subset of measure 1.3.1, this performance measure was removed in the latest update of the FTC Strategic Plan.

Key Measure: Performance Measure 1.3.4

Track (A) the number of times print media publish articles that refer to the FTC consumer protection activities and (B) the circulation of media that publish those articles.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A) 3,066 (B) 863 million	(A) 2,500 (B) 675 million	(A) 3,100 (B) 791 million	(A) 2,750 (B) 750 million	(A) 2,484 (B) 702 million

Data Source: To determine the number of articles, the agency performs a LexisNexis search of the "U.S. Newspapers and Magazines" database. This includes national newspapers, local newspapers, hundreds of magazines, and industry sources. Data on average circulation are drawn from The Standard Periodical Directory (28th edition, 2005), or directly from the publishers of the periodicals.

Target Not Met. In FY 2009, the FTC accomplished 90 percent of its target of 2,750 articles, and 94 percent of its target of a circulation of 750 million. As more people turn to television and the Internet for news, print media circulation has continued to decline, and this performance measure was removed in the latest update of the FTC Strategic Plan.

Objective 1.4 Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.

Research, reports, advocacy, and international cooperation and exchange complement law enforcement and education to enhance the welfare of consumers.

Our Strategy

This fourth objective and its related performance measures capture the FTC's increasing use of a variety of strategies in addition to law enforcement and education to enhance consumer welfare. Notably, the agency convenes conferences and workshops through which experts and other experienced and knowledgeable parties identify novel or challenging consumer protection issues and discuss ways to address those issues. The FTC also issues reports that the Congress has mandated or that the agency has prepared on its own initiative that analyze consumer protection problems and suggest public and private sector policies to address them. Further, the FTC files comments with federal and state government bodies advocating policies that promote the interests of consumers and highlight the role of consumer and empirical research in their decision making. The agency also testifies before the Congress on consumer protection issues.

The FTC also engages in a variety of international cooperation, exchange, and advocacy activities designed to promote market-based consumer protection policies and effective cross-border coordination. Finally, the FTC files *amicus briefs* (friend of the court briefs) to aid courts' considerations of important consumer protection issues.

In the latest update of the FTC Strategic Plan, the FTC added a new performance measure under this objective to help determine the outcome of its advocacy efforts. These activities will continue to enhance consumer welfare by guiding the FTC's consumer protection policy decisions, as well as the decisions of other state, federal, and international policymakers.

Cross-Border Fraud and the U.S. SAFE WEB Act of 2006

The U.S. SAFE WEB Act has greatly enhanced the FTC's ability to tackle cross-border fraud, including scams that take advantage of the economic downturn to bilk vulnerable consumers. For example, in FTC v. MCS Programs, LLC, filed as part of Operation Short Change, the FTC used its SAFE WEB authority to share information with Canadian authorities. The FTC alleged that the defendants used telemarketing robocalls and the Internet to convince U.S. and Canadian consumers to pay them $690 to $899 for a phony "rapid debt reduction" program that would enable them to pay off their debt three to five times faster than they could under their current payment schedule. The FTC obtained an injunction halting the defendants' scheme and continues to litigate this matter. To learn more, visit www.ftc.gov/oia/consumer.shtm.

Performance Results

The key performance measure under this objective gauges the FTC's efforts to enhance consumer welfare by tracking the number of workshops on novel or challenging consumer protection problems or issues the FTC convenes or substantially participates in (Performance Measure 1.4.1). Various industries have given great weight to the FTC's policy efforts that have resulted in part from what has been learned through its workshops.

The FTC also gauges the impact of its efforts to enhance consumer welfare by tracking the number of reports it issues on novel or challenging consumer protection issues (Performance Measure 1.4.2) and tracking the number of public and advocacy comments it files with other federal and state government agencies (Performance Measure 1.4.3). The agency tracks its international consumer protection efforts to cooperate with foreign government agencies on enforcement matters with cross-border components (Performance Measure 1.4.4), and to provide consumer protection related policy or technical input related to foreign government agencies or international organizations (Performance Measure 1.4.5).

Key Measure: Performance Measure 1.4.1

Convene or participate substantially in workshops and conferences on novel or challenging consumer protection problems or issues. The five-year target is 30 workshops.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	6	10	6	16	6	9

Data Source: The agency counts the number of workshops and conferences by examining various sources, such as agency reports, FTC press releases, weekly Bureau planners, and responses to direct inquiries to divisions and regional offices.

Target Exceeded. In FY 2009, the FTC exceeded its target and convened or participated substantially in nine workshops and conferences on novel or challenging consumer protection problems or issues. The overage is attributable to the many challenging consumer protection issues the FTC deemed it important to address in FY 2009. For example, the agency hosted the first two in a series of FTC roundtable discussions examining consumer protection issues in debt collection proceedings against consumers. The agency also hosted two workshops on how businesses can better secure personal information and protect the privacy of consumers and employees.

Performance Measure 1.4.2

Issue reports on novel or challenging consumer protection problems or issues. The five-year target is 40 reports.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	NA	NA	N/A	8	8	8	12	8	14

Data Source: Various sources, such as FTC press releases, weekly Bureau reports, and responses to direct inquiries of divisions and regional offices.

Target Exceeded. In FY 2009, the FTC accomplished 175 percent of its target of eight reports. This target was significantly exceeded because in addition to the reports issued by the agency annually, this fiscal year, there were many consumer protection problems or issues in which the agency determined it important to issue reports. For example, the FTC has taken a leading role in addressing the privacy, security, and other risks of consumer harm associated with new technologies, and issued reports on online behavioral advertising and mobile marketing in FY 2009.

Performance Measure 1.4.3

File public and advocacy comments with other federal and state government agencies. The five-year target is 30 advocacy filings.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	6	7	6	6	6	2

Data Source: Various sources, such as agency reports, FTC press releases, weekly Bureau planners, and responses to direct inquiries to divisions and regional offices.

Target Not Met. In FY 2009, the FTC accomplished 33 percent of its target of six public and advocacy comments. The performance shortfall is explained in part because in order to respond more effectively to frauds stemming from the economic crisis, the agency diverted more resources to enforcement, which led to fewer advocacies than the FTC usually achieves. This shift of resources was necessitated by the need, for example, to bring 18 enforcement actions against entities engaged in mortgage foreclosure and loan modification fraud.

Performance Measure 1.4.4

Cooperate with foreign government agencies on enforcement matters with cross-border components. The five-year target is 100 government agencies, or 20 per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	20	23	20	46	20	39

Data Source: Internal weekly reports to the Chairman, litigation assistance reports, trip and visitor logs, and other informal sources.

Target Exceeded. In FY 2009, the FTC accomplished 195 percent of its target of 20 matters. The overage, in large part, is attributable to the FTC's information sharing and investigative assistance powers under the U.S. SAFE WEB Act of 2006 and to the increased capacity, in the past five years, of the FTC's international partners to engage in cross-border enforcement activities. The performance measure and target have been re-evaluated for the latest update in the FTC Strategic Plan.

Performance Measure 1.4.5

Provide consumer protection related policy or technical input to foreign government agencies or international organizations. The five-year target is 100 instances, or 20 per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	20	34	20	88	20	81

Data Source: Internal weekly reports to the Chairman, litigation assistance case logs, trip and visitor logs, and other informal sources.

Target Exceeded. In FY 2009, the FTC accomplished 405 percent of its target of 20 instances. The overage is attributable, in large part, to the FTC's ability to fund its own technical assistance programs in the consumer protection area as a result additional funding provided by Congress and to the FTC's increased activity on international policy and data security policy issues in the past five years The performance measure and targets have been re-evaluated in the latest update of the FTC Strategic Plan.

Resources Utilized—Strategic Goal 1

(Dollars shown in millions)

	2005	2006	2007	2008	2009
Full-Time Equivalents	546	548	570	591	597
Obligations	$115	$116	$126	$140	$152
Net Cost	$94	$98	$105	$124	$131

Note: Differences between these obligations and net costs and the financial statements are due to rounding.

Strategic Goal 2: Maintain Competition

Prevent Anticompetitive Mergers and Other Anticompetitive Business Practices in the Marketplace

I. Strategic View

A key function of the FTC is to protect and strengthen the free and open markets that are the cornerstone of a vibrant economy. Aggressive competition among sellers in an open marketplace gives consumers the benefit of lower prices, higher quality products and services, maximum choice, and innovation leading to beneficial new products and services. The FTC seeks to promote vigorous competition by using the antitrust laws to prevent anticompetitive mergers and to stop business practices that diminish competition, such as agreements among competitors about prices or other aspects of competition (referred to as nonmerger enforcement). The agency applies four related objectives to achieve this broad-reaching goal.

Objective 2.1 Identify anticompetitive mergers and practices that cause the greatest consumer injury.

The FTC identifies mergers and business practices that have resulted in or are likely to result in anticompetitive effects. Agency staff conducts thorough factual investigations and apply economic analysis to distinguish between actions that threaten the operation of free markets and those actions that are benign or procompetitive.

Objective 2.2 Stop anticompetitive mergers and business practices through law enforcement.

When the FTC identifies a harmful or potentially harmful merger or business practice, it takes enforcement action under the antitrust laws to stop it, either through an administrative challenge or in federal court. In many instances, the agency is able to reach an agreement with the parties that remedies its competitive concerns and avoids litigation.

Objective 2.3 Prevent consumer injury through education.

The FTC seeks to prevent anticompetitive activity by educating businesses and consumers about the antitrust laws and FTC efforts to ensure competitive markets.

Objective 2.4 Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.

The FTC seeks to advance its mission to maintain competition and enhance consumer welfare by gathering, analyzing, and making public certain information concerning the nature of competition as it affects U.S. commerce.

Competition Counts

Competition in America is about price, selection and service. It benefits consumers by keeping prices low and the quality and choice of goods and services high. The FTC promotes healthy competition and challenges anticompetitive business practices to make sure that consumers have access to quality goods and services, and that businesses can compete on the merits of their work. The FTC has developed a variety of resources to explain its competition work. Competition Counts explains how consumers win when businesses compete and provides an overview of the types of matters investigated by the bureau. To learn more, visit http://www.ftc.gov/bc/edu/pubs/consumer/general/zgen01.pdf.

II. Strategic Analysis

Objective 2.1 Identify anticompetitive mergers and practices that cause the greatest consumer injury.

Identifying anticompetitive mergers and anticompetitive business conduct is the first step in effective antitrust enforcement.

Our Strategy

The FTC seeks to identify anticompetitive mergers and practices with as much accuracy as possible. While certain business conduct (such as price fixing among competitors) is clearly anticompetitive, mergers and many other forms of business conduct can benefit, harm, or have no effect on consumers. Consequently, both under- and over-enforcement can harm consumers' interests. The agency seeks to take enforcement action against transactions or conduct that harms, or is likely to harm, consumers. At the same time, the agency seeks to avoid taking actions that prevent businesses from completing transactions or engaging in practices that fundamentally benefit consumers or have no competitive effect. The FTC also tries to identify enforcement targets as efficiently as possible so that it can devote the bulk of its resources to further investigation of, and possible challenge to, the most problematic mergers and practices. A related, but important, consideration is to conduct each inquiry in a way that minimizes the cost or inconvenience to businesses, while still enabling the agency to gather sufficient information to support each enforcement decision.

Merger Activities. The premerger notification requirements of the Hart-Scott-Rodino (HSR) Act provide the FTC with an effective starting point for identifying potentially anticompetitive mergers, acquisitions, and joint ventures (collectively referred to as mergers) before they are consummated. The HSR Act requires companies to report certain proposed mergers to the FTC and the Department of Justice (DOJ), which jointly enforce the HSR Act, and wait for a specified period (usually 30 days) to allow for antitrust review.

FTC staff examine each transaction to determine whether it poses a threat to competition. In most cases, a reasonable judgment can be made about whether the merger has the potential to be anticompetitive based on the materials filed with the HSR Act notification. In other cases, a formal request for additional information may be issued by the FTC. This is referred to as a "second request." Because the parties may consummate a transaction after substantially complying with the second request and waiting for a short time period (usually 30 days), a second request investigation

The Hart-Scott-Rodino (HSR) Act

The Hart-Scott-Rodino Act established the federal premerger notification program, which provides the FTC and the Department of Justice (DOJ) with information about large mergers and acquisitions before they occur. The parties to certain proposed transactions must submit premerger notification to the FTC and DOJ. Premerger notification involves completing an HSR Form, also called a "Notification and Report Form for Certain Mergers and Acquisitions," with information about each company's business. The parties may not close their deal until the waiting period outlined in the HSR Act has passed, or the government has granted early termination of the waiting period. To learn more, visit www.ftc.gov/bc/hsr.

typically requires a significant investment of resources by the FTC. The agency must act quickly to gather and review information to make a decision on whether or not to pursue enforcement action to block a merger within the timeframe set out by the HSR Act and Rules.

In FY 2009, the FTC continued to face a demanding merger review workload. Indeed, an analysis of enforcement data shows that the number of second requests issued as a percentage of reported transactions has increased from 1.3 percent in FY 2008 to 2.2 percent in FY 2009. Additionally in FY 2009, the agency filed a number of merger complaints in federal court. Overall, notwithstanding a decline in merger activity in FY 2009 due to current economic conditions, the number of enforcement actions decreased by only 9.5 percent this year. Looking forward, the FTC will continue to devote considerable resources to the merger review process. The agency expects the number of reported merger transactions to increase as the economy recovers from recession.

While the major HSR Act amendments in 2001 reduced the number of mergers subject to the advance reporting requirement, they did not change the standard of legality for mergers. Whereas the vast majority of potentially problematic mergers continue to be subject to the revised HSR filing requirements, smaller merger transactions may still be anticompetitive. Consequently, the FTC continues to devote attention to the identification of unreported, usually consummated, mergers that could harm consumers. In FY 2009 the agency successfully challenged three such transactions. This effort involves monitoring trade press, industry sources, and the Internet to stay informed of industry developments; following up on case leads from congressional offices, other Executive Branch agencies, and state and local governments; and encouraging consumers, businesses, and the bar to notify the FTC of possible anticompetitive mergers.

Nonmerger Activities. In the nonmerger area, agency staff review complaints received from consumers, businesses, congressional offices, and elsewhere to identify potentially anticompetitive nonmerger business practices. In addition, the FTC has pursued a "positive agenda" of planned initiatives; that is, the agency has taken a systematic and proactive approach to identifying specific conduct likely to pose the greatest threat to consumer welfare. The focus continues to be on the types of practices, such as agreements among competitors, which are most likely to harm consumers.

In deploying its scarce enforcement resources, the agency focuses on sectors of the economy, such as health care, energy, real estate, or high technology, that have a significant impact on consumers' daily lives. Also, the agency considers the deterrent effects of antitrust enforcement on businesses and whether the FTC has enforcement experience in an area that will enable the agency to make an impact quickly and efficiently. Finally, consideration is given to whether the matter presents an opportunity to contribute positively to the development of antitrust law.

Performance Results

There are two key performance measures under this objective: obtaining a positive outcome in at least 90 percent of HSR requests for additional information (Performance Measure 2.1.1); and concluding at least 90 percent of significant nonmerger investigations (those with at least 150 hours of investigative effort) with a positive outcome (Performance Measure 2.1.2).

Success on these two key outcome measures indicates that the FTC is effectively screening HSR reported mergers and nonmerger investigations to identify those that raise significant antitrust issues and warrant further investigation and possible enforcement action, while at the same time permitting deals or conduct that are neutral or beneficial to consumers to proceed unimpeded. The three remaining measures (Performance Measures 2.1.3, 2.1.4, and 2.1.5) under this objective require that the FTC report detailed supplemental information on its merger and nonmerger activities. These measures are directly related to Performance Measures 2.1.1 and 2.1.2, and their purpose is to provide an informative backdrop against which the key performance measures can be contextualized.

Key Measure: Performance Measure 2.1.1

Achieve positive outcomes in matters in which HSR requests for additional information are issued (note: final outcomes of cases are reported in Performance Measure 2.2.1).

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
60–80%	52%	60–80%	59%	90%	100%	90%	100%	90%	100%

Data Source: Information on the outcome of second request investigations is obtained from FTC press releases, agency databases, and internal communications from staff attorneys. Press releases are the source of information for public actions, such as consent orders, preliminary injunctions, and the results of judicial review, while internal communications are used to identify those investigations that were closed because parties abandoned a transaction or because staff did not find that the transaction might be likely to harm competition. Internal communications are also used to identify those matters that were originally closed, but where subsequent events indicated that the transaction injured competition. These data are then cross referenced with the list of known second request investigations as recorded in the official agency database to calculate the performance measure.

Target Exceeded. The FTC obtained a positive outcome in 16 out of 16 second request investigations that were concluded in FY 2009, or 100 percent. The FTC obtained seven consent orders, authorized staff to file five preliminary injunction complaints in federal court seeking to block a merger, raised anticompetitive concerns causing the parties to withdraw one transaction, and finally, closed three investigations without subsequent events indicating that the transaction injured competition. In the cases where staff was authorized to file a preliminary injunction complaint, the Commission also issued an administrative complaint; however, for measurement purposes this investigation is counted only once. For mergers, a positive outcome includes:

- Commission authorization of a complaint for preliminary injunction in federal court
- Issuance of an administrative complaint
- Acceptance of a consent agreement
- The parties' voluntary abandonment or restructuring of a proposed transaction based on FTC antitrust concerns
- Closing of an investigation in which possible antitrust issues were raised where no subsequent events indicated that the transaction injured competition
- Negative outcomes would include closing investigations that are later determined to raise significant antitrust issues. This measure has been removed in the latest Strategic Plan.

Key Measure: Performance Measure 2.1.2

Percentage of significant nonmerger investigations that result in a positive outcome.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
60–80%	50%	60–80%	40%	90%	100%	90%	100%	90%	100%

Data Source: Information on the outcome of significant nonmerger investigations is obtained from press releases, various agency and Bureau databases, and internal communications. Press releases are the source of information for public actions, such as consent orders, permanent injunctions, and the results of judicial review, while internal communications are used to identify those matters that were originally closed, but where subsequent events indicated that the business practice injured competition. These data are then cross referenced with information on the number of hours logged to each investigation to identify those investigations that meet the significance threshold of more than 150 hours.

Target Exceeded. The FTC achieved a positive outcome in 34 out of 34 significant nonmerger investigations, or 100 percent. Specifically, the FTC obtained six consent orders, filed one permanent injunction complaint in federal court, and closed 27 significant nonmerger investigations without subsequent events indicating that the business practice injured competition.
For nonmergers, a positive outcome includes:

- Commission authorization to file a complaint in federal court
- Issuance of an administrative complaint
- Acceptance of a consent agreement
- Resolution of antitrust concerns without enforcement action
- Closing of an investigation in which possible antitrust issues were raised where no subsequent events indicated that the business practice injured competition
- As with Performance Measure 2.1.1, a negative outcome would include closing an investigation of conduct that is later determined to raise significant antitrust issues. This measure has been removed in the latest Strategic Plan.

Performance Measure 2.1.3

Track the number of enforcement actions for the total mission, for the (A) merger and (B) nonmerger actions.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A) 22 (B) 11	Establish Baseline	(A) 21 (B) 4	Establish Baseline	(A) 19 (B) 7

Data Source: Information on merger and nonmerger enforcement actions is taken from the FTC's press releases and internal communications from staff attorneys. Press releases are the source of information for public actions, such as consent orders and preliminary and permanent injunctions, while internal communications are used to identify those merger enforcement matters where the parties voluntarily abandoned or restructured a proposed transaction based on FTC antitrust concerns.

As mentioned above, this measure is intended to provide the supporting information needed to place the two key Performance Measures 2.1.1 and 2.1.2 in the appropriate context and is not intended to be evaluated as a stand-alone measure. Thus, where the result under Performance Measure 2.1.1 states that the agency obtained a positive outcome in 100 percent of second request investigations, this measure tells how many (output) of those positive outcomes are enforcement actions. Enforcement actions include Commission authorization of a complaint for preliminary injunction or permanent relief in federal court, issuance of an administrative complaint, acceptance of a consent agreement, and, for mergers, the parties' voluntary abandonment or restructuring of a proposed transaction based on FTC antitrust concerns. In FY 2009, the FTC took 19 merger enforcement actions and seven nonmerger enforcement actions. In addition to the seven merger consent agreements accepted for comment and the one withdrawn transaction that are cited under Performance Measure 2.1.1 (which tracks the positive outcomes of second request HSR investigations), in other non-HSR merger investigations or HSR investigations where no second request was issued, the FTC obtained two consent agreements and two additional transactions were abandoned by the parties based on FTC concerns.

Performance Measure 2.1.4

Report the number of (A) second requests, (B) reportable transactions for which premerger notifications were received, (C) HSR investigations that resulted in enforcement action, (D) transactions in which antitrust issues were resolved through voluntary abandonment or restructuring because of FTC concerns, and (E) investigations closed because the evidence indicated that a competitive problem was unlikely.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A) 31 (B) 2,108 (C) 20 (D) 5 (E) 11	Establish Baseline	(A) 21 (B) 1,656 (C) 12 (D) 2 (E) 7	Establish Baseline	(A) 15 (B) 684 (C) 13 (D) 1 (E) 3

Data Source: Information on the number of second requests and the number of reportable transactions is obtained from the FTC's Premerger Office and cross-referenced with data from the agency matter management database, while information on the number of enforcement actions and on the investigations closed without enforcement action is obtained from press releases and internal communications.

This measure reports detailed supplemental information on the FTC's merger activities and is intended to provide the context against which to assess the results obtained under key Performance Measure 2.1.1. This measure tells us how many transactions were reported that could have been subject to a second request, how many second requests were actually issued, and the outcome of these investigations.

Performance Measure 2.1.5

Track the number of significant nonmerger investigations closed each year, (A) with enforcement action and (B) without enforcement action.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A) 11 (B) 17	Establish Baseline	(A) 4 (B) 14	Establish Baseline	(A) 7 (B) 27

Data Source: Information on significant nonmerger investigations is obtained from press releases, various agency and Bureau databases, and internal communications. Press releases are the source of information for public actions, such as consent orders and permanent injunctions, while the internal matter management database is used to identify those nonmerger matters that were closed without an enforcement action. These data are then cross referenced with information on the number of hours logged to each investigation to identify the ones that meet the significance threshold with more than 150 hours.

As in the case of the two previous measures, this measure reports detailed supplemental information on the FTC's nonmerger activities (Key Performance Measure 2.1.2), and is intended to facilitate evaluation of the results of that measure.

Objective 2.2 Stop anticompetitive mergers and business practices through law enforcement.

Law enforcement represents the most direct method by which the FTC pursues its goal of stopping mergers and business practices that significantly threaten competition and harm consumers.

Our Strategy

In both merger and nonmerger enforcement, the FTC focuses primarily on transactions or practices most likely to harm consumers, that is, mergers of firms competing in the same market or markets, and agreements among direct competitors. Other activities, such as unilateral action by a single firm, or a merger or agreement involving a supplier and customers or between a firm and a potential competitor, may threaten competition and therefore are also subject to FTC scrutiny. Given the agency's limited resources and because the FTC and DOJ jointly enforce the antitrust laws, the FTC directs much of its attention and resources to certain segments of the economy that are particularly important to consumers and in which it has particular expertise. These include health care, pharmaceuticals, energy, real estate, and technology.

To stop potentially anticompetitive mergers and practices through law enforcement, the FTC seeks legal remedies under the antitrust laws through federal court action, administrative proceedings, or negotiated settlements. For mergers, the most effective and cost-efficient strategy has been to prevent anticompetitive mergers before they occur. The agency has implemented this strategy primarily through its authority to seek federal court injunctions preventing these transactions. In many cases, the merging parties elect not to defend a court challenge and instead agree to resolve competitive concerns through a consent agreement. This approach is suitable when the competitive problem relates to only a portion of the transaction, such that a divestiture of assets will be sufficient to preserve or restore competition while allowing other competitively neutral or beneficial aspects of the merger to go forward. In other instances, the parties may abandon a transaction after assessing the likely outcome of an FTC court challenge. When a merger already has been consummated, the FTC generally relies on administrative litigation to restore competition lost as a result of the merger.

In nonmerger matters, the FTC seeks to stop ongoing activity that harms competition. The Commission may initiate administrative proceedings before an Administrative Law Judge to adjudicate the issues and establish a basis for an order that the parties "cease and desist" from anticompetitive conduct. The FTC also has the authority to seek relief in federal courts, although it historically has used this option sparingly in nonmerger matters. Again, the agency is often able to negotiate a consent agreement with the parties that remedies the problem without need for litigation.

In both merger and nonmerger matters, thorough investigation and sophisticated legal and economic analysis are of critical importance to ensure accurate assessment of the potential for competitive harm resulting from the transaction or conduct in question and, if necessary, demonstrate the likelihood of harm before an adjudicative body. When the FTC concludes that the likelihood of such harm indicates a law violation, and no settlement is possible, the Commission authorizes its staff to litigate the matter. The frequency with which the agency prevails in litigation or secures a consent order to restore competition is an important indicator of its success in producing tangible benefits for consumers. This is not to say that the FTC, or any law enforcement agency, should win every case.

The Commission issues complaints when, based on the findings of staff investigations, it has "reason to believe" a merger or conduct is anticompetitive. Some cases involve very close issues, on which reasonable minds can and do differ. Other cases may be very difficult from a litigation standpoint, but are still worth pursuing. All of the FTC's antitrust challenges are defended by highly competent and well-financed counsel. In addition, the FTC's responsibilities include taking action to help shape the development of the antitrust laws. To fulfill this duty, the agency inevitably must bring cases that pose litigation risks, especially where there is no clear precedent and the FTC is seeking to establish a new legal principle. The FTC also helps consumers by bringing cases to clarify, or improve upon, existing precedent. The target for the key Performance Measure 2.2.1 reflects the reality that, even when the agency brings a meritorious case and litigates it well, success is not ensured. In addition, setting the standard too high could be detrimental if the effect were to deter the agency from bringing important, but risky, cases.

What is Antitrust?

The word "antitrust" dates from the late 1800s, when powerful companies dominated industries, working together as "trusts" to stifle competition. Thus, laws aimed at protecting competition have long been labeled "antitrust laws." Fast forward to the 21st century: You hear "antitrust" in news stories about competitors merging or companies conspiring to reduce competition. The FTC enforces antitrust laws by challenging business practices that could hurt consumers by resulting in higher prices, lower quality, or fewer goods or services.

Performance Results

The key performance measure (Performance Measure 2.2.1) under this objective tracks how many times the FTC obtained a positive result in matters where the agency had reason to believe that a merger or a course of conduct was anticompetitive. Additionally, for both merger and nonmerger enforcement, the FTC measures the volume of commerce and estimates consumer savings in markets in which it takes successful enforcement action as an indicator of the scope of the FTC's antitrust enforcement activities. External factors, such as level of merger activity, may cause the results to fluctuate significantly from year to year. Consequently, the two volume-of-commerce targets (Performance Measures 2.2.2 and 2.2.3) and the two consumer savings targets (Performance Measures 2.2.5 and 2.2.6) are each expressed in terms of an aggregate target for the five-year Strategic Plan period, using annual targets as gauges of progress toward the five-year target. This is also a result of the fact that duration of nonmerger investigations is often measured in years.

In addition to measuring consumer savings in absolute terms, the agency uses efficiency measures that state the FTC will try to save consumers more than the amount of agency resources allocated to the merger and nonmerger programs (Performance Measures 2.2.6 and 2.2.7).

Key Measure: Performance Measure 2.2.1

Positive result of cases brought by the FTC due to alleged violations.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
80%	95%	60–80%	100%	80%	100%	80%	96%	80%	96%

Data Source: Information on the result of cases brought by the FTC due to alleged violations is obtained from FTC press releases, agency databases, and internal communications from staff attorneys. Press releases are the source of information for public actions, such as consent orders and preliminary and permanent injunctions and the results of judicial review, while internal communications are used to identify those investigations that were closed because parties abandoned or restructured a transaction.

Target Exceeded. The agency exceeded its target, achieving relief through litigation, reaching a successful settlement agreement, or persuading parties not to proceed with an anticompetitive acquisition in 25 out of 26, or 96 percent, of enforcement matters brought to conclusion during the fiscal year. The FY 2009 actual results do not include cases that were not final as of September 30, 2009, or are on appeal. At the end of FY 2009, litigation was pending for six significant matters. The outcome of these matters will be reflected in the actual results reported in appropriate future fiscal years. Positive results include:

- The parties' abandonment of an anticompetitive transaction after antitrust concerns are identified
- An administrative consent agreement to resolve antitrust concerns
- A successful challenge in court

Performance Measure 2.2.2

Achieve savings for consumers through merger enforcement. The five-year target for consumer savings in markets in which the agency took successful action to stop anticompetitive mergers is $2.5 billion, or $500 million per year. (Dollars shown in millions)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	$500	$805	$500	$360	$500	$791

Data Source: Estimates of consumer savings associated with merger positive results are prepared by the lead attorney responsible for an individual investigation, and subsequently subject to review by staff economists. In the absence of case specific information (such as price and sales data), the estimate is generated using the volume of commerce in the affected markets as a basis for the calculation.

Target Exceeded. In FY 2009, the FTC surpassed the annual objective, saving consumers an estimated $791 million. Furthermore, considering the results obtained in the previous two years of the five-years covered by this measure, it appears that the agency is on track to exceed the overall, long term, target.

Performance Measure 2.2.3

Take action against mergers likely to harm competition in markets with a total of at least $125 billion in sales over a five-year period; $25 billion in sales each year. (Dollars shown in billions)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
$40.0	$61.8	$40.0	$13.4	$25.0	$42.6	$25.0	$14.9	$25.0	$22.3

Data Source: Estimates of the volume of commerce associated with merger positive results are prepared by the lead attorney responsible for an individual investigation, and subsequently subject to review by staff economists. The estimate is generated using the volume of commerce for the affected markets using public sources and confidential data submitted by the parties during the course of the investigations.

Target Not Met. The FTC's positive merger results affected markets in which the total estimated volume of commerce was more than $22 billion, 11 percent shy of the annual target. However, after the first three of the five years covered by this performance measure, the agency has taken action against anticompetitive mergers in markets with a total of around $80 billion, and is thus currently on pace to exceed its five-year target. During FY 2009, the FTC obtained positive results in 17 merger matters, resulting in nine consent agreements, three transactions that were abandoned based on the antitrust concerns raised by staff during the course of the investigation, and five transactions that were abandoned after staff was authorized by the Commission to file a preliminary injunction complaint. In the case of consent agreements, the actions taken by the FTC consist primarily of structural remedies, accompanied in some cases by conditions restricting the future conduct of the merged entity. In eight out of the nine consent agreements stipulated in FY 2009, the parties agreed to divest certain crucial assets to resolve the competitive concerns raised by the Commission.

Performance Measure 2.2.4

Achieve savings for consumers through nonmerger enforcement. The five-year target for consumer savings in markets in which the agency took successful action to stop anticompetitive conduct is $400 million, or $80 million per year. (Dollars shown in millions)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	$80	$75	$80	$28	$80	$188

Data Source: Estimates of consumer savings associated with nonmerger positive results are prepared by the lead attorney responsible for an individual investigation, and subsequently subject to review by staff economists. In the absence of case specific information (such as price and sales data), the estimate is generated using the volume of commerce in the affected markets as a basis for the calculation.

Target Exceeded. During FY 2009, the FTC exceeded the annual target of $80 billion, obtaining approximately $188 million in estimated consumer savings, and seems to be on target to reach the overall, five-year, goal. During the first three years covered by this five-year target, the agency has obtained just over $291 million out of the overall goal of $400 million, or around 73 percent of the total.

Performance Measure 2.2.5

Take action against anticompetitive conduct in markets with a total of at least $40 billion in annual sales over a five-year period; $8 billion each year. (Dollars shown in billions)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
$20.0	$19.4	$20.0	$1.4	$8.0	$2.6	$8.0	$0.4	$8.0	$14.6

Data Source: Estimates of the volume of commerce associated with nonmerger positive results are prepared by the lead attorney responsible for an individual investigation, and subsequently subject to review by staff economists. The estimate is generated using the volume of commerce for the affected markets using public sources and confidential data submitted by the parties during the course of the investigations.

Target Exceeded. In FY 2009, the FTC obtained positive results in nonmerger matters in markets where the total volume of commerce was $14.6 billion, almost twice the annual target of $8 billion. Coupled with the results obtained in FYs 2007 and 2008, which were under the yearly target, the results would seem to suggest that the agency may not be on track to reach the five-year goal. However, given the degree to which this measure has fluctuated historically, it is not possible to predict with accuracy if the overall long-term goal will be met. During FY 2009, the FTC obtained a positive result in seven nonmerger matters, resulting in an equal number of consent agreements that imposed remedies that resolved the concerns raised by the agency. At a general level, the principal effect of the actions taken by the FTC is to prevent the parties involved from persevering in their anticompetitive conduct, and to thus generate savings for consumers.

Performance Measure 2.2.6

Save consumers at least six times the amount of agency resources allocated to the merger program over a five-year period. (Efficiency Measure)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	600%	2,500%	600%	1,121%	600%	2,132%

Data Source: The ratio of consumer savings in merger enforcement actions to the amount of resources allocated to the merger program is calculated using data on consumer savings obtained under Performance Measure 2.2.2, divided into the amount of monetary resources expended on the merger program as reported by the FTC's Financial Management Office.

Target Exceeded. During FY 2009, the agency saved consumers approximately 21 times the amount of resources devoted to the merger program. This result is in large part determined by the presence of several pharmaceutical cases, which involved significantly sized relevant product markets. We will continue to monitor and reassess the target moving forward

Performance Measure 2.2.7

Save consumers at least four times the amount of agency resources allocated to the nonmerger enforcement program over a five-year period. (Efficiency Measure)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	400%	424%	400%	164%	400%	1,035%

Data Source: The ratio of consumer savings in nonmerger enforcement actions to the amount of resources allocated to the merger program is calculated using data on consumer savings obtained under Performance Measure 2.2.4, divided into the amount of monetary resources expended on the nonmerger program as reported by the FTC's Financial Management Office.

Target Exceeded. During FY 2009, the FTC took enforcement action in seven nonmerger matters, saving consumers approximately 10 times the amount of monetary resources expended on the nonmerger program. In this case the agency's result is in large part driven by the presence of a single case involving a national trade association, with more than 9,000 members, that was investigated for having enabled and encouraged the exchange of competitively sensitive price information among its members. Data from the first three years of the five-year period suggest that the agency is likely to meet or exceed the overall target. This trend needs to be carefully monitored, however, given the unpredictability of future nonmerger enforcement activity, specifically with regard to the size and scope of the relevant geographic and product markets involved in each individual investigation, and thus to the amount of estimated consumer savings.

Objective 2.3 Prevent consumer injury through education.

In addition to its law enforcement activity, the FTC provides substantial information to the business community and consumers a bout the role of the antitrust laws and businesses' obligations under those laws.

Our Strategy

The FTC uses education and outreach to increase business compliance, which helps prevent consumer injury, and augment its law enforcement efforts. The agency pursues this strategy through guidance to the business community; outreach efforts to federal, state, and local agencies, business groups, and consumers; development and publication of antitrust guidelines, policy statements, and reports; and speeches and testimony. By using these mechanisms to signal its enforcement policies and priorities, the FTC seeks to deter would-be violators of the antitrust laws.

In its complaints, "Analyses to Aid Public Comment," and press releases, the agency explains the relevant facts and issues of cases in which it files complaints or obtains consent orders, so the nature of the competitive problems is clear. Each successful enforcement action not only promotes competition in one or more relevant markets, but also serves to communicate to the business and legal communities that the FTC can and will take action to challenge similar transactions or conduct in the future. This information greatly facilitates antitrust lawyers' counseling of their clients and prevents many anticompetitive mergers from being proposed or anticompetitive practices from being implemented.

In addition, the FTC educates the public through guidelines, congressional or other types of testimony, conferences, hearings, and workshops (such as the series of conferences on health care related issues or the

FTC Competition Enforcement Database

This new resource catalogs the agency's competition enforcement actions from 1996 to the present by the type of violation (merger or nonmerger), action (consent order, injunction, or administrative complaint), industry, sector, and date.

Using these navigation categories, consumers and businesses can access individual reports containing short descriptions of each action, with click-through access to related documents, such as press releases and case filings. To learn more, visit www.ftc.gov/bc/caselist/index.shtml.

workshop on unilateral effects analysis and intellectual property rights); advisory opinions (addressing, for example, the proposed clinical integration program between a physician-hospital organization and health plans and self-insured employers); and reports (such as the reports on activities in the oil and natural gas industries, the development of markets for follow-on biologic drugs, and the short-term and long-term effects of "authorized generics" on competition in the prescription drug marketplace).

As a complement to FTC enforcement activity, the agency also advises, when asked, other federal and state government officials about the possible effects that various regulatory proposals may have in creating, maintaining, or forestalling competitive markets. The FTC has a long and distinguished history in this area. The FTC advocates market-based solutions through the publication of studies and reports, and participation in state and federal legislative and regulatory fora.

The agency also participates as an *amicus curiae* (friend of the court) in judicial proceedings when substantial questions of antitrust law or competition policy are involved, especially when the FTC may add a different perspective to the deliberations because of its specialized knowledge or experience.

Finally, in an effort to continue educating consumers and businesses on the important role of competition in providing the most valuable and efficient mix of price, choice, and innovation, in Fiscal Year 2009, the FTC implemented substantial changes to the agency's maintaining competition web pages and continued to publish and disseminate reference and case-related documents. The goal was to improve how topical information, case materials, and reference documents are organized—in an effort to aid visitors in searching and finding relevant information—and to continuously update the growing body of reference material.

You Are Here: Learning About The Economy

This website takes kids to the virtual shopping mall where they find games and activities that let them experience advertising, competition, and the mission of the FTC. Animated guides help kids navigate through fun activities with embedded lessons. To learn more, visit www.ftc.gov/youarehere.

In FY 2009, the FTC published an updated version of the Bureau of Competition User's Guide to provide the general public and practitioners with a roadmap of how the Bureau of Competition is organized and which employees deal with individual sectors or specific issues. The FTC continues to develop educational materials to help explain its work.

Performance Results

The FTC uses two performance measures to assess its performance in preventing consumer injury through education. The key measure (Performance Measure 2.3.2) tracks the number of external print media, such as newspapers, magazines, business and trade journals, and professional journals that publish articles that refer to FTC competition activities, and the circulation of the media that publish those articles. The second measure (Performance Measure 2.3.1) tracks the volume of traffic on the FTC website on antitrust-related pages that are relevant to policymakers, the business and legal communities, and the public at large. These performance measures are good indicators of the flow of information provided to the public.

Successful outreach and education efforts, as reflected by the above measures, will help consumers, because increased knowledge and understanding of the antitrust laws will help businesses stay in compliance. These measures also will help ensure that the agency engages in consumer, business, and international education that advances the culture of competition, which enhances consumer welfare.

The results of these two measures indicate a significant continued public interest in the FTC and its Maintain Competition strategic goal. In addition, the broad and increasing distribution of educational and policy materials through electronic channels represents important leveraging of the agency's resources.

Performance Measure 2.3.1

Quantify the number of "hits" on antitrust information on the FTC's website. (Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
10.0	9.8	10.0	10.6	15.0	15.7	15.0	12.5	15.0	11.9

Data Source: The number of hits on antitrust related pages on the FTC's Internet website is calculated using data generated by the agency's web tracker software. The raw data are run through a computer program that uses a logical algorithm to classify the majority of the pages as pertaining to competition or not.

Target Not Met. In FY 2007, the FTC identified a target of at least 15 million hits by extrapolating from information acquired in the previous three fiscal years using web tracking software. In FY 2009 the FTC replaced that web tracking software with software that more accurately monitors web traffic by, for example, filtering out hits generated by web crawlers. As a result, a comparison of the target, which relied on over-inclusive hit numbers, with FY 2009 data gathered using the more accurate replacement software, suggests that the target was not met, but the comparison is unsound to an unknown degree. The FTC has established a new target for this performance measure in the updated Strategic Plan, taking into account the improved tracking software, to better assess whether it is meeting its consumer and business education objective.

Key Measure: Performance Measure 2.3.2

Track (A) the number of times print media publish articles that refer to FTC competition activities and (B) the circulation of the media that publish those articles.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A)2,982 articles (B) 635 million	(A)2,500 articles (B)Establish Baseline	(A)1,858 articles (B)397 million	(A)2,500 articles (B) Establish Baseline	(A)1,569 articles (B)360 million

Data Source: The data used to generate the results for this measure are extracted from the Lexis/Nexis "U.S. Newspapers and Magazines" database and are cross-referenced with circulation data obtained from public sources or directly from the publishers.

Target Not Met. This performance measure tracks the number of external print media, such as newspapers, magazines, business and trade journals, and professional journals that publish articles that refer to FTC competition activities, and the circulation of the media that publish those articles. The print media that published articles covering the competition-related activities of the FTC encompasses publications with varying degrees of territorial distribution (from local to national) and with circulations ranging from less than fifty thousand to more than one million copies. It is difficult to assess the performance of the agency under this measure in light of the severe decline experienced in the newspaper industry over the last year. This measure has been removed from the latest Strategic Plan.

Objective 2.4 Enhance consumer welfare through research, reports, advocacy, and international cooperation and exchange.

As a complement to its activities aimed at preventing consumer injury through education, the FTC provides substantial information to the business community, policymakers, and consumers about the role of the antitrust laws and businesses' obligations under those laws.

Our Strategy

The FTC has unique jurisdiction to gather, analyze, and make public certain information concerning the nature of competition as it affects U.S. commerce. The FTC uses that authority to hold public hearings, convene conferences and workshops, conduct economic studies on competition issues of significant public importance, and issue reports of its findings. This authority advances the competition mission in numerous ways and is a fundamental component in the FTC's strategy to enhance consumer welfare. The agency uses the information it develops internally to refine the theoretical framework for analyzing competition issues and the empirical understanding of industry practices, which contributes substantially to an effective response to changing marketplace conditions. The information gained through this authority, combined with the agency's professional expertise on competition issues, also contributes to a better understanding of business practices and their competitive and economic implications by various entities, including the business sector, the legal community, other enforcement authorities, the judiciary, foreign competition agencies, and governmental decision makers and policymakers at the federal, state, and local levels.

The FTC pursues its objective of enhancing consumer welfare by actively developing its international cooperation and exchange program. Staff members regularly participate in dialogue with competition authorities of other countries and through international organizations on transnational competition issues that affect American consumers and businesses and that promote sound consumer welfare-based competition policy. Part of this program includes participating in technical assistance missions to countries with new competition regimes.

The Competitive Significance of Healthcare Provider Quality Information

Follow-On Biologic Drugs: Framework for Competition and Continued Innovation

The Federal Trade Commission hosted two roundtables this year on emerging health care competition and consumer issues focusing on two distinct areas in which competition and consumer protection policies are implicated: competition among health care providers based on quality information; and competition provided by developing an abbreviated regulatory approval pathway for follow-on biologic drugs. To learn more, visit www.ftc.gov/bc/workshops/hcbio/index.shtml.

Performance Results

The key measures used to gauge the FTC's success under this objective are the ones relating to the publication of reports and studies on competition issues (Performance Measure 2.4.2), making advocacy filings (Performance Measure 2.4.3), and international cooperation and exchange (Performance Measure 2.4.7).

These measures, in conjunction with Performance Measures 2.4.1, 2.4.4, 2.4.5, and 2.4.6, help to ensure that the agency is engaging in appropriate types and sufficient levels of research, reports, advocacy, and international cooperation and exchange and that they are relevant to consumers, policymakers, businesses, and the legal community. The target for these measures sets a minimum level of activity that the agency is expected to achieve.

Performance Measure 2.4.1

Convene or participate substantially in workshops, conferences, seminars, and hearings involving significant competition-related issues. The target is for the FTC to convene or participate substantially in at least 20 conferences, workshops, or hearings that are related to significant competition issues over a five-year period, or at least four per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	4	7	4	5	4	8

Data Source: Information on conferences involving significant competition related issues is taken from the FTC website (www.ftc.gov/ftc/workshops.shtm).

Target Exceeded. During FY 2009, the FTC held eight conferences on competition-related topics, including health care, premerger notification, unilateral effects, and intellectual property.

Key Measure: Performance Measure 2.4.2

Issue studies, reports, and working or issues papers on significant competition-related issues. The target is for the FTC to issue at least 40 studies, reports, and working papers or issues papers on significant competition-related issues over a five-year period, or at least eight such reports per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	8	18	8	7	8	20

Data Source: Information on studies and reports on significant competition-related issues is taken from the FTC website (www.ftc.gov/be/research.shtm and www.ftc.gov/reports/index.shtm).

Target Exceeded. In FY 2009, the FTC issued a total of 20 reports on competition-related matters, thus exceeding the annual target.

Key Measure: Performance Measure 2.4.3

Make advocacy filings with other federal and state government agencies urging them to assess the competitive ramifications and costs and benefits to consumers of their policies. The target is for the FTC to make at least 30 advocacy filings with other state and federal government agencies urging them to assess the competitive impact of their policies over a five-year period, or six per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	6	11	6	12	6	10

Data Source: Information on competition-related advocacy filings is drawn from the FTC website (www.ftc.gov/opp/advocacy_date.shtm).

Target Exceeded. In FY 2009, the FTC made 10 advocacy filings, thus exceeding the annual target of six filings.

Performance Measure 2.4.4

Issue advisory opinions to persons seeking agency review of proposed business actions. The target is for the FTC to issue 12 advisory opinions over the five-year period, or at least two or three per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	2 – 3	2	2 – 3	1	2 – 3	1

Data Source: Information on competition-related advisory opinions is drawn from the FTC website (www.ftc.gov/ftc/opinions.shtm).

Target Not Met. The FTC responded to only one request for an advisory opinion, which was from a physician hospital organization, and thus did not meet its annual target. The FTC's performance under this goal is necessarily constrained by the fact that requests for advisory opinions are generated by private parties. Changes in the regulatory framework of specific industries or even developments in the business models adopted by private parties—events over which the FTC has relatively little control—could generate unexpected spikes in requests for advisory opinions. As a result, the agency will not continue this measure in the latest Strategic Plan.

Performance Measure 2.4.5

File *amicus briefs* with courts addressing competition-related issues. The target is for the FTC to file at least 12 *amicus briefs* with courts addressing competition-related issues in the five-year period, or at least two to three per year.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	2 – 3	4	2 – 3	1	2 – 3	2

Data Source: Information on *amicus briefs* addressing competition-related issues is drawn from the FTC website (www.ftc.gov/ogc/briefs.shtm).

Target Met. In FY 2009, the FTC met the annual target set by the Strategic Plan, filing two *amicus briefs*.

Performance Measure 2.4.6

Track the volume of traffic on www.ftc.gov relating to competition research, reports, advocacy, and international cooperation and exchange. (Numbers shown in millions.)

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	1.1	1.1	1.1	1.2	1.1	1.6

Data Source: The number of hits on the FTC website relating to competition research, reports, and advocacy is calculated using data generated by the agency's web tracker software.

Target Exceeded. This performance measure relates to the volume of traffic on FTC web pages that relate to competition research, reports, advocacy, and international cooperation. In FY 2009, there were approximately 1.6 million visits that met the criteria set by this measure, and the target was exceeded.

Key Measure: Performance Measure 2.4.7

Track the number of (A) cases on which the FTC cooperated with foreign competition authorities, (B) consultations with or comments to foreign competition authorities, (C) written submissions to international fora, (D) international events attended, and (E) leadership positions held by FTC staff in international competition organizations.

2005		2006		2007		2008		2009	
Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
N/A	N/A	N/A	N/A	Establish Baseline	(A) 61 (B) 70 (C) 19 (D) 48 (E) 8	(A) 30 (B) 25 (C) 7 (D) 8 (E) 5	(A) 79 (B) 89 (C) 30 (D) 68 (E) 9	(A) 30 (B) 25 (C) 7 (D) 8 (E) 5	(A) 87 (B) 56 (C) 19 (D) 125 (E) 10

Data Source: Information on the international activities of the FTC is produced by the agency's Office of International Affairs.

Target Exceeded. The third key performance measure under this objective relates to international cooperation and convergence in the field of competition enforcement and policy development. Based on the experience accumulated over recent years in the area of international cooperation, the agency set preliminary targets for this measure; however, recent trends in the level of activity suggest that these targets should be revised upwards. The FTC continues to receive more requests to participate in these productive international consultations and more and more FTC cases have international components benefiting from international cooperation. Indeed, during FY 2009, the FTC substantially exceeded the targets. Agency staff cooperated with foreign competition authorities in 87 instances, provided 56 consultations or comments to foreign competition authorities, presented 19 submissions to international fora, attended 125 international events, and held 10 leadership positions in international organizations. This measure was modified in the latest Strategic Plan.

International Fellows Program

The U.S. SAFE WEB Act of 2006 provides for foreign staff exchanges between the FTC and foreign government agencies. Using this authority, the FTC has established an International Fellows Program for mid-career attorneys, investigators, and economists to work with FTC staff as special FTC employees for three to six months. Fellows work on FTC matters alongside agency staff. They learn first-hand about the FTC's enforcement practices and approaches and share their own insights. So far, sixteen Fellows have come to the FTC from agencies in Argentina, Australia, Brazil, Canada, the European Commission, Hungary, Israel, Mexico, Poland, Singapore, Switzerland, and Turkey. Additionally the FTC has hosted five colleagues from Austria, Egypt, Israel, and Turkey for shorter Internships. To learn more, visit www.ftc.gov/oia/safeweb.shtm.

Resources Utilized—Strategic Goal 2
(Dollars shown in millions)

	2005	2006	2007	2008	2009
Full-Time Equivalents	470	457	489	502	509
Obligations	$86	$86	$94	$103	$113
Net Cost	($16)	($23)	($47)	$ 2	$ 68

Note: Differences between these obligations and net costs and the financial statements are due to rounding.

Financial Section

Message from the Chief Financial Officer

Steven A. Fisher
Chief Financial Officer

I am pleased to report that in Fiscal Year (FY) 2009, the Federal Trade Commission (FTC) maintained its record of strong fiscal stewardship on behalf of the American people. For the 13th consecutive year, independent auditors gave us an unqualified (clean) opinion on our financial statements. Our auditors also stated for the controls they tested, they found no material weaknesses, significant control deficiencies, or nonconformances with the Federal Managers' Financial Integrity Act and other applicable laws and regulations. In addition to this key accomplishment, other notable successes over the past fiscal year include:

- Returning $69 million in redress funds to victims of fraud and scams following successful prosecution of defendants that resulted in court-ordered judgments or settlements.
- Adding an objective, in support of the agency's update to its Strategic Plan, dedicated to financial and acquisition management, signaling the agency's dedication to being good trusted stewards of taxpayer dollars.
- Paying 98 percent of all invoices received from vendors on time.
- Maintaining an internal control environment through developing and maintaining appropriate guidance and training for all staff.
- Sustaining a green rating from the Department of the Treasury on the accuracy and timeliness of financial reporting practices involving Fund Balance with Treasury transactions.
- Exceeding the government-wide goal to allocate three percent of total contract dollars to companies owned by service-disabled veterans.

We achieved these successes during a year characterized by change across the federal government and at the FTC. The new White House administration and leadership transition at the FTC brought new government-wide mandates and shifts in programmatic priorities. However, as our agency continues to demonstrate, we stand prepared to face change with flexibility and innovation, but our commitment to good financial management and effective oversight holds steadfast. The Financial Section of this report tangibly captures an aspect of this oversight by showing how financial resources were expended to achieve performance results and explaining our financial position as of September 30, 2009.

I am proud of the outstanding work the FTC accomplishes every day for the benefit of American consumers. Agency leadership and staff are committed to the agency mission, and, together we will continue fulfilling our commitments to the American people while successfully meeting future challenges.

Steven A. Fisher

Steven A. Fisher
Chief Financial Officer
November 13, 2009

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

OFFICE OF
INSPECTOR GENERAL

November 13, 2009

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission

I am pleased to provide you with the attached audit report required by the Accountability of Tax Dollar Act of 2002, which presents an unqualified opinion on the Federal Trade Commission's FY 2009 financial statements. The audit results indicate that the FTC has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend the FTC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the 13th consecutive year.

The independent public accounting firm of Dembo, Jones, Healy, Pennington & Marshall, P.C. (DJHPM) performed the audit of the FTC's financial statement for the fiscal year ended September 30, 2009. The contract required that the audit be conducted in accordance with U.S. generally accepted government auditing standards, and OMB audit guidance.

In its audit of the Federal Trade Commission, DJMPM found that

- the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles

- the Federal Trade Commission had effective internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations

- no reportable noncompliance with laws and regulations tested

To fulfill our responsibilities under the CFO Act and related legislation for ensuring the quality of the audit work performed, we monitored DJHPM's audit of the FTC's FY 2009 financial statements by:

- reviewing DJHPM's approach and planning of the audit
- evaluating the qualifications and independence of its auditors
- monitoring the progress of the audit at key points
- examining its workpapers related to planning the audit, assessing the FTC's internal control, and substantive testing

- reviewing DJHPM's audit report to ensure compliance with *Government Auditing Standards* and OMB Bulletin No. 07-04, as amended
- coordinating the issuance of the audit report
- performing other procedures we deemed necessary

Our review disclosed no instances where DJHPM did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on the FTC's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. DJHPM is solely responsible for the attached auditor's report dated November 13, 2009 and the conclusions expressed in the report.

We appreciate the cooperation and courtesies extended to both DJHPM and my staff during the audit.

Sincerely,

John M. Seeba

John M. Seeba
Inspector General

Attachment

cc: All Commissioners
Executive Director
Bureau Directors
Chief Financial Officer

DJHPM
Dembo, Jones, Healy, Pennington & Marshall, P.C.
Certified Public Accountants and Consultants

Chairman Leibowitz:

In accordance with the Accountability of Tax Dollar Act of 2002, we are responsible for conducting audits of the Federal Trade Commission. In our audits of the Federal Trade Commission for the fiscal years September 30, 2009 and 2008, we found

- the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles,
- no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations,
- no reportable noncompliance with laws and regulations we tested.

The following sections discuss in more detail (1) these conclusions, (2) our conclusions on Management's Discussion and Analysis and other supplementary information, and (3) our audit objectives, scope, and methodology.

Opinion on Financial Statements

The financial statements including the accompanying notes present fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the Federal Trade Commission's assets, liabilities, and net position as of September 30, 2009 and 2008; and net costs; changes in net position; budgetary resources; and custodial activity for the years then ended.

Consideration of Internal Control

In planning and performing our audit, we considered the Federal Trade Commission's internal control over financial reporting and compliance. We did this to determine our procedures for auditing the financial statements and to comply with OMB audit guidance, not to express an opinion on internal control. Accordingly, we do not express an opinion on internal control over financial reporting and compliance or on management's assertion on internal control included in Management's Discussion and Analysis. However, for the controls we tested, we found no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance. A material weakness is a control deficiency that results in more than a remote likelihood that the design or operation of one or more internal controls will not allow management or employees, in the normal course of performing their duties, to promptly detect or prevent errors, fraud, or noncompliance in amounts that would be material to the financial statements. Our internal control work would not necessarily disclose all deficiencies in internal control that might be material weaknesses or other significant deficiencies.

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Compliance With Laws and Regulations

Our tests of the Federal Trade Commission's compliance with selected provisions of laws and regulations for fiscal year 2009 disclosed no instances of noncompliance that would be reportable under U.S. generally accepted government auditing standards or OMB audit guidance. However, the objective of our audit was not to provide an opinion on overall compliance with laws and regulations. Accordingly, we do not express such an opinion.

Consistency of Other Information

The Federal Trade Commission's Management's Discussion and Analysis, and other accompanying information contain a wide range of information, some of which is not directly related to the financial statements. We do not express an opinion on this information. However, we compared this information for consistency with the financial statements and discussed the methods of measurement and presentation with the Federal Trade Commission's officials. Based on this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or OMB guidance.

Objectives, Scope, and Methodology

The Federal Trade Commission's management is responsible for (1) preparing the financial statements in conformity with U.S. generally accepted accounting principles, (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met, and (3) complying with applicable laws and regulations.

We are responsible for obtaining reasonable assurance about whether the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles. We are also responsible for (1) obtaining a sufficient understanding of internal control over financial reporting and compliance to plan the audit, (2) testing compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements and laws for which OMB audit guidance requires testing, and (3) performing limited procedures with respect to certain other information appearing in the Annual Financial Statement.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the financial statements;
- obtained an understanding of the entity and its operations, including its internal control related to financial reporting (including safeguarding assets), and compliance with laws and regulations (including execution of transactions in accordance with budget authority);

- tested relevant internal controls over financial reporting, and compliance, and evaluated the design and operating effectiveness of internal control;
- considered the design of the process for evaluating and reporting on internal control and financial management systems under the Federal Managers' Financial Integrity Act;
- tested compliance with selected provisions of laws and regulations.

We did not evaluate all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act, such as those controls relevant to preparing statistical reports and ensuring efficient operations. We limited our internal control testing to controls over financial reporting and compliance. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. We also caution that projecting our evaluation to future periods is subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with controls may deteriorate. In addition, we caution that our internal control testing may not be sufficient for other purposes. We noted matters not considered to be significant deficiencies involving internal control, which will be reported to management of the Federal Trade Commission in a separate letter.

We did not test compliance with all laws and regulations applicable to the Federal Trade Commission. We limited our tests of compliance to selected provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB audit guidance that we deemed applicable to the Federal Trade Commission's financial statements for the fiscal year ended September 30, 2009. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

We performed our audit in accordance with U.S. generally accepted government auditing standards and OMB audit guidance.

Dembo, Jones, Healy, Pennington & Marshall, P.C.

Rockville, Maryland
November 13, 2009

Dembo, Jones, Healy, Pennington & Marshall, P.C.
Certified Public Accountants and Consultants

Principal Financial Statements

FEDERAL TRADE COMMISSION
BALANCE SHEET
As of September 30, 2009 and 2008
(Dollars shown in thousands)

	2009	2008
Assets (Note 2):		
Intragovernmental:		
Fund balance with Treasury (Note 3)	$ 81,307	$ 86,792
Investments (Note 5)	94,848	117,514
Accounts receivable, net (Note 6)	141	48
Total Intragovernmental	176,296	204,354
Cash and other monetary assets (Note 4)	18,141	10,485
Accounts receivable, net (Note 6)	55,564	87,982
General property and equipment, net (Note 7)	15,473	15,098
Total Assets	$265,474	$317,919
Liabilities:		
Intragovernmental:		
Accounts payable	$ 371	$ 21
Other (Note 9)	2,265	17,028
Total Intragovernmental	2,636	17,049
Accounts payable	12,879	15,591
Accrued redress receivables due to claimants	55,496	87,800
Redress collected but not yet disbursed	69,746	85,021
Divestiture fund due	45,542	45,485
Other (Note 9)	18,784	16,897
Total Liabilities (Notes 8 and 9)	205,083	267,843
Net Position (Note 1(r)):		
Cumulative results of operations - other funds	60,391	50,076
Total Net Position	60,391	50,076
Total Liabilities and Net Position	$265,474	$317,919

FEDERAL TRADE COMMISSION
STATEMENT OF NET COST
For the years ended September 30, 2009 and 2008
(Dollars shown in thousands)

	2009	2008
Costs by Strategic Goal:		
Protect Consumers (PC) Strategic Goal:		
Gross costs (Note 12)	$147,232	$140,705
Less: earned revenue (Note 13)	(15,947)	(16,202)
Net PC strategic goal costs	131,285	124,503
Maintain Competition (MC) Strategic Goal:		
Gross costs (Note 12)	109,718	104,853
Less: earned revenue (Note 13)	(42,309)	(103,192)
Net MC strategic goal costs	67,409	1,661
Net Cost of Operations	$198,694	$126,164

FEDERAL TRADE COMMISSION
STATEMENT OF CHANGES IN NET POSITION
For the years ended September 30, 2009 and 2008
(Dollars shown in thousands)

	2009	2008
Cumulative Results of Operations:		
Beginning balance, adjusted	$50,076	$72,603
Budgetary financing Sources:		
Appropriations used	201,359	96,226
Other financing sources (non-exchange):		
Imputed financing	7,650	7,411
Total financing sources	209,009	103,637
Less: Net cost of operations	198,694	126,164
Net change	10,315	(22,527)
Total Cumulative Results of Operations	$60,391	$50,076
Unexpended Appropriations:		
Beginning balance, adjusted	$ -	$ -
Budgetary Financing Sources:		
Appropriations received	201,359	96,226
Less: Appropriations used	201,359	96,226
Total Budgetary Financing Sources	-	-
Total Unexpended Appropriations	$ -	$ -
Net Position (Note 1 (r))	$60,391	$50,076

FEDERAL TRADE COMMISSION
STATEMENT OF BUDGETARY RESOURCES
For the years ended September 30, 2009 and 2008
(Dollars shown in thousands)

	2009	2008
Budgetary Resources (Note 15):		
Unobligated balance, brought forward, October 1:	$ 13,063	$ 11,068
Recoveries of prior year unpaid obligations	3,067	1,322
Budget authority:		
Appropriation	201,359	96,226
Spending authority from offsetting collections		
Earned		
Collected	58,162	134,728
Change in receivables from Federal sources	94	25
Change in unfilled customer orders		
Without advance from Federal sources	(24)	(53)
Previously unavailable (Note 1(h))	15,357	28,561
Subtotal	274,948	259,487
Temporarily not available pursuant to public law	-	(15,357)
Total Budgetary Resources	$291,078	$256,520
Status of Budgetary Resources:		
Obligations incurred (Notes 1(h) and 14)		
Direct	$280,905	$243,186
Reimbursable	390	271
Subtotal	281,295	243,457
Unobligated balance		
Apportioned	8,126	13,063
Not available	1,657	-
Total Status of Budgetary Resources	$291,078	$256,520
Change in Obligated Balance:		
Obligated balance, net		
Unpaid obligations, brought forward, October 1	$ 56,088	$ 44,815
Less: Uncollected customer payments from Federal sources, brought forward, October 1	(224)	(252)
Total unpaid obligated balance, net	55,864	44,563
Obligations incurred, net (Notes 1(h) and 14)	281,295	243,457
Less: Gross outlays	(265,229)	(230,862)
Less: Recoveries of prior year unpaid obligations	(3,067)	(1,322)
Change in uncollected customer payments from Federal sources (+/-)	(70)	28
Obligated balance, net, end of period		
Unpaid obligations	69,086	56,088
Uncollected customer payments from Federal sources	(293)	(224)
Total, unpaid obligated balance, net, end of period	$ 68,793	$ 55,864
Net Outlays:		
Gross outlays (Notes 1(h) and 14)	$265,229	$230,862
Less: Offsetting collections	(58,162)	(134,728)
Less: Distributed offsetting receipts	(14,869)	(55,014)
Net Outlays	$ 192,198	$ 41,120

FEDERAL TRADE COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
For the years ended September 30, 2009 and 2008
(Dollars shown in thousands)

	PC	MC	2009	2008
Revenue Activity (Note 17):				
Sources of collections				
Premerger filing fees (net of refunds)	$ -	$42,148	$42,148	$102,916
Civil penalties and fines	10,656	2,100	12,756	13,475
Redress (Note 18)	14,698	-	14,698	101,859
Other miscellaneous receipts	172	-	172	4,586
Total cash collections	25,526	44,248	69,774	222,836
Accrual adjustments	(123)	-	(123)	(37,212)
Total Custodial Revenue	$25,403	$44,248	$69,651	$185,624
Disposition of Collections (Note 17):				
Transferred to others:				
Treasury general fund	$25,526	$ 2,100	$27,626	$ 68,674
Department of Justice	-	57,072	57,072	87,559
Other miscellaneous dispositions	-	-	-	45,705
(Increase) in amounts yet to be transferred	(123)	(14,924)	(15,047)	(16,314)
Total Disposition of Collections	$25,403	$44,248	$69,651	$185,624
Net Custodial Activity (Note 1 (f))	$ -	$ -	$ -	$ -

Notes to the Financial Statements

Note 1—Summary of Significant Accounting Policies

(a) Basis of Accounting

The Federal Trade Commission (FTC) is an independent United States Government agency, established by the Federal Trade Commission Act of 1914. The FTC enforces a variety of federal antitrust and consumer protection laws. The agency is headed by five Commissioners, nominated by the President and confirmed by the Senate, each serving a seven-year term. The President chooses one Commissioner to act as Chairman. No more than three Commissioners can be of the same political party.

The FTC has three major bureaus: The Bureau of Consumer Protection (BCP), which supports the strategic goal of protecting consumers, the Bureau of Competition (BC), which supports the strategic goal of maintaining competition, and the Bureau of Economics (BE), which supports both bureaus and strategic goals. Additionally, various Offices provide mission support functions and services.

The majority of FTC staff is located in Washington DC; however, the FTC's regions cover seven geographic areas. The regional offices work with the BCP and BC to conduct investigations and litigation; provide advice to state and local officials on the competitive implications of proposed actions; recommend cases; provide local outreach services to consumers and business persons; and coordinate activities with local, state, and regional authorities. The regional offices frequently sponsor conferences for small businesses, local authorities, and consumer groups.

The financial statements and notes include the accounts of all funds under the FTC's control. As further described throughout these notes, in addition to appropriations received for salaries and necessary expenses, the FTC maintains control over funds that are primarily comprised of proceeds derived from court ordered judgments and settlements held for subsequent distribution to approved claimants. These funds are considered non-entity and are reported as such on the Balance Sheet.

(b) Fund Accounting Structure

The FTC's financial activities are accounted for using various funds (i.e., Treasury Account Symbols (TAS)). They include the following for which the FTC maintains financial records:

GENERAL FUND TAS 29X0100 consists of a salaries and expense appropriation used to fund agency operations and capital expenditures. Offsetting collections received during the year are also recorded in the general fund. (See Note 13 Exchange Revenues.)

DEPOSIT FUND TAS 29X6013 consists of monies held temporarily by the FTC as an agent for others (e.g. redress funds) prior to distribution through the consumer redress program.

SUSPENSE FUND TAS 29F3875 consists of premerger filing fees collected by the FTC under the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (HSR) that are distributed equally to the FTC as a funding source and to the Department of Justice (DOJ). (See Note 1(s) Revenue and Other Financing Sources.)

MISCELLANEOUS RECEIPT ACCOUNTS TAS 29 1040 and TAS 29 3220 consist of civil penalties, redress disgorgements to the Treasury and other miscellaneous receipts that by law are not retained by the FTC. Cash balances are automatically transferred to the general fund of the Treasury at the end of each fiscal year.

(c) Basis of Accounting

The accompanying financial statements present the financial position, net cost of operations, changes in net position, budgetary resources, and custodial activities of the FTC. As noted above, the FTC maintains a single fund to account for salaries and all necessary expenses. Further, there are no intra-entity transactions with any other fund (e.g. deposit fund) that would require eliminating entries to present consolidated statements. Accordingly, the statements are not labeled consolidated nor is the Statement of Budgetary Resources presented as combined. The financial statements have been prepared from the accounting records of the FTC on an accrual basis, in conformity with generally accepted accounting principles (GAAP) of the United States of America and with the form and content of financial statements specified by the Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements (as revised June 2009). GAAP for federal entities incorporate the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB).

(d) Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(e) Fiduciary Activities

In FY 2009, the FASAB Statement of Federal Financial Accounting Standard (SFFAS) 31 Fiduciary Activities became effective. The FTC evaluated its activities and determined that none of them met the criteria in SFFAS 31 to be classified as fiduciary activity.

(f) Changes in Presentation

The FTC receives collections for consumer redress (i.e., redress) in connection with the settlement or litigation of both its administrative proceedings and federal court cases. The FTC attempts to distribute funds to consumers whenever possible. If consumer redress is not practical or the judgment does not require the assessed penalty to be directed to consumers, the funds are paid (disgorged) to the general fund of the Treasury. The FTC also maintains one judgment (obtained by the FTC in support of its strategic goal to maintain competition) which stipulated the divestiture of assets by the defendants into an interest-bearing account to be monitored by the agency (hereafter referred to as divestiture activity).

The FTC changed its method of presentation for the receipt, accounting, and disposition of collections received relative to redress and divestiture activities. Previously, the FTC presented all consumer redress and divestiture activity in the Statement of Custodial Activity (SCA), in addition to the amount of HSR premerger filing fees which the FTC collected on behalf of the DOJ. Beginning with FY 2009, relative to redress and divestiture activities (see Note 18 Redress and Divestiture Activities), the SCA includes only the amounts transferred to the Treasury's general fund (i.e., disgorged). All other collection and redress activities are disclosed in Note 18 Redress and Divestiture Activities. The reporting of the undisbursed funds and receivable balances as non-entity assets on the Balance Sheet, with an offsetting non-entity liability, remains the same. As the current presentation reflects a change from one that was acceptable to another that is a preferred presentation, the FY 2008 SCA has not been restated. However, FY 2008 amounts have been reclassified to align with the change in line item descriptions and revised presentation.

(g) Budget Authority

Congress passes appropriations annually that provide the FTC with authority to obligate funds for necessary expenses to carry out mandated program activities. These funds are available until expended, subject to OMB apportionment and to Congressional restrictions on the expenditure of funds. Also, the FTC places internal restrictions on fund expenditures to ensure the efficient and proper use of all funds. Appropriated funding is derived from various revenues and financing sources. The Statement of Budgetary Resources (SBR) reflects the single general fund (i.e. TAS 29X0100) for which the FTC has budget authority.

(h) Premerger Fee Collections Reporting

During FY 2008, the FTC processed and recorded premerger fee collections in its Salaries and Expense (S&E) fund 29X0100. This business practice was a deviation from FY 2007 and years prior. Previously the FTC would record premerger fee collections in its 29F3875 suspense account fund and then transfer the FTC's half of the collections to its S&E fund and transfer the other half to the DOJ.

The Treasury's Financial Management Service issued Bulletin No. 2007-07, Suspense "F" Account Discontinuance and Waiver Policy, effective in FY 2008, which indicated that the F3875 and F3885 suspense accounts be discontinued unless a waiver was approved. The FTC did not obtain a waiver, but processed the premerger fee collections during the year through its S&E fund. However, $15.3 million of undisbursed premerger collections due the DOJ that resided in the FTC's S&E fund at year-end gave the appearance of providing a budgetary resource. For FY 2008, this $15.3 million was reported as a budgetary resource, but was offset (restricted) by reporting an equal amount as temporarily not available pursuant to public law, since the funds were not available for the FTC's use.

In FY 2009, the $15.3 million was disbursed to the DOJ from the FTC's S&E fund, thereby creating an outlay. This outlay is included in the SBR, along with an offsetting previously unavailable budgetary resource. The FTC has since obtained a waiver to grant use of its 29F3875 suspense fund and will incorporate it into the business process that it previously used.

(i) Entity/Non-entity Assets

Assets that an agency is authorized to use in its operations are entity assets. Assets that an agency holds on behalf of another federal agency or a third party and are not available for the agency's use are non-entity assets.

(j) Fund Balance with Treasury

The FTC's Fund Balance with Treasury includes appropriated funds, deposit funds for subsequent disbursement to claimants, and premerger filing fees awaiting disbursement to the DOJ. Funds are carried forward until such time as good or services are received and payment is made. All cash receipts are deposited with the Treasury and all disbursements for payroll and vendor invoices are disbursed by the Department of the Treasury.

(k) Cash and Other Monetary Assets

The FTC's consumer redress agents process claims and disburse redress proceeds to approved claimants. Upon approval of the redress office, amounts necessary to cover current disbursement schedules are held as cash in interest bearing accounts. These funds are considered non-entity assets and are reported on the Balance Sheet along with an offsetting non-entity liability.

(l) Investments

In protecting consumers, the FTC collects proceeds from defendants in accordance with court ordered judgments and settlement agreements for consumer redress and holds these proceeds in the deposit fund (TAS 29X6013) established with the Department of the Treasury. The FTC also holds monies in its deposit fund in connection with a judgment that stipulates the divestiture of assets by the defendant. Under an agreement with the Department of the Treasury, the portion of such judgments and settlements that are not immediately needed for cash disbursements are invested in Treasury securities. These investments are considered non-entity assets and are reported on the Balance Sheet along with an offsetting non-entity liability.

(m) Accounts Receivable

Entity accounts receivable consist of amounts due from other federal entities and from current and former employees and vendors. Non-entity accounts receivable include uncollected civil monetary penalties imposed as a result of the FTC's enforcement activities and uncollected redress judgments. These non-entity accounts receivable are reported on the Balance Sheet along with an offsetting non-entity liability. Gross receivables are reduced to net realizable value by an allowance for uncollectible accounts. (See Note 6 Accounts Receivable.)

(n) Accrued Liabilities and Accounts Payable

Accrued liabilities and accounts payable represent a probable future outflow or other sacrifices of resources as a result of past transactions or events. Liabilities are recognized when they are incurred, regardless of whether they are covered by budgetary resources. Liabilities can not be liquidated without legislation that

Pension expenses in FYs 2009 and 2008 consisted of the following (in thousands):

	2009 Total Pension Expense	2008 Total Pension Expense
Civil Service Retirement System	$ 3,114	$ 3,474
Federal Employees Retirement System	11,802	10,949
Thrift Savings Plan	4,586	4,276
Total	$19,502	$18,699

provides the resources to do so. Also, the government, acting in its sovereign capacity, can abrogate FTC liabilities (other than contracts). (See Note 8 Liabilities Not Covered by Budgetary Resources and Note 9 Other Liabilities.)

(o) Employee Health Benefits and Life Insurance

FTC employees are eligible to participate in the contributory Federal Employees Health Benefit Program (FEHBP) and the Federal Employees Group Life Insurance Program (FEGLIP). The FTC contributes a percentage to each program to pay for current benefits.

(p) Employee Retirement Benefits

FTC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). Employees hired after December 31, 1983, are covered by FERS and Social Security, while employees hired prior to January 1, 1984, may elect to either join FERS or remain in CSRS. Approximately 15.6 percent of FTC employees participate in CSRS. For employees participating in CSRS, the FTC contributes seven percent of the employee's gross earnings to the CSRS Retirement and Disability Fund. For employees participating in FERS, the FTC contributes 11.2 percent to the Federal Employees' Retirement Fund. Employees participating in FERS are covered under the Federal Insurance Contributions Act (FICA) for which the FTC contributes a matching amount to the Social Security Administration. FTC contributions are recognized as current operating expenses. The Thrift Savings Plan (TSP) is a defined contribution retirement savings and investment plan for employees covered by either CSRS or FERS. Participating employees may contribute any dollar amount or percentage of basic salary to TSP, not to exceed an annual dollar amount of $16,500 for 2009. CSRS participating employees do not receive a matching contribution from the FTC. FERS employees receive an agency automatic one percent contribution of gross pay to the TSP. The FTC also matches 100 percent of the first three percent contributed and 50 percent of the next two percent contributed. Such FTC contributions are recognized as current operating expenses. Although the FTC contributes a portion for pension benefits and makes the necessary payroll withholdings, it is not responsible for managing contribution refunds, employee's retirement benefits, or the retirement plan assets. Therefore, the FTC financial statements do not report CSRS and FERS assets, accumulated plan benefits, or unfunded liabilities, if any, which may be applicable to employees. Such reporting is the responsibility of the Office of Personnel Management (OPM). However, the FTC recognizes the full cost of providing future pension benefits to covered employees at the time the employees' services are rendered. OPM has provided the FTC with certain cost factors that estimate the true service cost of providing the pension benefits to covered employees. During FYs 2009 and 2008, the cost factors used to arrive at the service cost for CSRS covered employees were 25.8 percent and 25.2 percent of basic pay, respectively. During FYs 2009 and 2008, the cost factors for FERS covered employees were 12.3 and 12.0 percent of basic pay, respectively. The pension expense recognized in the financial statements equals this service cost to covered employees less amounts contributed by these employees. If the pension expense exceeds the amount contributed by the FTC as employer, the excess is recognized as an imputed financing cost. The excess total pension expense over the amount contributed by the agency must be financed by OPM and is recognized as an imputed financing source, non-exchange revenue.

(q) Other Post-Employment Benefits

FTC employees eligible to participate in the FEHBP and the FEGLIP may continue to participate in these programs after their retirement. The OPM has provided the FTC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The FTC recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by the FTC through the recognition of an imputed financing source. During FYs ended 2009 and 2008, the cost factors relating to FEHBP were $5,756 and $5,220, respectively, per employee enrolled. During FYs 2009 and 2008, the cost factor relating to FEGLIP was 0.02 percent of basic pay per employee enrolled.

(r) Net Position

Cumulative results of operations represent the net results of operations since inception, the cumulative amount of prior period adjustments, the remaining book value of capitalized assets, and future funding requirements.

The portion of FTC's budget authority that is funded by a direct appropriation is fully expended during the year. Therefore, there is no unexpended appropriation balance in net position at the end of the year. (See Statement of Changes to Net Position.)

(s) Revenues and Other Financing Sources

The FTC's revenues are derived from spending authority from offsetting collections and from direct appropriation. Spending authority from offsetting collections is comprised of amounts received for services performed under reimbursable agreements with other federal agencies, collections of premerger fees under the authority of the HSR Act, and collection of fees related to the Do-Not-Call (DNC) Implementation Act. Revenue is also recognized for services performed for other agencies through reimbursable agreements. Revenues from premerger and DNC fees are recognized when collected. All of the FTC's offsetting collections are exchange revenues. (See Note 13 Exchange Revenues.)

In addition to exchange revenue, the FTC receives financing sources through direct appropriation from the general fund of the Treasury to support its operations. A financing source, appropriations used, is recognized to the extent these appropriated funds have been consumed. The FTC received a financing source in the form of a direct appropriation that represented approximately 69 percent of total revenues and financing sources realized in FY 2009 and 40 percent in FY 2008.

(t) Methodology for Assigning Cost

Total costs are allocated to each strategic goal based on two components: the direct costs charged to each strategic goal and the indirect costs attributed to each strategic goal, based on the percentage of direct full-time equivalent (FTE) used by each strategic goal.

Note 2—Non-entity Assets

Non-entity Fund Balance with Treasury is comprised of undisbursed premerger filing fees and deposits held for the consumer redress program. Investments represent funds not required for current distribution for consumer redress. Cash and other Monetary Assets consist of amounts on deposit with FTC distribution agents. Accounts receivable represent amounts due from consumer redress judgments and civil penalties.

The following summarizes non-entity assets as of September 30, 2009 and 2008 (in thousands):

	2009	2008
Intragovernmental		
Fund balance with Treasury	$ 2,731	$ 2,507
Investments	94,848	117,514
Total intragovernmental	97,579	120,021
Cash and other monetary assets	18,141	10,485
Accounts receivable, net	55,546	87,982
Total non-entity assets	171,266	218,488
Total entity assets	94,208	99,431
Total assets	$265,474	$317,919

Note 3—Fund Balance with Treasury

Fund balance includes appropriated funds, which are either unobligated, or obligated as an account payable or undelivered order and not yet disbursed. Fund balance also includes non-entity funds arising from undisbursed HSR filing fees due to the DOJ and collections of redress judgments not yet disbursed to claimants.

Fund Balance with Treasury consisted of the following as of September 30, 2009 and 2008 (in thousands):

	2009	2008
Fund Balances:		
Appropriated funds	$78,576	$84,285
Suspense fund - undisbursed HSR filing fees	433	-
Deposit funds - redress	2,298	2,507
Total	$81,307	$86,792
Status of Fund Balance with Treasury		
Unobligated balance		
Apportioned	$ 8,126	$13,063
Unavailable	1,657	-
Temporarily not available	-	15,357
Obligated balance not yet disbursed	68,793	55,865
Non-Budgetary fund balance with Treasury		
Suspense fund - undisbursed HSR filing fees	433	-
Deposit funds - redress	2,298	2,507
Total	$81,307	$86,792

Note 4—Cash and Other Monetary Assets

In connection with the consumer redress program, cash amounts necessary to cover current disbursement schedules are held at financial institutions in interest bearing accounts pursuant to court orders and are reported as non-entity assets. A corresponding liability is recorded for these assets. The FTC's consumer redress agents process claims and disburse redress proceeds to claimants upon approval of the redress office. (See Note 18 Redress and Divestiture Activities.)

Cash and other monetary assets consisted of the following as of September 30, 2009 and 2008 (in thousands):

	2009	2008
Other monetary assets		
Redress contractors	$18,141	$10,485
Total other monetary assets	$18,141	$10,485

Note 5—Investments

Funds not needed to cover immediate disbursements for consumer redress are invested in Government Account Series (GAS) securities under an agreement with the Bureau of Public Debt. GAS securities are non-marketable, market-based Treasury securities that are not traded on any securities exchange but mirror the prices of particular Treasury securities trading in the government securities market. Additionally, funds from one judgment where divesting of assets was required to maintain competition have also been invested. (See Note 18 Redress and Divestiture Activities.)

As of September 30, 2009, investments consisted of the following (in thousands):

	Cost	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Investment Net	Other Adjustments	Market Value Disclosure
Intragovernmental Securities:							
Non-Marketable:							
Market-Based	$94,848		-	-	$94,848	-	$94,848
Total	**$94,848**	**n/a**	-	-	**$94,848**	-	**$94,848**

As of September 30, 2009, investments consisted of the following (in thousands):

	Cost	Amortization Method	Amortized (Premium) Discount	Interest Receivable	Investment Net	Other Adjustments	Market Value Disclosure
Intragovernmental Securities:							
Non-Marketable:							
Market-Based	$117,514		-	-	$117,514	-	$117,514
Total	**$117,514**	**n/a**	-	-	**$117,514**	-	**$117,514**

Note 6—Accounts Receivable

Opening accounts receivable balances reflect the Federal Accounting Standards Advisory Board (FASAB) standard for the recognition of losses using the collection criterion of "more likely than not." This criterion results in receivable balances that are more conservatively stated than those valued by the private sector under generally accepted accounting principles. FASAB states that it is appropriate to recognize the nature of federal receivables, which, unlike trade accounts of private firms or loans made by banks, are not created through credit screening procedures. Rather, these receivables arise because of the assessment of fines from regulatory violations. In these circumstances, historical experience and economic realities indicate that these types of claims are frequently not fully collectible.

The method used to estimate the allowance for uncollectible receivables consists of individual case analysis by the attorney case manager with respect to the debtor's ability and willingness to pay, the defendant's payment record, and the probable recovery amount including the value of the sale of assets. Based on the aforementioned, cases are referred to the Treasury Offset Program for collection activities after the receivable becomes six months delinquent in payment.

Accounts receivable consisted of the following as of September 30, 2009 and 2008 (in thousands):

	Receivables	Uncollectible Accounts	2009 Net	2008 Net
Entity accounts receivable:				
Intragovernmental	$ 141	$ -	$ 141	$ 48
With the Public	18	-	18	-
Total entity accounts receivable	$ 159	$ -	$ 159	$ 48
Non-entity accounts receivable:				
Accounts receivable				
Consumer redress	$365,223	$309,727	$55,496	$87,800
Civil penalties	1,596	1,546	50	173
Other	-	-	-	9
Total non-entity accounts receivable	**$366,819**	**$311,273**	**$55,546**	**$87,982**

Note 7—General Property and Equipment, Net

FTC capitalizes property and equipment with an initial cost of $100 thousand or greater and a useful life over two years. Such assets are depreciated using the straight-line method of depreciation with service lives range from five to twenty years. Leasehold improvements that cost $100 thousand or greater are capitalized and amortized over the remaining life of the lease. Additionally, internal use software development and acquisition costs of $100 thousand or greater are capitalized as software development-in-progress until the development stage has been completed and the software successfully tested. Upon completion and testing, software development-in-progress costs are reclassified as internal use software costs and amortized using the straight-line method over the estimated useful life of three to five years. Purchased commercial software that does not meet the capitalization criteria is expensed.

Amounts reported as equipment are comprised mostly of computer hardware and other building equipment. The FTC does not own buildings, but rather, in partnership with General Services Administration (GSA) leases both federally owned (by GSA) and commercial space. (See Note 10 Leases.) The leasehold improvements above consist of improvements made to the FTC headquarters building located in Washington DC (which is owned by the GSA), and to FTC commercially leased space also located in Washington DC.

Depreciation expense was $2,416 and $4,786 thousand for FYs ending September 30, 2009 and 2008, respectively, and is contained in the accumulated depreciation.

As of September 30, 2009, general property and equipment, net consisted of the following (in thousands):

Asset Class	Service Life	Acquisition Value	Accumulated Depreciation	Net Book Value
Equipment	5–20 yrs.	$ 8,089	$ 7,026	$ 1,063
Leasehold improvements	lease term	13,419	2,872	10,547
Software	3–5 yrs.	10,683	6,820	3,863
Total		**$32,191**	**$16,718**	**$15,473**

As of September 30, 2008, general property and equipment, net consisted of the following (in thousands):

Asset Class	Service Life	Acquisition Value	Accumulated Depreciation	Net Book Value
Equipment	5–20 yrs.	$ 7,491	$ 6,497	$ 994
Leasehold improvements	lease term	11,297	2,334	8,963
Software	3–5 yrs.	10,612	5,471	5,141
Total		**$29,400**	**$14,302**	**$15,098**

Note 8—Liabilities Not Covered by Budgetary Resources

Intragovernmental liabilities and liabilities with the public not covered by budgetary resources as of September 30, 2009 and 2008 are shown below (in thousands):

	2009	2008
Intragovernmental:		
Undisbursed premerger fees liability	$ 433	$ 15,357
Civil penalty collections due to Treasury	50	173
FECA liability	436	361
Other Unfunded Employment Related Liability	12	-
Total intragovernmental liabilities not covered by budgetary resources	931	15,891
With the public:		
Unfunded leave	9,787	9,058
Actuarial FECA	2,173	1,925
Redress collected not yet disbursed	69,746	85,021
Divestiture fund due	45,542	45,485
Accrued redress receivables due to claimants	55,496	87,800
Total liabilities not covered by budgetary resources	$183,675	$245,180
Total liabilities covered by budgetary resources	21,408	22,663
Total liabilities	$205,083	$267,843

UNDISBURSED PREMERGER FEES LIABILITY represents undisbursed filing fees collected under the HSR Act of 1976, which are due to the DOJ in a subsequent period.

CIVIL PENALTY COLLECTIONS DUE TO TREASURY represents the corresponding liability relative to accounts receivable due for civil monetary penalties, which will be transferred to the general fund of the Treasury upon receipt.

FEDERAL EMPLOYEE'S COMPENSATION ACT (FECA) LIABILITY represents the unfunded liability for workers compensation claims payable to the Department of Labor (DOL) and an actuarial liability for future workers' compensation claims. The actuarial liability is based on the liability to benefits paid ratio provided by DOL multiplied by the average of benefits paid over three years.

UNFUNDED LEAVE represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

ACTUARIAL FECA represents the present value of future workers compensation claims.

REDRESS COLLECTED NOT YET DISBURSED represents a non-entity liability corresponding to amounts reported as non-entity assets (including Fund Balance with Treasury, Cash and Other Monetary Assets and Investments for TAS 29X6013). These funds are held until distributed to consumers or returned to Treasury through disgorgement.

DIVESTITURE FUND DUE represents the corresponding liability offsetting the amount reported as non-entity assets (investments) held by the FTC pending divesture of assets pursuant to a court ordered judgment. These funds are currently invested in Treasury securities. (See Note 5 Investments.)

ACCRUED REDRESS RECEIVABLES DUE TO CLAIMANTS represents the contra account for accounts receivable due from judgments obtained as a result of the agency's consumer redress litigation.

Note 9—Other Liabilities

The following summarizes Other Liabilities as of September 30, 2009 and 2008 (in thousands):

	2009 Non-Current	2009 Current	2009 Total
Intragovernmental:			
FECA liability	$ 436	$ -	$ 436
Civil penalty collections due to Treasury	-	50	50
Accrued benefits	-	1,346	1,346
Undisbursed premerger fee liability	-	433	433
Total Intragovernmental	436	1,829	2,265
Accrued leave	-	9,787	9,787
Actuarial FECA	2,173	-	2,173
Accrued salary	-	6,824	6,824
Total Other Liabilities	**$2,609**	**$18,440**	**$21,049**

	2008 Non-Current	2008 Current	2008 Total
Intragovernmental:			
FECA liability	$ 361	$ -	$ 361
Civil penalty collections due to Treasury	35	138	173
Accrued benefits	-	1,137	1,137
Undisbursed premerger fee liability	-	15,357	15,357
Total Intragovernmental	396	16,632	17,028
Accrued leave	-	9,058	9,058
Actuarial FECA	1,925	-	1,925
Accrued salary	-	5,914	5,914
Total Other Liabilities	**$2,321**	**$31,604**	**$33,925**

Note 10—Leases

Leases of commercial property are made through and managed by GSA. The Commission has leases on three government-owned properties and eight commercial properties. The FTC's current leases expire at various dates through 2019. Four leases provide for tenant improvement allowances totaling approximately $3,811 thousand and provide that these costs be amortized over the length of the leases. Under the terms of the leases, the FTC agrees to reimburse the landlord for the principal balance of the unamortized portion of the tenant improvement allowance in the event the agency vacates the space before lease expiration. The FTC rents approximately 582,000 square feet of space in both commercial and government-owned properties for use as offices, storage and parking. All FTC leases are operating leases. Rent expenditures for the years ended September 30, 2009 and 2008, were approximately $19,126 and $19,143 thousand, respectively.

Future minimum lease payments due under leases of government-owned property as of September 30, 2009, are as follows (in thousands):

Fiscal Year	Government-Owned Property Leases
2010	$6,923
2011	6,920
2012	6,857
2013	6,809
2014	6,523
Thereafter	1,105
Total Future Minimum Lease Payments	**$ 35,137**

Future minimum lease payments under leases of commercial property due as of September 30, 2009 are as follows (in thousands):

Fiscal Year	Commercial Leases
2010	$12,709
2011	12,796
2012	10,844
2013	1,359
2014	1,286
Thereafter	3,652
Total Future Minimum Lease Payments	**$42,646**

Note 11—Commitments and Contingencies

The FTC is a party in various administrative proceedings, legal actions, and claims brought by or against it. In the opinion of FTC management and legal counsel, the ultimate resolution of these proceedings, actions, and claims, will not materially affect the financial position or the results of operations of the FTC.

Note 12—Intragovernmental Costs and Exchange Revenues

For 'exchange revenue with the public,' the buyer of the goods or services is a non-federal entity. For 'intragovernmental costs' the buyer and seller are both federal entities. If a federal entity purchases goods or services from another federal entity and sells them to the public, the exchange revenue would be classified as 'with the public,' but the related costs would be classified as 'intragovernmental.' The purpose of this classification is to enable the federal government to provide consolidated financial statements, and not to match public and intragovernmental revenue with costs that are incurred to produce public and intragovernmental revenue.

For the FYs ended September 30, intragovernmental and public costs and exchange revenues are as follows (in thousands):

	2009	2008
Protect Consumers (PC) Strategic Goal:		
Intragovernmental gross costs	$ 36,121	$ 33,140
Public costs	111,111	107,565
Total PC strategic goal costs	147,232	140,705
Intragovernmental earned revenue	(253)	(42)
Public earned revenue	(15,694)	(16,160)
Total PC strategic goal earned revenue	(15,947)	(16,202)
Total PC strategic goal net costs	131,285	124,503
Maintain Competition (MC) Strategic Goal:		
Intragovernmental gross costs	26,917	24,696
Public costs	82,801	80,157
Total MC strategic goal costs	109,718	104,853
Intragovernmental earned revenue	(161)	(276)
Public earned revenue	(42,148)	(102,916)
Total MC strategic goal earned revenue	(42,309)	(103,192)
Total MC strategic goal net costs	67,409	1,661
Net cost of operations	$198,694	$126,164

Note 13—Exchange Revenues

Exchange revenues are earned through the collection of fees under the HSR Act. This Act, in part, requires the filing of premerger notifications with the FTC and the Antitrust Division of the DOJ and establishes a waiting period before certain acquisitions may be consummated. Mergers with transaction valuation above $65.2 million require the acquiring party to pay a filing fee. The filing fees are based on the transaction amount and follow a three-tiered structure: $45, $125 and $280 thousand. The FTC collects all HSR premerger fees, retains one-half, and remits 50 percent to the DOJ Antitrust Division pursuant to public law. Revenue is recognized upon collection of the appropriate fee and verification of proper documentation.

Exchange revenues are also earned through the collection of fees for the national DNC Registry. This registry operates under Section 5 of the FTC Act, which enforces the Telemarketing Sales Rule. The Do-Not-Call Implementation Act, Public Law No. 108-010, gives the FTC authority to establish fees sufficient to offset enforcement of the provisions related to the DNC Registry. Telemarketers are required to pay an annual subscription fee and download from the DNC Registry database a list of telephone numbers of consumers who do not wish to receive calls. Fees are based on the number of area codes downloaded. Effective October 1, 2008, the minimum charge decreased from $62 to $54 to download one area code. The maximum charge decreased from $17,050 to $14,850 for all area codes within the United States. Revenue is recognized when collected and the telemarketer is given access to the requested data.

Exchange revenue is also earned for services provided to other government agencies through reimbursable agreements. The FTC recovers the full cost of services, primarily salaries and related expenses. Revenue is earned at the time the expenditures are incurred against the reimbursable order. All exchange revenues are deducted from the full cost of the FTC's programs to arrive at net program cost.

For the FYs ended September 30, exchange revenue consisted of the following (in thousands):

	2009	2008
HSR premerger filing fees	$42,148	$102,917
Do Not Call registry fees	15,694	16,159
Reimbursable agreements	414	318
Total	$58,256	$119,394

Note 14—Apportionment Categories of Obligations Incurred: Direct vs. Reimbursable Obligations

Apportionment Categories of Obligations Incurred

Obligations incurred reported on the Statement of Budgetary Resources in FY 2009 and FY 2008 consisted of the following (in thousands):

	2009	2008
Direct Obligations:		
Category A	$265,548	$243,186
Expenditure transfer to DOJ of HSR fees	15,357	-
	280,905	243,186
Reimbursable Obligations:		
Category B	390	271
Total	$281,295	$243,457

Note 15—Explanation of Differences between the Statement of Budgetary Resources and the Budget of the United States Government

There are no material differences between amounts reported in the FY 2008 Statement of Budgetary Resources and the FY 2008 actual amounts as reported in the FY 2010 Budget of the United States Government. The FY 2011 Budget of the United States is not available to compare FY 2009 actual amounts to the FY 2009 Statement of Budgetary Resources.

Note 16—Undelivered Orders at the End of the Period

The amount of budgetary resources obligated for undelivered orders as of September 30, 2009 and 2008 is $47,677 and $33,427 thousand, respectively.

Note 17—Custodial Activities

As discussed in Note 1(h), there was a change of presentation for the SCA for FY 2009. No changes were made to the amounts reported for FY 2008. Additional disclosures and comparative analysis related to all redress and divestiture activities are made in Note 18 Redress and Divestiture Activities.

The primary custodial activities of the FTC are:

Premerger Filing Fees

All HSR premerger filing fees are collected by the FTC pursuant to 15 U.S.C. 18a note, as amended, and are divided evenly between the FTC and the DOJ. During FY 2009 and FY 2008, the FTC collected $84,295 and $205,833 thousand, respectively, in HSR premerger filing fees. The amounts designated for the DOJ as reported on the SCA were $42,148 thousand for FY 2009 and $102,916 thousand for FY 2008. Undistributed fees to the DOJ at September 30, 2009 and 2008 were $433 and $15,357 thousand, respectively.

Civil Penalties and Fines

Civil penalties collected in connection with the settlement or litigation of the FTC's administrative or federal court cases are collected by either the FTC or the DOJ as provided for by law. The FTC deposits these collections into the Treasury. Civil penalties collected also include amounts collected for undecided civil penalty cases that are held until final disposition of the case. All civil penalties collected are disgorged to the general fund of the Treasury at the end of the year.

Redress

Collections for redress reported on the SCA for FY 2009 are limited to those collections that have been disgorged to the Treasury. Collections reported on the SCA in FY 2008 included both collections disgorged to the Treasury and collections held for distribution to claimants. Collections disgorged to the Treasury were $14,698 thousand for FY 2009 and $54,797 thousand for FY 2008.

Other line items on the SCA include:

Accrual Adjustments

The accrual adjustment for FY 2009 represents the difference between the FTC's opening and closing accounts receivable balances for civil penalties. For FY 2008, the adjustment represents the difference between the FTC's opening and closing accounts receivable balances for civil penalties and redress combined.

(Increase) in amounts yet to be transferred

An offsetting liability is established for undisbursed custodial funds and funds due to be collected (receivable). In FY 2009, the change in the liability represented the corresponding change in the opening and closing corresponding accounts receivable balances for civil penalties and undisbursed premerger fund balances. For FY 2008, the change in the liability additionally represented the change in the redress receivables and fund balances.

Note 18—Redress and Divestiture Activities

Redress

The FTC obtains consumer redress in connection with the settlement or litigation of both its administrative proceedings and its federal court cases. The FTC attempts to distribute funds thus obtained to consumers whenever possible. If consumer redress is not practical, the funds are paid (disgorged) to the Treasury, or on occasion, other alternatives, such as consumer education, are permitted. Major components of the program include eligibility determination, disbursing redress to claimants, and accounting for the disposition of these funds. Collections made against court-ordered judgments totaled $75,301 and $101,859 thousand during FYs 2009 and 2008, respectively. FY 2008 total included $590 thousand that were collected by receivers and agents.

Divestiture Fund

One judgment (obtained by the FTC in support of its strategic goal to maintain competition) stipulates the divestiture of assets by the defendants into an interest-bearing account to be monitored by the agency. The account balance represents principal and related interest held in the Treasury's Bureau of Public Debt. A corresponding liability is recorded.

Redress and divestiture fund activities consisted of (in thousands):

	2009	2008
Redress		
Fund Balance with Treasury		
Beginning balance	$ 2,507	$ 1,441
Collections	75,301	101,269
Disbursements to claimants	(261)	(8)
Disgorgements to Treasury	(14,698)	(54,797)
Transfers, expenses, refunds	(60,551)	(45,398)
Ending balance	$ 2,298	$ 2,507
Cash and Other Monetary Assets		
Beginning balance	$10,485	$ 78,739
Disbursements to claimants	(68,910)	(29,752)
Transfers, expenses, interest income	76,566	(38,502)
Ending balance	$ 18,141	$ 10,485
Investments		
Beginning balance	72,028	$ -
Transfers, expenses, interest income	(22,722)	72,029
Ending balance	$49,306	$ 72,029
Accounts Receivable, Net		
Beginning balance	87,800	$123,974
Net Activity	(32,304)	(36,174)
Ending balance	$55,496	$ 87,800
Divestiture Fund:		
Investments		
Beginning balance	$45,485	$ 44,570
Interest, net of expenses	57	915
Ending Balance	$45,542	$ 45,485

Note 19—Reconciliation of Net Cost of Operations to Budget (in thousands)

	2009	2008
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations incurred	$281,295	$243,457
Less: Spending authority from offsetting collections and recoveries	(76,656)	(120,693)
Obligations net of offsetting collections and recoveries	204,639	122,764
Other Resources		
Imputed financing from costs absorbed by others	7,650	7,411
Net other resources used to finance activities	7,650	7,411
Total resources used to finance activities	212,289	130,175
Resources Used to Finance Items not Part of the Net Cost of Operations:		
Change in budgetary resources obligated for goods, services and benefits ordered but not yet provided	(14,274)	(1,491)
Resources that finance the acquisition of assets	(2,791)	(8,512)
Total resources used to finance items not part of the net cost of operations	(17,065)	(10,003)
Total resources used to finance the net cost of operations	195,224	120,172
Components of the Net Cost of Operations that will not Require or Generate Resources in the Current Period:		
Components Requiring or Generating Resources in Future Periods:		
Increase in annual leave liability	729	852
Other	325	70
Total components of Net Cost of Operations that will require or generate resources in future periods	1,054	922
Components not Requiring or Generating Resources:		
Depreciation and amortization	2,416	4,786
Losses on Disposition of Assets - Other	-	284
Budgetary offsetting collections and receipts that do not affect net cost of operations	-	-
Total Components of Net Cost of Operations that will not require or generate resources	2,416	5,070
Total components of net cost of operations that will not require or generate resources in the current period	3,470	5,992
Net Cost of Operations	$198,694	$126,164

Other Accompanying Information

Inspector General-Identified Management and Performance Challenges

OFFICE OF
INSPECTOR GENERAL

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

September 30, 2009

MEMORANDUM

TO: Jon Leibowitz
Chairman, Federal Trade Commission

FROM: John M. Seeba
Inspector General

SUBJECT: FY 2009 FTC Management Challenges

The Federal Trade Commission is required to submit a Performance and Accountability Report (PAR) to the Office of Management and Budget in November 2009. The PAR contains a number of sections that address issues ranging from performance to financial management. The Reports Consolidation Act of 2000 requires the Inspector General to provide the agency head with a summary of the most serious management and performance challenges facing the agency and a brief assessment of the agency's progress in addressing those challenges. This summary is included in the FTC's submission of the PAR.

The management challenges included in this document are based on work conducted by the OIG as well as information obtained during informal discussions with senior leaders within the Commission. The OIG prioritized the issues based on risk to the Commission.

In the past year, the impact of the recession can be seen in increased job losses, housing foreclosures and continued attacks on the safety and security of our personal data. It is no coincidence that the OIG hotline has experienced a growth in the number of calls related to mortgage and foreclosure scams, sweepstakes and lottery scams and use of the good names of FTC employees as a ruse to fraudulently obtain money. These issues continue to reinforce our prior year assessment that management is constantly challenged in the areas of: protection of data (both personally identifiable information and Commission sensitive data), information technology security, and case management to target the most significant problems. In addition, the change in Administration has brought about changes in FTC senior leadership including its chairman. Although the Commission has done an excellent job of recruiting senior level managers and executives, the expected retirement of the baby boom generation will continue to motivate the FTC to find the best and brightest as well as retain its talented pool of employees.

The attached document outlines the rationale for our assessment. The Office of Inspector General appreciates the strong support from Commission management and looks forward to working with you as we address these matters. We welcome any comments to our assessment.

Attachment

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Inspector General-Identified Management and Performance Challenges (continued)

Office of Inspector General
Top Management Challenges at the Federal Trade Commission
September 30, 2009

Management Challenge: Protection of Data

The protection of data, whether personally identifiable information (PII), sensitive health information (SHI) or non-public information used by the Commission in the conduct of its day-to-day work, is critical to preserve the trust of the American people. The FTC, as a regulatory and law enforcement agency, is entrusted with highly sensitive business information relating to proposed mergers and acquisitions and personal information related to its work on consumer protection. Ensuring confidential treatment of sensitive corporate information encourages businesses and individuals to cooperate with FTC investigative activities. The FTC must be on guard at all times to preserve this trust.

Agency Progress in Addressing the Challenge

The FTC takes its responsibility for protecting data very seriously. The agency continues to promote a strong privacy program to safeguard data through education, training and technology solutions that are probably among the most comprehensive in the federal Government. The FTC is continually reevaluating its privacy program and updating training for staff to target new areas of emphasis and risk. However, as the amount of data collected, stored and shared by the agency increases, there is a commensurate increase in the risk of data loss.

The Challenge Ahead

All FTC employees must continue to focus on the challenge of safeguarding data, including the collection, storage, use and transmission of sensitive data. We must as an agency guard against complacency when handling sensitive data to ensure that we maintain the trust of the American people.

Management Challenge: Securing the agency's information systems and networks from destruction, data loss, or compromise

Information systems play a major role in supporting the work we do everyday. Protecting those systems and the volume of data produced, stored and transmitted by information systems is one of the most challenging tasks faced by federal agencies today. Everyday, a multitude of threats from various sources such as the casual hacker to sophisticated foreign governments seek to exploit weaknesses and gain access to confidential information. These activities place a significant burden on information technology professionals to protect our data while still allowing information to flow freely and efficiently across networks and other communication channels. Contributing to the challenge are government initiatives to promote teleworking for employees to allow for flexibility to work at offsite locations such as their home or a telework center in their community.

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Agency Progress in Addressing the Challenge

The FTC's Information and Technology Management Office (ITMO) has made significant progress in developing a mature information security program and has implemented or addressed OIG-identified security vulnerabilities discussed in previous reviews. As a result, the FTC security environment is strong and robust and continues to evolve in expanding its coverage and addressing the changing threats and requirements. FTC management recognizes that continued vigilance and resource investment is required to protect the data entrusted to its care and secure the availability and integrity of the IT systems that are critical to the agency's ability to successfully complete its law enforcement mission. In addition, ITMO continuously replaces and upgrades its equipment to maintain current technology.

The Challenge Ahead

During FY 2009, management changed its decision to contract out its operations and management responsibilities for IT computer/communication infrastructure. By maintaining management of the IT infrastructure in-house, management must now oversee the series of contracts that were awarded to rebuild its infrastructure. The replacement of the aged infrastructure should result in improved IT operations and greater efficiency. The challenge for the Commission is to ensure that it maintains a strong system of internal controls while it upgrades and replaces the infrastructure.

Management Challenge: Human Capital Issues

The entire federal Government is undergoing a transformation related to human capital issues: how to deal with the loss of talented and seasoned employees from retirements and attrition; recruiting and retaining talented staff; and training our current staff to be future leaders of the organization. These are significant challenges given that a large segment of the federal workforce is nearing retirement age and the next generation of leaders must step in to address 21st century challenges. The FTC, like other federal agencies is called upon to "do more with less." With ever-growing workloads in the consumer protection and competition areas, there is a greater need to have experienced and talented people at the ready to face these issues. Within the next five years, 27% of the Commission's workforce will be eligible to retire and a recovery from the nation's current economic downturn may heighten the impact of this human capital concern.

Agency Progress in Addressing the Challenge

The Human Resources Management Office (HRMO) has initiatives under way to address this challenge. With the current focus on improving training availability, HRMO has implemented a new e-learning tool for on-line training to the staff. This will allow the staff to select relevant training at the time of their choosing. This method saves time and money when delivering training to a highly diversified staff and keeps staff up to date on current practices and theories.

To address hiring challenges, the FTC must maintain itself as a progressive employer and continue to offer employee family-friendly benefits such as telework options, work schedule flexibilities and commuter subsidies. While the current economic climate has provided a short term source of highly

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Inspector General-Identified Management and Performance Challenges (continued)

qualified candidates, the FTC should continue to introduce new programs to ensure its current standing as one of the best places to work in the Government.

The Challenge Ahead

For the FTC to remain among the best places to work, management must continue to develop new and innovative ways to recruit and mentor employees to step into the next levels of management as well as maintain a positive, productive, and stable workforce.

Management Challenge: Case Management

The FTC has a very broad mission that challenges the resources of the agency every day: to promote competition and protect consumers from fraudulent and deceptive business practices and unfair methods of competition. Complicating matters, the FTC faces a marketplace that is complex, technology-driven and constantly evolving. The FTC's challenge is to collect information, identify the most serious cases, and take action in a timely manner to preserve competition and protect consumers. Increasing workloads and changing priorities make this a monumental task.

Agency Progress in Addressing the Challenge

To meet the challenge of consumer protection, the agency has a multitude of programs to educate consumers, identify fraudulent activity, and stop deceptive practices and unfair methods of competition through enforcement. The agency has initiated several investigations in areas where scammers made false and unsubstantiated claims via the internet, infomercials, telemarketing, robocalls or print advertisements to market get-rich-quick schemes or other similar scams. In the area of competition, the agency is aggressive in identifying and stopping anticompetitive mergers. The agency continues to study ways of streamlining administrative adjudications and look at ways to better examine investigative data.

The Challenge Ahead

With an increasing workload, complex marketplace and sophisticated, ever-evolving fraud schemes, the FTC must look to maximize its resources through effective case selection and analysis, management of cases, and coordination with international, federal, state, and local law enforcement organizations.

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Chairman's Response To IG Challenges

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

THE CHAIRMAN

COMMENTS ON MANAGEMENT CHALLENGES IDENTIFIED BY THE INSPECTOR GENERAL

In his memorandum dated September 30, 2009, the FTC Inspector General (IG) identified four challenges facing management. He also assessed the agency's progress in addressing those challenges, as required by the Reports Consolidation Act of 2000. The FTC concurs with the IG on the significant challenges management faces and on his assessment of agency progress in addressing those challenges. Moving forward, FTC management will continue its efforts to tackle these challenges as further described below.

Management Challenge: Protection of Data
The protection of data, whether it is non-public information, personally identifiable information, or sensitive health information, is of great importance to the FTC. It is an ongoing challenge to keep abreast of changing technology and data collection activities, one that the FTC has met and continues to meet very effectively. Given our role as an agency that protects consumers against unfair and deceptive information collection and data security practices, we take this challenge very seriously.

The FTC has a comprehensive privacy program that is continually evaluated to ensure that it is relevant and effective in protecting the data entrusted to us. The FTC's Privacy Steering Committee (PSC) has led the way in strengthening the FTC's privacy and data security policies and in raising the level of awareness among agency staff regarding privacy issues. In FY 2010, the PSC will continue this important work to ensure that data protection remains a primary and critical consideration for all FTC employees. As the agency's holdings of sensitive data increase, the PSC will continue to coordinate closely with the Information and Technology Management Office (ITMO) to ensure that sensitive data is protected through strict access controls, appropriate technology such as encryption, sound policies, information campaigns, and continued training.

Management Challenge: Securing the Agency's Information Systems and Networks From Destruction, Data Loss, or Compromise
Maintaining the security of our agency's IT infrastructure is a continuing challenge and top priority. The ITMO managers and staff have embedded an internal controls framework that addresses data protection, physical and logical access, and security at each step in the process of building and modernizing the agency's new IT infrastructure and data center. In addition, ITMO has established a tiered structure to manage the data center project and oversee contractors' performance.

Chairman's Response To OIG Challenges (continued)

Management Challenge: Human Capital Issues
The FTC is committed to having the agency remain among the best places to work by developing and using existing recruitment and retention tools, providing professional development for staff, and nurturing the growth of junior employees. To ensure that the FTC continues to attract and retain a high quality, diverse workforce, in FY 2010 the Human Resources Management Office plans to: implement an Executive Development Program; offer family friendly benefits for employees in balancing work and life issues; offer incentives to recruit and retain employees with critical skills; and conduct an annual survey to assess employee satisfaction, as well as leadership and management practices that contribute to agency performance.

Management Challenge: Case Management
In light of its broad mission, the Bureau of Consumer Protection (BCP) works to leverage its resources in many ways. Division and Regional Office managers regularly discuss emerging issues with staff and others, and review external data to develop plans for their areas. BCP management reviews these plans to respond to new issues or problems in the marketplace, identify initiatives that may cross Division lines within BCP, and allocate staff and financial resources. BCP maintains a highly-skilled staff, and shifts resources as required to meet its workload and to stay ahead of the demands of the marketplace. BCP maintains its Litigation Support and Internet Labs to increase efficiency. BCP also partners with other law enforcement organizations through the Consumer Sentinel Network and through law enforcement sweeps with partner organizations. We also partner with a wide range of other organizations to extend the reach of our consumer education materials.

The Bureau of Competition (BC) also recognizes the importance of maximizing the effectiveness of its enforcement activities, and continues to implement improvements in the various phases of the case management process. The Bureau's Technology and Information Management Office continues to adopt new technologies to speed up document and data review in order to quickly identify and address competitive concerns. The Bureau also continues to use a core group of litigators and support staff to provide expert litigation assistance on all investigations in which litigation is likely. BC management meets regularly with its Division managers to discuss caseloads, respond to new issues, and allocate and monitor staff and financial resources among Divisions to ensure that resources are used effectively. In addition, to facilitate case management, in FY 2010, the Records and Filings Office will work with stakeholders throughout the FTC to establish requirements for the next generation of the agency's case management and tracking system.

Signed ______________________
Jon Leibowitz
November 13, 2009

Summary of Financial Statement Audit and Management Assurances

TABLE 1: SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion	Unqualified				
Restatement	No				
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

TABLE 2: SUMMARY OF MANAGEMENT ASSURANCES

Effectiveness of Internal Control Over Financial Reporting (FMFIA Para. 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control Over Operations (FMFIA Para. 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with Financial Management System Requirements (FMFIA Para. 4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0

Improper Payments Information Act

The Improper Payments Information Act (Public Law No. 107-300) defined requirements to reduce improper and erroneous payments made by the federal government. The OMB also has established specific reporting requirements for agencies with programs that have a significant risk of erroneous payments and for reporting on the results of recovery auditing activities. A significant erroneous payment as defined by OMB guidance is an annual erroneous program payment that exceeds both 2.5 percent of the program payments and $10 million. The agency reviews its controls and systems under the FMFIA to ensure that the agency can rely on them. In this review, the agency has not identified any programs where significant erroneous payments have occurred within the FTC. The agency will continue to review its programs annually to determine if any significant erroneous payments exist.

Appendices

Appendix A: Acronyms

BC	Bureau of Competition
BCP	Bureau of Consumer Protection
BE	Bureau of Economics
BI	Business Intelligence
CDC	Centers for Disease Control
CFO	Chief Financial Officer
CFS	Core Financial System
CON	Certificate of Need
COPPA	Children's Online Privacy Protection Act
CSN	Consumer Sentinel Network
CSRS	Civil Service Retirement System
DNC	Do Not Call
DOJ	Department of Justice
DOL	Department of Labor
DRM	Digital Rights Management
EFT	Electronic Funds Transfer
FASAB	Federal Accounting Standards Advisory Board
FDA	Food and Drug Administration
FECA	Federal Employee's Compensation Act
FEGLIP	Federal Employees Group Life Insurance Program
FEHBP	Federal Employees Health Benefit Program
FERS	Federal Employees Retirement System
FICA	Federal Insurance Contributions Act
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FTC	Federal Trade Commission
FTE	Full-Time Equivalent
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GAS	Government Account Series
GSA	General Services Administration
HRMO	Human Resources Management Office
HSR Act	Hart-Scott-Rodino Act
ICN	International Competition Network
IG	Inspector General

Appendix A: Acronyms (continued)

ITMO	Information and Technology Management Office
MC	Maintain Competition
MD&A	Management's Discussion and Analysis
N/A	Not Applicable Not Available
MLS	Multiple Listing Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
ORB	Other Retirement Benefits
PAR	Performance and Accountability Report
PC	Protect Consumer
PII	Personally Identifiable Information
PSC	Privacy Steering Committee
SAS	Statement on Auditing Standard
SAT	Senior Assessment Team
SCA	Statement of Custodial Activity
SFFAS	Statement of Federal Financial Accounting Standard
TAS	Treasury Account Symbol
TSP	Thrift Savings Plan
TTY	Text Telephone Telephone Typewriter
U.S.	United States
U.S. SAFE WEB Act	Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers Beyond Borders Act
USDA	United States Department of Agriculture

Appendix B: Contact Information and Acknowledgements

Federal Trade Commission	600 Pennsylvania Avenue, NW Washington, DC 20580
General Information Number	202-326-2222
Internet Home Page	www.ftc.gov
FTC Spanish Home Page	www.ftc.gov/espanol
Strategic Plan Internet Site	www.ftc.gov/strategicplan
FTC Press Releases	www.ftc.gov/opa/pressold.shtm

Performance and Accountability Report (PAR) Specific

The FTC welcomes comments or suggestions for improvement of its PAR. Please contact the agency to provide feedback or to request additional copies.

PAR Internet Site	www.ftc.gov/par
PAR Contact	Darlene Cossette
PAR Telephone	202-326-3255
PAR E-mail Address	gpra@ftc.gov
PAR Fax Number	202-326-2329
PAR Mailing Address	Federal Trade Commission Atten PAR, M/D H-774 600 Pennsylvania Avenue, NW Washington, DC 20580

Regions

East Central (Cleveland, OH)	216-263-3455
Midwest (Chicago, IL)	312-960-5634
Northeast (New York, NY)	212-607-2829
Northwest (Seattle, WA)	206-220-6350
Southeast (Atlanta, GA)	404-656-1390
Southwest (Dallas, TX)	214-979-9350
Western (San Francisco, CA)	415-848-5100
Western (Los Angeles, CA)	310-824-4343

Consumer Response Center

General Complaints	877-FTC-HELP (877-382-4357)
Identity Theft Complaints	877-ID-THEFT (877-438-4338)
Online General Complaints	www.ftc.gov/complaint
Identity Theft Education and Complaints	www.ftc.gov/idtheft
National Do Not Call Registry	www.donotcall.gov

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Federal Trade Commission

For the Consumer
877-FTC-HELP
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